

Report to: PLANNING COMMITTEE

Date of Meeting: 28 September 2022

Report from: Assistant Director of Housing and Built Environment

Application address: Car Park, Cornwallis Street, Hastings

Proposal: Erection of substation to support new hotel building

Application No: HS/FA/22/00476

Recommendation: Grant Full Planning Permission

Ward: CASTLE 2018
Conservation Area: No
Listed Building: No

Applicant: Hastings Borough Council per Walsingham
Planning Bourne House Cores End Road Bourne
End SL8 5AR

Public Consultation

Site notice:	Yes
Press advertisement:	Yes - Council Application
Neighbour Letters:	No
People objecting:	1
Petitions of objection received:	0
People in support:	0
Petitions of support received:	0
Neutral comments received:	0

Application status: Not delegated -
Council application on Council owned land

1. Site and surrounding area

The site is located off Cornwallis Street within Hastings Town Centre. The site opens directly onto the public footpath along Cornwallis Street to the south which subsequently connects onto South Terrace.

The application site relates to a small parcel of land which is largely flat and is owned by Hastings Borough Council. The site consists of a bin storage area, hedge planting and a single tree approximately 7m high. The site is located on the northern side of Cornwallis Street whereby the road slopes gently up towards the junction with South Terrace.

The site is bounded by No. 14 Cornwallis Street on the east, this is a building currently operating as a car valet business. Its flank walls are relatively blank, with three modest windows serving non-habitable rooms. There are no treatments to any of the other boundaries and as a result the site is open with Cornwallis Street Car Park to the north and west and the site directly abutted by the pavement of Cornwallis Street to the south.

The surrounding area is a mix of residential uses and commercial use at ground floor levels. The site is not located within a conservation area or nearby to any listed buildings.

The neighbouring site currently accommodates a 71-space surface level public car park (with 14 spaces privately allocated). Access to the neighbouring site is from the southeast of the site, off Cornwallis Street, directly within Hastings Town Centre.

Cornwallis Street is a two-way no-through road that principally serves the existing car park and the business premises in that location.

Constraints

- Land Owned by Hastings Borough Council
- SSSI Impact Risk Zone
- GCN District Licensing Scheme IRZ - Green
- Groundwater Flooding
- Climate Change 1000 Year / 200 Year

2. Proposed development

This application seeks permission for the erection of a single storey electricity sub-station, to be used in conjunction with the hotel building that was approved in August 2022 under ref HS/FA/21/00851.

The proposed substation will be within a glass-fibre reinforced polyester (GRP) enclosure on the site. Maintenance doors off the substation will be accessible off the driveway into the hotel car park. The existing bin storage area housing 3 Eurobins will remain as existing, however, the existing Silver Birch tree will be felled so as to create space for the proposed substation. Replacement tree planting is proposed to compensate for the tree that will be lost as a result of the proposed development.

The proposed substation will be located behind the existing bin storage area where the existing tree is located and the substation will be enclosed by a glass-fibre reinforced polyester (GRP). The dimensions of the substation are:-

Dimensions:

- 2.8 metres in width
- 2.8 metres in length
- 2.4 metres max height, above ground

Materials:

- Glass fibre reinforced plastic (GRP) enclosure
- Substation walls will be of metal
- Brick plinth

The Council's Arboricultural Officer objected to the initial submission and amended drawings were received on the 25th of August 2022 addressing concerns raised by the Council's

Arboricultural Officer.

The application is supported by the following documents:

- Covering letter
- Design and Access statement
- Noise Report
- Arboricultural Report

