

<b>Report to:</b>	PLANNING COMMITTEE
<b>Date of Meeting:</b>	28 September 2022
<b>Report from:</b>	Assistant Director of Housing and Built Environment
<b>Application address:</b>	<b>6 Queens Arcade, Queens Avenue, Hastings, TN34 1PA</b>
<b>Proposal:</b>	<b>Change of use of Unit 6 from shop (Class E) to hot food takeaway (Sui Generis). Install small kitchen (two woks) on ground floor with ordering counter adjoining. Extraction and fresh air make-up ductwork connected to the top of the canopy and exit the building via the first floor and flat roof. Repainting shop front.</b>
<b>Application No:</b>	<b>HS/FA/22/00106</b>
<b>Recommendation:</b>	<b>Grant Full Planning Permission</b>
Ward:	CASTLE 2018
Conservation Area:	Yes - Hastings Town Centre
Listed Building:	No
Applicant:	Miikiin Limited North Barn Main Road East Sussex, Hastings. TN35 4SL
<b>Public Consultation</b>	
Site notice:	Yes
Press advertisement:	Yes - Conservation Area
Neighbour Letters:	No
People objecting:	41
Petitions of objection received:	1
People in support:	490
Petitions of support received:	0
Neutral comments received:	0
<b>Application status:</b>	<b>Not delegated - Petition received</b>

## 1. Site and surrounding area

The site comprises Unit 6 within Queens Arcade, a Victorian shopping arcade in Hastings Town Centre. The arcade provides a covered walkway between York Gardens and Queens Road and is listed as a local Heritage Asset. The occupied units provide a range of goods

and services from small independent traders. The units are characterised by traditional shopfronts, and the walkway is covered by a glazed atrium. The site is in a Conservation Area and is designated on the proposals map as being within the Hastings Town Centre Shopping Area.

### Constraints

Archaeological Notification Area [Officer note: the application is for a change of use, no groundworks are involved]

Asset of Community Value

Business Improvement District

Conservation Area

Local List Heritage Asset

Area Susceptible to Groundwater Flooding

Low Pressure Gas Pipeline runs through arcade

## **2. Proposed development**

Change of use of Unit 6 from shop (Class E) to hot food takeaway (Sui Generis). Internal works would include installation of a small kitchen (two woks) on the ground floor with an ordering counter adjoining. There will be no customer seating inside or outside the shop, it will be takeaway only.

Externally an extraction and fresh air make-up system would feature ductwork connected to the top of the kitchen extractor canopy and exit the building via the first floor and flat roof, together with repainting the shop front.

The technical specification of the extract system include: Extract Fan - Nicotra DDM9/9 1000w single phase fan 6.0a (2.3afic) rated at 2,700m<sup>3</sup>/h (77dBA at 1m) enclosed within an acoustically insulated fan box utilising 25mm acoustic lining. Insertion Loss 33dB at 1Khz = 44dBA at 1m with extract silencer - 900 x 750 x 1200L podded, with 4 100mm airways. Insertion loss 38dB at 1Khz = 39dBA and 500 x 350 double deflection supply air grille 0.32m<sup>3</sup>/s at 1.9m/s and 500 x 400 x 50. Grease filter 0.375m/3s at 1.9m/s and Nominal Dis-Carbon Filter Odour Control Filters.

The proposed opening hours are 9am to 5pm. (Monday – Saturday initially but with the option to open Sunday's and Bank Holidays if required).

No other external alterations are proposed under this application.

The application is supported by the following documents:

Design & Access Statement

Site Waste Management Plan

Heritage Statement

### **Relevant planning history**

HS/AA/22/00207 New signage to front elevation of Unit 6 only

GRANTED 20/06/22

### **National and local policies**

Hastings Local Plan – Planning Strategy 2014

Policy FA3 - Strategy for Hastings Town Centre

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

## Policy EN1 – Built and Historic Environment

### Hastings Local Plan – Development Management Plan 2015

Policy HN1 – Development Affecting the Significance and Setting of Designated Heritage Assets (including conservation areas)

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy SA1 – Hastings Town Centre Shopping Centre

Policy SA4 – Drinking Establishments and Hot Food Take-Aways

### Revised Draft Local Plan (Regulation 18)

Policy OSP1 - Tackling Climate Change

Policy SP1 - Directing Growth

Policy SP6 - Enhancing the Historic Environment

Policy DP3 - Sustainable Design

Policy DP7 - Access, Servicing and Parking

### 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 123 of the NPPF states that Local planning authorities should also 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 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 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**

Conservation Officer - **No objection**

Environmental Health Food and Pollution- **No objection** subject to imposition of conditions

Licensing –No application has been made to the Licensing team for a premises licence, so **no comment to make**

HBC Waste Services – **No objection**

Fire Service – **Have not provided comments**

### **4. Representations**

In respect of this application a site notice was displayed on Queens Road and Wellington Place and an advert placed in the local paper.