Relevant planning history

- HS/FA/21/00851 Replacement of decayed timber shoring to gable wall with new steel equivalent.
GRANTED 20 July 2022.
- HS/FA/21/00851 Erection of hotel with ancillary ground floor restaurant, car parking, landscaping and all associated works.
GRANTED 15 August 2022.
- HS/OA/99/00061 Demolition of existing workshops, garages, stores and development of five town houses on Mann Street frontage
GRANTED 9 July 1999.
- HS/FA/96/00058 Change of use to car park (2 sites) creating 16 additional spaces.
GRANTED 7 March 1996.
- HS/FA/95/00237 Construction of new play facilities to include fencing.
REFUSED 30 June 1995.
- HS/FA/89/00405 Use of prospective vacant land as an extension of Cornwallis Street Car Park.
GRANTED 19 June 1989.
- HS/FA/76/00163 Formation of temporary car park.
GRANTED 12 May 1976.
- HS/OA/71/00007 Site for erection of builders merchants premises, including shops, offices, showroom and stores.
REFUSED 11 January 1972.
- HS/OA/66/00434 Site for the erection of builders merchants premises including shops, offices, showrooms and stores.
GRANTED 14 June 1966.
- HS/OA/62/00528 Proposed use of land as builders' Merchants produce, including shops, offices, showroom and stores.
GRANTED 20 July 1962.

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 SC3 – Promoting Sustainable and Green Design
- Policy SC4 – Working Towards Zero Carbon Development
- Policy SC7 – Flood Risk

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications
Policy LP2 – Overall Approach to Site Allocations
Policy DM1 - Design Principles
Policy DM3 - General Amenity
Policy DM4 - General Access
Policy DM5 - Ground Conditions
Policy DM6 – Pollution and Hazards
Policy SA1 – Hastings Town Centre Shopping Area
Policy HTC2 – Cornwallis Street Car Park

Revised Draft Local Plan (Regulation 18)

Policy OSP1 - Tackling Climate Change
Policy SP1 - Directing Growth
Policy DP1 - Design - Key Principles
Policy DP2 - Design - Space and Accessibility Standards
Policy DP3 - Sustainable Design
Policy DP4 - Flood Risk and Water Quality
Policy DP5 - Biodiversity
Policy DP6 - Green Infrastructure
Policy DP7 - Access, Servicing and Parking
Policy DP8 - Planning Obligations
Policy SP4 – Business Development – Retail and Leisure Uses
Policy FA1 – Hastings Central
Policy TC10 – Cornwallis Street Car Park

Other policies/guidance

National Design Guide
Air quality and emissions mitigation guidance for Sussex (2021)
Government's health protection guidelines
National Policy Statement for Electricity Networks Infrastructure (2011)

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;
- 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

Environmental Health Pollution - **No objection**, subject to the imposition of a condition (**Condition 5**).

Arboricultural Officer - **No objection** to the submitted landscaping scheme subject to the imposition of a condition (**Condition 6**).

Nature Space - **No objection**, subject to the imposition of an informative (**Informative 3**).

4. Representations

In respect of this application site notices were displayed around the site. 1 letter of objection was received raising the following concerns:-

- the submitted supporting reports omits the electrical and magnetic health effects of the substation on local residents.
- the report omits instructions for noise duration exposure within the noise report 912385.
- the submitted supporting statement does not detail reasons for having the substation, the reports and instructions requested.
- The health effects of the proposed substation on local residents is not detailed.
- Noise impact on local residents and neighbours has not been assessed.

- There is need for two reports to establish the continual Electrical and magnetic Field Exposure on general health effects and noise impact over continuous 24 hours.

5. Determining issues

Planning permission was given in August 2022 under ref HS/FA/21/00851 for the erection of a hotel with ancillary ground floor restaurant, car parking, landscaping and all associated works. The proposed substation is required to support the hotel building and restaurant.

The main considerations are the principle of development, impact on character and appearance of the area, impact on neighbouring properties, impact on landscape and trees, and impact on Great Crested Newts.

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 the 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.

The application site is a small parcel of land which is currently occupied by a bin storage area with 3 Eurobins, hedge planting and a single tree. The electricity substation is proposed to be located where there is an existing Silver Birch tree.

The site is bound by 14 Cornwallis Street to the east and is open to the car park to the north and west and opens directly onto the pavement off Cornwallis Street to the south.

The proposed substation is modest in size having a maximum height of 2.4 metres, a width of 2.8 metres and a depth of 2.8 metres. The front elevation of the substation is openable and opens onto the vehicular entrance of the car park. The side and rear elevations of the substation are proposed to be blank with louvres which are required for ventilation thereby having less visual impact on the street scene.

The substation will be screened by a glass-fibre reinforced polyester (GRP) enclosure so as to minimise its visual impact. The applicant also proposes a soft landscaping scheme around the substation so as to soften its visual appearance from public vantage points given its location easily visible from Cornwallis Street and St Andrews Square.

Whilst the substation is utilitarian in appearance, it would be viewed within the context of the approved hotel accommodation. As a result of this, it is considered that the structure would not appear out of character and would not appear incongruous within the street scene. Taking this into account, it is considered that the development complies with Policy DM1 of the Hastings Development Management Plan 2015.

c) Impact on neighbouring residential amenities

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, reduces or avoids any adverse impact on the amenity (privacy, over shadowing, loss of daylight) of neighbouring properties.

The closest residential property to the application site is no. 14 Cornwallis Street which is a part single, part double storey building currently operating as a car valet business. The flank walls of No. 14 are relatively blank, with three modest windows serving non-habitable rooms. As such it is considered the relationship of the proposed development to neighbouring no. 14 is acceptable as no will neighbour amenity will be harmed as a result of the development.

Across the site there are nos. 7, 8 and 9 Cornwallis Street. Given the proximity of the application site to residential properties there is a potential harmful noise impact on these residential occupiers. The application is accompanied by a Noise Report which has been reviewed by the Council's Environmental Health Officers. The Noise Report advises that any noise from the substation would be well below the background noise of the area, even at night. Given this, the Council's Environmental Health Officers are satisfied with the proposed development on condition that anti-vibration pads are installed and maintained for the lifetime of the development. This should be conditioned if planning permission is granted for the proposed development (**Condition 5**).

As a result of this, it is considered that the proposed substation would not have an unacceptable impact on the amenities of the neighbouring residents and as such complies with Policy DM3 of the Hastings Development Management Plan 2015 as quoted above.

d) Health impacts of the proposed substation on neighbours

The impact of a proposed development on human health is considered to be a material consideration in the consideration of this planning application and in the decision-making process.

Whilst National Policy (NPPF), and Local Plan Policies do not refer to substations or matters regarding electric & magnetic fields, the NPPF and Local Plan Policies make reference to protecting neighbour amenity. Policy DM3 of the Hastings Development Management Plan 2015 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.

Government guidance on energy network infrastructure, indicates that, to mitigate any known effects on electric and magnetic fields 'the International Commission on Non-Ionizing Radiation Protection (ICNIRP) has developed health protection guidelines for both public and occupational exposure'.

The National Policy Statement for Electricity Networks Infrastructure produced by the Department of Energy and Climate Change (2011) states at paragraph 2.10.6 that, '*The balance of scientific evidence over several decades of research has not proven a causal link between EMFs and cancer or any other disease.*' The International Commission of Non-Ionizing Radiation Protection (ICNIRP) developed health protection guidelines for development that may result in electric and magnetic fields. According to Government's

health protection guidelines, the power frequency magnetic fields recorded around local substations are much less than the ICNIRP reference levels for public exposure. As such an ICNIRP certificate has been requested from the applicant, which once submitted will confirm that public health will not be harmfully affected.

Given this, and that the Government is of the view that the health impacts from substations are generally within acceptable limits, it is considered that a development as proposed is acceptable, that there will not be any harm to public health and that neighbour amenity will not be harmed as a result of the proposed development. As such, the proposed development complies with the NPPF, Government advice on energy infrastructure, and Policy DM3 of the Hastings Development Management Plan 2015 as quoted above.

e) Impact on landscape and trees

Policies HN7 and HN8 of the Development Management Plan and EN3 of the Hastings Planning Strategy seek to protect existing biodiversity and encourage good quality green infrastructure be integrated into the design of new developments.

To facilitate the placement of the substation in this location, a Silver Birch tree will be lost. This is the only tree growing on the entire site (Cornwallis Car Park). Whilst the submitted Tree Report advises that this tree is in poor health due to brown tail moth infestation, this tree is in fact in good health and if left undisturbed will be expected to continue to provide much needed tree cover to this heavily built-up area. Given that the proposed development would lead to loss of this tree, adequate tree compensation is expected, and this is expected to be heavy standards Silver Birch trees planted as a group, with adequate growing space. Such trees would need to be planted within a planting bed that includes additional shrub planting.