A total of 531 responses were received, of which 41 were objecting and 489 were in support. A summary of these are outlined below;

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

- Confined enclosed space of an arcade is not suitable for a food outlet;
- Cooking fumes/odours would fill the enclosed arcade;
- Health and Safety would be compromised for people with nut allergies, asthma and other health conditions;

- Better alternative sites available in the town centre;
- Odours through first floor windows of Hastings Stage Studio (singing, dance and acting school) when open would impact negatively on classes, staff, pupils, and costume storage;
- Second floor windows of Hastings Stage Studio open onto flat roof in close proximity to proposed extraction unit, the main source of fresh air;
- Noise from extraction unit would impact on the Hastings Stage Studio activities;
- Fire risk in an historic building, and concern regarding access for fire service vehicles;
- Would exacerbate parking problems in the town;
- Extractor units would harm appearance of building;
- Not needed, there are enough takeaways in the town.

489 letters of support have been received raising the following:

- New independent small local businesses should be supported;
- The return of this business to the town is widely welcomed;
- Thai takeaway would add to the food options in the town;
- Would add to the variety of food from different cultures in the town;
- Would provide affordable, nutritional, healthy food option for the town;
- Increased footfall would rejuvenate the arcade and wider town centre;
- Would benefit local businesses and tourism;
- Objections generally are unfounded;
- Extraction system would be well away from Hastings Stage Studio windows, there are extraction systems from other outlets nearby;
- Odours would not fill the arcade; the extraction system is designed to discharge it outside the building;
- Odour from fishmongers would have been more noticeable;
- Noise from extraction system would be minimal in relation to the activities at Hastings Stage Studio;
- Peanut allergens are not airborne;
- Existing food outlets in the arcade use nuts as an ingredient;
- Existing food outlets in the arcade have kitchens, the arcade has up-to-date fire alarms and Fire Risk Assessment.

Petition of objection signed by 42 people received 4 July 2022

The main issues of concern noted in the petition are:

- Health and Safety;
- Odour nuisance;
- Impact on fresh air for The Hastings Stage Studio.

## 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) Existing / Proposed Use

The proposal seeks planning permission for a change of use of a retail unit (Unit 6, Queens Arcade) to a hot food takeaway. Unit 6 is currently vacant. Its last use was as a gift shop which occupied Unit's 6 and 8. The proposed hot food takeaway would only utilise Unit 6, Unit 8 will remain available for Class E retail use and does not form part of this planning

application. A dividing wall will be installed to separate the two units, which are currently all one unit.

Policy SA1 of the Development Management Plan sets out the general approach to the Town Centre shopping area. This policy supports proposals for ground floor units within this area as defined on the Policies Map for uses appropriate to the character of the shopping area including A1-A4 uses. Policy SA1 does not specifically cover takeaway uses (hot food takeaways were previously Class A5 when the policy was written but are now Sui Generis and do not fall under any specific use class). Nonetheless, the policy approach to permitting non-A1 uses, was that they should satisfy the following criteria;

- a) *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;*
- b) *The proposal would not result in such a concentration of non-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.*

In regard to these criteria, the first part of part a) is not relevant as Queens Arcade is not within the Priory Meadow shopping centre. In terms of the percentages, the policy position is now less prescriptive, due to the changes in use classes and shopping patterns. As a result, it is necessary to take a flexible approach to town centres, and consider non-retail uses to respond to these changes. As such, percentage thresholds may restrict the overall vitality of town centres, and the national government position now is that there must be a focus on non-retail uses to maintain the vitality of town centres. The proposed change of use would not be contrary to this ethos. It is also noted there are a number of other vacant retail units in the arcade at the time of writing, and therefore, the proposed loss of Unit 6 as a retail unit, would not preclude a trader setting up a retail business in the arcade.