The Council's Arboricultural Officer initially objected to the proposed replacement planting scheme on the grounds that there is not adequate compensation proposed for the loss of the existing Silver Birch tree. Following this, a revised robust soft landscaping scheme showing the planting of two specimen trees (Silver Birch trees) planted within a mixed shrub bed was received in August 2022. Following consultation with the Council's Arboricultural Officer, it is considered that the revised drawing is acceptable subject to the imposition of a landscaping condition (**Condition 6**).

Given the above, it is considered that a development as proposed is acceptable and the proposed replacement planting is considered to be acceptable and complies with Policies HN7 and HN8 of the Hastings Development Management Plan 2015 as quoted above.

f) Great Crested Newts

Policy EN3 of the Hastings Planning Strategy 2014 seeks to protect and enhance the town's biodiversity and geological resources.

The proposed development falls within the green impact risk zone for Great Crested Newts. In the green impact zone, there is moderate habitat and a low likelihood of Great Crested Newt presence.

In this case, the closest pond to the application site is located 450m north, and there is little connectivity between the development and the pond due to buildings and hardstanding. Great Crested Newts are not present on site and there will be no impact on this protected species. Policy EN3 of the Hastings Planning Strategy 2014 is complied with. An Informative is added (Informative 3) should Great Crested Newts be found on site at any stage of the

development works.

6. Conclusion

Taking the above into account, it is considered that the proposed electricity substation is required to support the hotel building that was approved in August 2022 under ref HS/FA/21/00851. The proposed building is modest in size and scale, and whilst it may appear visually utilitarian in character and appearance, given its modest size and that the applicants propose a robust landscaping scheme to soften the appearance of the substation from public vantage points, it is considered that a development as proposed is acceptable and complies with Policy DM1 of the Hastings Development Management Plan 2015.

The proposed replacement landscaping scheme is considered to be robust and that it would encourage good quality green infrastructure to be integrated into the design of new developments. As such it is considered that a development as proposed complies with Policies HN7 and HN8 of the Hastings Development Management Plan 2015.

Noise mitigation measures are proposed to mitigate noise impact to neighbouring properties to acceptable levels, and the health impacts of the proposed substation to neighbouring properties is considered to be within acceptable levels. As such a development as proposed is considered to comply with Policy DM3 of the Hastings Development Management Plan 2015.

Given the above, it is considered that the proposal is acceptable and 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:

5112 - BAL ZZ XX DR A 07 5001
5112 - BAL ZZ XX DR A 07 5002
5112 - BAL ZZ XX DR A 07 5003
5112 - BAL ZZ XX DR A 07 5004
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:-

08.00 - 18.00 Monday to Friday

08.00 - 13.00 on Saturdays

No working on Sundays or Public Holidays.

4. The materials to be used must match as closely as possible, in type, colour and texture those listed in the 'Materials' section of the application form.
5. All noise mitigation measures shall be carried out prior to first use of the electrical substation hereby approved in accordance with the details contained in the submitted Noise Report prepared by Sharps Redmore and dated 5 May 2022, and submitted as part of this planning application. These noise mitigation measures shall thereafter be maintained as approved.
6. The soft landscaping of the site shall be in accordance with the soft landscaping scheme drawing no. 5112 - BAL ZZ XX DR A 07 5004 received on 26 August 2022 and submitted as part of this planning application. Development shall thereafter be maintained in accordance with the approved scheme.
7. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same

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 visual appearance in the interest of the amenities of the area.
5. To safeguard the amenity of adjoining and future residents.
6. To ensure a satisfactory standard of development.
7. To ensure an acceptable form of development.

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 applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local Planning Authorities have a statutory duty in exercising of all their functions to *'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*, as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). As a result, GCN and their habitats are a material consideration in the planning process.

Officer to Contact

T Zulu, Telephone 01424 783254

Background Papers

Application No: HS/FA/22/00476 including all letters and documents