Furthermore, in regard to part b), the proposed hot food takeaway would retain an active shopfront. The cooking area and counter would be front of house, visible through the shopfront window, and as such, the activity associated with the proposed use and the steady flow of customers would contribute positively to the vitality of the arcade and the shopping area as a whole; and, the footfall created would be a positive outcome for the viability of the arcade and the Town Centre too. There is a healthy mix of independent traders within Queens Arcade, and it is considered the introduction of a popular Thai hot food takeaway would add to the character and attractiveness of this Victorian arcade as a destination. Furthermore, there are a diverse range of takeaway outlets in the Town Centre and the addition of a Thai food outlet into the mix provides further options for residents and tourists. As such, whilst Policy SA1 is not specifically relevant for a change of use to a hot food takeaway, the general thrust of the policy to maintain a balanced, vibrant, and viable Town Centre, would not be compromised by this proposal. Furthermore, this type of proposal is conducive with criteria e) of Policy FA3 of The Hastings Planning Strategy, in that it is the type of use that would be popular with visitors to the town, as well as for local people.

Policy SA4 of the Development Management Plan sets out the general approach to granting planning permission for drinking establishments and hot food takeaways. The policy sets out 5 criteria which must be met before planning permission is granted.

- c) *the precise nature of the use proposed, including opening hours, is given;*
- d) *the proposal would not adversely affect neighbours, for example, causing excessive noise and odour;*
- e) *the proposal would not, on its own, or cumulatively with other such uses in the area, be likely to result in problems of disturbance or public disorder;*
- f) *suitable off-street parking is or can be provided where there is insufficient on-street parking; and*

*g) it would not cause inconvenience or danger on the public highway as a result of the additional stopping and manoeuvring of vehicles.*

As discussed in the remainder of this report, it is considered that the proposed change of use would not conflict with the requirements of this policy. In terms of criteria a) the planning application clearly sets out that the precise nature of the use proposed is as a Thai food takeaway. As such, the type of extraction for this type of cuisine can be assessed accordingly. Similarly, the application clearly sets out the opening hours as 9am to 5pm (potentially seven days per week), which is restricted by the arcade opening hours, which closes at 5pm. This and criteria b) are discussed in more detail in section d) 'Impact on neighbouring residential amenities in this report, in which it concludes the proposed use would not impact adversely on neighbours.

In regard to criteria c) of Policy SA4, due to being restricted to daytime opening hours, it is considered the proposed use would not be likely to result in public disorder issues. In terms of criteria d) and e) the site is in a sustainable location in the Town Centre, close to numerous public car parks, and there would be no issues regarding inconvenience to users of the public highway, as the site is within a pedestrian arcade, which itself is within a pedestrianised area of the Town Centre. These matters are discussed further in this report.

So overall, it is considered that the principle of the change of use from retail to hot food takeaway in this location is appropriate and in accordance with the relevant policies in the Local Plan. The site specific material planning considerations are discussed in the remainder of this report, but subject to the consultee responses and compliance with other relevant Local Plan Policies, the loss of a single retail unit and a new hot food takeaway in its place, is acceptable in this location and is considered to accord with Local Plan policy SA4 in regard to new hot food takeaway's.

c) Impact on character and appearance of area / conservation area

Queens Arcade is an aesthetically pleasing Victorian shopping arcade within the Town Centre Conservation Area. Policy EN1 of the Hastings Planning Strategy (2014) seeks that development should sustain and enhance the significance of heritage assets and/or their setting. Policy DM1 of the Hastings Development Management Plan (2015) requires that proposals must reach a good standard of design, which amongst other things should protect and enhance local character. Furthermore, Policy HN1 of the Hastings Development Management Plan (2015) states permission will be given for those schemes that show a full understanding of the significance of the asset and convincingly demonstrate how the proposal sustains and enhances the significance of any heritage assets affected (including conservation areas).

The timber Victorian shopfronts within the arcade are delineated by timber pilasters, with moulded cornices separating the shopfronts from the ornate first floor windows above. The equally decorative glazed vaulted pitched roof and light lantern above the public thoroughfare adds to the Victorian grandeur of the internal space. As such, the arcade contributes positively to the character and appearance of the Conservation Area and the Conservation Officer consultation comments notes the arcade is worthy of listing as a local designated heritage asset in its own right. It is noted however the property is not formally listed as a locally designated heritage asset and no formal application is currently being considered for this. The property is also close to several listed buildings in the surrounding area.

The proposal is primarily for a change of use of the shop, and as such, involves limited external operations. The applicant has indicated that no alterations will be made to the

shopfront other than re-painting, and new signage as approved under HS/AA/22/00207. It is noted re-painting does not require consent from the Council, and as such it would be unreasonable to dictate the colour scheme by condition.

Unit 6 is in the north east end of the arcade, one unit in from the adjoining wall of the cinema building. There is a flat roof above the upper floor of the shop units, which abuts the external wall of the cinema building. Due to the proposed use as a hot food takeaway, the proposal includes a ducted extraction system which will run through the ground floor ceiling, along the first floor sidewall and exit the building at the rear of the first floor of the unit, where the external extraction unit will be mounted on the flat roof above. The flat roof area of the arcade is partially publicly visible from York Gardens, which is primarily a service road providing rear access to retail units within the pedestrianised shopping area. Nonetheless, this is a public thoroughway. However, it is considered any visual impact from the proposed external extraction ducts would be extremely limited, due to the low profile nature of the installation which would sit horizontally along the roof plane; and the distance, elevated position and angle in relation to viewpoints from York Gardens. Views from York Gardens would be over a vehicle parking area, a walled commercial yard, and the flat roof of an adjoining building, which is stepped down from the flat roof above the arcade shop units. The visual impact would be further restricted by a parapet upstand wall on the eastern side of the flat roof, which would further inhibit views of the extract duct from the public domain. This limited visual impact, is in the context of a multitude of highly visible vertical extraction ducts which negatively adorn the back of buildings which front Wellington Place, from the same vantage point in York Gardens. Further to this, the roofscape of the buildings on Queens Road, Wellington Place and Albert Road, entirely enclose the arcade roof, completely inhibiting public view from these areas of heavier footfall.

In the light of this assessment, it is considered the proposed extraction system would have a neutral impact on the character and appearance of the Conservation Area, and on the setting of nearby listed buildings. As such, no objection is raised by the Conservation Officer.

In light of the above, it is considered that the external alterations to the building would not be harmful to the character and appearance of the arcade or the Conservation Area, and as such it is considered that the development is acceptable in this regard and complies with Local Plan Policies DM1, HN1 and EN1 and National Planning Policy Framework paragraphs 194, 195, 197, 199, 200, and 202.

#### d) Impact on neighbouring amenity

Policy DM3 of the Hastings Local Plan - Development Management Plan (2015) requires new development to avoid any adverse impact on the amenity of neighbouring properties. Furthermore, criteria b) of Policy SA4 stipulates the proposal would not adversely affect neighbours, from for example, causing excessive noise and odour. As such, this assessment needs to consider the amenity of the neighbouring residential units to ensure that they are not harmed as a result of the proposed change of use through noise, odour and activity associated with the use.

Cooking fumes if not dealt with adequately can cause nuisance to local residents, and to occupiers of other non-residential buildings. Furthermore, the extraction systems designed to mitigate cooking odours, can also result in noise disturbance.

Following discussions with the applicant and Environmental Health officers, subsequent to the initial application submission, technical specifications of the extraction system were requested and provided, in order to fully assess the implications of the proposed use on the



local environment.

The proposal includes a kitchen extractor canopy overhanging the entire cooking area, to capture the fumes from the cooking appliances, and via a ducted extraction system omit the fumes through a series of filters via the external extraction unit mounted on the flat roof. Environmental Health officers have confirmed that it is a robust system, that is more than adequate for the proposed type of cuisine, with top end pre-filters and carbon filters. It is a state-of-the-art system, which goes over and above the odour and noise legislative requirements for the type of cuisine proposed. As such, the proposed extract system is satisfactory for the purposes of odour prevention, and it complies with EMAQ+ Control of Odour and Noise from Commercial Kitchen Extraction Systems 2018 guidance. The first-floor windows serving the spaces above the arcade shop units (such as the Hastings Stage Studio), are internal within the enclosed vaulted space within the arcade, and the extraction system is designed to remove the cooking fumes from this internal space, to be discharged externally. Inevitably there will be some aroma from the food within the arcade, as there is from the other food outlets. However, crucially, due to the extraction system these would not be obnoxious choking fumes that would cause public health issues.

Externally, there are no openings serving residential properties in external walls close to the flat roof area where the extraction ducts would be sited. There are however second floor windows and a fire door serving the main studio of the Hastings Stage Studio, which are frequently kept open as a fresh air source for the students. These openings are approximately 15m from the proposed external extraction ducts, and it is noted the system would discharge away from these windows toward the blank cinema wall. There are many extraction units in the immediate area serving takeaway outlets, and a faint smell of food is an ever-present when these uses exist in an area. However, it should be noted that many of the nearby outlets have cuisine that involves heavy use of deep fat fryers that produce more pungent odours that frequently clog up filters designed to reduce odour nuisance. Conversely, the proposal for Unit 6 only involves light frying in two woks, which is much less intense. As such, this proposal would not exacerbate the existing situation in terms of odours. For the reasons described, the proposed extract system situated on high flat roof, discharging well away from residential / non-residential receptors with a top of the range filtration system, would not cause harm as a result of cooking odours.

Equally, for the same reasons described above, the external extraction system is well away from any noise sensitive receptors. The immediate surrounding area has many commercial food premises with existing extraction systems and air conditioning units at ground and first floor level, particularly prevalent on the rear of the properties fronting Wellington Place. As such, from the public domain in York Gardens these existing units contribute discernibly to the regular background noise associated with a busy town centre location. It is considered that due to the considerable distance and height of the proposed extraction ducts from the public domain and sensitive noise receptors, combined with the advanced built-in noise reducing features including acoustically insulated fan boxes and silencers, the proposed extraction system would not exacerbate the existing ambient background noise. It is also noted the system (due to restricted opening hours of the arcade) would only operate during daytime hours, providing further mitigation.

In conclusion, following the receipt of the technical specification details of the proposed extraction system, Environmental Health officers have confirmed, there is no requirement to secure further details by condition, as the original comments made by Environmental Health regarding noise and odour have now been satisfied. The submitted details, in conjunction with an on-site assessment, demonstrate that the proposed system would have sufficient properties to mitigate any odour and noise nuisance to neighbouring properties and the

public domain. In fact, the applicant would be deploying the most up to date kit, to provide the best solution available for noise and odour emissions. As such, it is considered the proposed system, would not impact detrimentally on the surrounding environment, in accordance with criteria b) of Policy SA4 of the Development Management Plan.

A condition is required to ensure that the proposed extraction system as described is installed prior to opening and that it is serviced and maintained as per manufacturer's instructions thereafter [Condition 4].

The proposed trading hours are from 9am to 5pm. There is no option to open later, as the arcade shuts to the public at 5pm. In these circumstances it is considered the customer activity associated with these sociable hours, would not impact detrimentally on residents living in the Town Centre. As such, the hours put forward by the applicant are acceptable and will be controlled by [Condition 3].

Informatives recommended by Environmental Health have also been included which advise the applicant about food safety and health and safety requirements [Informatives 3 & 4]. In the light of the above, the proposal is in line with the requirements of Policies DM3 and SA4 of the Hastings Local Plan - Development Management Plan (2015).

#### e) Highway safety/parking

No parking provision can be provided for the proposed change of use, and off-road parking is not possible given the location of the site in a pedestrian only arcade, which itself is in a mainly pedestrian area of the Town Centre. In this case, the site is already a shop which would generate customers on foot, deliveries, loading and unloading for the takeaway being no different to the shop, in that van access to the service areas would be permitted in accordance with local traffic restrictions.

As such, given the parking constraints, as the site can only be reached on foot, customers would collect takeaway food this way, having, if they have travelled into the Town Centre by car, parked in one of the many public car parks in the surrounding area.

Initially, the business is not providing a delivery service, but may do so in the longer term once established. There are many hot takeaway businesses in the immediate vicinity of the arcade that already operate a delivery service successfully, so it is not considered any issues would arise from the proposed Thai hot food takeaway doing the same. Given the parking restrictions in the streets around the arcade, and access to the arcade limited to pedestrians, the couriers would collect the order on foot and take them to their vehicle/motorbike. As such, as above it is not considered this would give rise to inconvenience to users of the highway. Nonetheless, prior to commencing a delivery service, the applicant will be required to submit details with a management plan, to ensure the impact is controlled [Condition 5].

Given the vehicular access constraints of the site, there is little opportunity for vehicles to wait in the highway to collect food, and as such, the proposed development would not impact significantly on the highway, and therefore the proposal is considered acceptable in this regard which complies with Policies SA4 and DM4 of the Hastings Local Plan - Development Management Plan (2015).

#### f) Waste

Policy DM3 of the Hastings Local Plan - Development Management Plan (2015) states, in order to achieve a good living standard for future users of proposed development and its neighbours it should be demonstrated that amenity has been considered and appropriate

solutions have been incorporated into schemes. Permission will be given for development where, there is adequate space for storage of waste and the means for its removal. Queens Arcade is an established business location, with a mix of retail and existing food outlets. As such, the arcade management already have a waste strategy for the arcade. This includes dedicated bins solely for the food businesses with secure lids, which are stored in York Gardens, and collected regularly. On this basis HBC Waste services have no objection subject to the imposition of an informative [Informative 5].

Hot food takeaways can be a serious source of litter, particularly in town centres where there is a proliferation of such establishments in close proximity to each other. The applicant has indicated food will be served in biodegradable food containers for customers to take away their food in. Condition 6 requires a strategy for waste to be submitted and approved which may include the requirement for signage to be erected in the shop requesting that customers dispose of waste using bins and in a responsible manner. [Condition 6].

g) Issues raised in representations.

Concerns have been raised about potential allergens affecting people as a result of the proposed use. This is a matter which is outside of the remit of planning and would require a suitable qualified person to assess the medical evidence.

## **6. Conclusion**

In conclusion, the principle of the proposed change of use is acceptable, and meets with the relevant local plan policies, and the governments overview to help maintain vibrant diverse town centres. The proposed external works would involve less than substantial harm, with the public benefits of supporting local business outweighing the harm. Furthermore, the application proposes a high-end extraction system to mitigate any noise and odour nuisance in the surrounding area; and, due to the location in a pedestrianised area, highways impact would be minimal. Therefore, when balancing all the material planning considerations, there is no good planning reason to warrant refusing the application, and the proposal is therefore recommended for conditional approval.

These proposals comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

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

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

## **7. Recommendation**

**Grant Full Planning Permission subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan  
TV514-1B - Kitchen Extract Ventilation System

TV514-2 Existing Plans  
Proposed Shop Interior Design  
Existing/Proposed Shop Front image

Standard Discard Cells - Product Data Sheet  
FP Pleated G4 Panel Filter - Product Data Sheet  
Reliance P85 Synthetic Bag Filter - Product Data Sheet  
Extract Fan - Product specification details (Nicotra Gebhardt)  
Fresh Air Fan - Product specification details (Nicotra Gebhardt)  
Fan box acoustic lining - Product specification details (Wilhams Insulation Group)  
Extract Silencer specification data

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

09:00 to 17:00 Monday to Sunday and Bank Holidays.

Any proposed changes to the above opening times shall be submitted to and approved in writing by the Local Planning Authority.

4. Prior to the first operation of the use hereby permitted, the approved extraction system shall be installed and fully operational. It shall thereafter be operated and retained in accordance with the approved details, and maintained and serviced in accordance with the manufacturers specification.
5. Prior to the commencement of any delivery service from the premises, the operational details and a management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the delivery service shall be operated and managed in accordance with the approved details.
6. Prior to the first operation of the use hereby permitted, a plan outlining the measures to reduce litter generated from the use hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the litter prevention measures shall be implemented at all times in accordance with the approved details.

**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. In the interests of the amenity of the neighbouring occupiers.
5. In the interests of the amenity of the neighbouring occupiers.

6. In the interests of the amenity of the neighbouring occupiers.

### **Notes to the Applicant**

1. Failure to comply with any condition imposed on this decision 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. Prior to occupation, 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/food\\_packs/caterers/](http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/food_packs/caterers/)
4. The applicant is strongly advised to contact the Environmental Health Team before services, fixtures and fittings etc. are installed for advice on satisfying the requirements of Health and Safety Law.
5. Trade waste that is produced at this establishment would need to be collected by a registered and licensed trade waste carrier, and the collections would need to be frequent enough to prevent the waste from becoming a detriment to the surrounding area. The bins would need to be locked and kept in good condition and stored safely at all times.

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### **Officer to Contact**

Mr Paul Howson, Telephone 01424 783279

### **Background Papers**

Application No: HS/FA/22/00106 including all letters and documents