

Report to: PLANNING COMMITTEE

Date of Meeting: 22 December 2022

Report from: Assistant Director of Housing and Built Environment

Application address: **Proposed Visitor Centre Hastings Country Park,(The Bale House), Lower Coastguard Lane, Fairlight, Hastings, TN35 4AB**

Proposal: **Variation of condition 3 (operational hours) of Planning Permission HS/FA/19/00303 (Erection of a new visitor centre - originally granted under HS/FA/14/01033). Amendment is to increase operational hours to 8am-9pm (for community use) Monday - Sunday.**

Application No: **HS/FA/22/00601**

Recommendation: **Grant Full Planning Permission**

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

Applicant: Groundwork South Bale House Lower Coastguard Lane Fairlight, Hastings. TN35 4AD

Public Consultation

Site notice:	Yes
Press advertisement:	No
Neighbour Letters:	No
People objecting:	6
Petitions of objection received:	0
People in support:	3
Petitions of support received:	0
Neutral comments received:	1

Application status: Not delegated - 5 or more letters of objection received

1. Site and surrounding area

This application relates to Bale House, the recently constructed visitor centre along Coastguard Lane within Hastings Country Park. It sits within a frequently accessed rural AONB landscape adjacent to an existing road and car park. To the east of the site are residential properties in Fairlight located on Warren Road, Coastguard Lane and The Close.

Constraints

High Weald Area of Outstanding Natural Beauty (AONB)

Local Wildlife Site

Local Nature Reserve

Public Right of Way

2. Proposed development

Planning permission for the new visitor centre was originally granted in 2014. It was subsequently amended by way of Section 73 of the Town and Country Planning Act in 2018 and 2019 (see planning history below). It is the third planning permission which has technically been implemented. In common with the previous approvals, it contains a planning condition that requires that the visitor centre shall not be used except between 9am and 5pm Monday to Sunday.

A variation of condition is now sought to enable the visitor centre to stay open from 8am to 9pm Monday to Sunday.

Following a request from officers following feedback in public consultation the applicant provided the following additional information about the reason for the extended opening hours.

"Groundwork South is a non-profit charity and have requested the change in hours in response to the community members repetitive requests for various educational activities beyond 5pm. These activities include heritage walks and talks, nature based art activities, conservation activities such as flora and fauna walks and talks and various other requests to use the space as a community asset for education, health and well-being. The café would remain operating at the same hours as they do currently."

The hours requested allow for summer evening activities to take place, both moth and bat nights are very popular; with sunset at 21:03 on the longest day, the hours requested would only accommodate these activities further away from the summer solstice. These are family events and while we have been able to run some from the old visitor centre, there are no toilet facilities available for participants to use. Evening educational talks are also quite popular, but we have had to limit numbers due to the capacity of the old visitor centre. Both participants and those running the talks would much prefer to use the Bale House as it is a much more inviting and comfortable community building"

Local residents were re-consulted on the above description by way of a second site notice, positioned in similar locations to the first two.

Relevant planning history

HS/FA/19/00499 Proposed new boundary extended 20m from currently approved application (App' ref: HS/FA/14/01033) boundary and proposed new swale Approved 12

September 2019.

HS/FA/19/00303 - Variation of condition 4 (Foul Sewerage) of planning permission HS/FA/17/01018 (Amendment to the disposal and management of foul sewerage). Approved 11 July 2019.

HS/FA/17/01018 - Variation of condition 13 (Approved drawings) of planning permission HS/FA/14/01033 - Amendments to roof structure, window openings, ventilation unit and weatherboarding material. Approved March 2018.

HS/NM/18/00059 - Non-material Amendment application to vary the wording of condition 4 of planning permission HS/FA/14/01033 (Erection of a new visitor centre) requiring the SUDS details to be submitted prior to commencement of development above ground level rather than prior to construction of development. Approved 2018.

HS/CD/17/01101 - Discharge of various conditions associated with HS/FA/14/01033. Approved 2018.

HS/FA/14/01033 - Erection of a new visitor centre - Granted 6th March 2015 (expires 6th March 2018).

National and local policies

Hastings Local Plan – Planning Strategy 2014

Policy EN3 - Nature Conservation and Improvement of Biodiversity

Policy EN7 - Conservation and Enhancement of Landscape

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

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM3 - General Amenity

Policy DM6 - Pollution and Hazards

Policy HC3 - Community Facilities

Policy HN8 - Biodiversity and Green Spaces.

Revised Draft Local Plan

DP1 Design – Key Principles

Other policies/guidance

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 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 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

None

4. Representations

In respect of this application a site notice was displayed outside the visitor centre and on Coastguard Lane.

6 Letters of objection were received, including from the Fairlight Parish Council Planning Committee. There were also two neutral comments (including one from an objector) and three letters of support.

The following concerns were raised

Fairlight Council Planning Committee:

Due to the close proximity to a residential area, it is suggested that conditions should be imposed

- No licences for alcohol, music etc are issued
- For educational use only rather than commercial
- A set number of days per month only are set aside when the hours are extended into the evening
- Consideration should be given to the disruption to the wildlife in the area from additional people and vehicles producing light, noise and other pollutants to the site

Objections were raised on the following grounds.

a) Principle of development

- There is a concern that the visitor centre is primarily used as a cafe and not for its original community/educational purposes, and the extended opening hours would exacerbate this problem.
- Failure to provide adequate detail on what the proposal would be used for in the additional opening hours.
- Concern that further applications may come forward requiring more late night opening
- Concern that any extended hours are limited to educational and community purposes as per the original intention in granting planning permission for the building.
- Concern that no licenses for Alcohol or Music are issued, requests that number of days are limited.
- Temporary permission for no more than three years might be appropriate to see if enforcement of conditions proves difficult and whether problems arise
- Concern that the nature centre and café should be physically separated.
- Concern about the decision making process given that Hastings Borough Council has an interest in the land.

b) Effect on character and appearance/ AONB

- Concern that the proposed additional opening hours will lead to additional light and noise pollution.
- Concern about loss of tranquillity.

c) Residential amenity

- Concern about noise and disturbance to local neighbouring residents.

c) Ecology

- Concern about effect of additional noise and light pollution to the local wildlife.
- Concern about the potential impact of traffic movements on wildlife and ecology.

Three letters of support were received

- The Friends of Hastings Country Park Nature Reserve support the application on the condition that the Bale House is only used for non-profit making community purposes during the extended hours.
- One local resident supports the application on the basis that it 'seems crazy that for the information centre and refreshment area to close in the late afternoon'.
- Hastings Country Park Nature Reserve Management Forum (responsible for setting the management agenda and overseeing management progress at Hastings Country Park Nature Reserve). This forum note that the Bale house is vital for supporting community and educational activities at the reserve and extending the opening hours will promote on-going visitor and educational attractions at the Bale House. The forum advises that having the Bale House open to members of the public, for events and activities relating to the wonderful landscape of the reserve is a key strategic priority for Hastings Borough Council's future management of both the Bale House and the nature reserve.

A second site notice was put up in November 2022 with accurate opening hours and inviting comments on the statement from the applicant setting out the reason for the proposed extended opening hours. No responses were received to this second phase of public consultation.

5. Determining issues

The main issues are principle of development, effect on character and appearance, residential amenity, trees and ecology.

a) Principle

Planning permission was originally granted by planning committee in 2014 for the construction of the visitor centre at Hastings Country Park, now known as Bale House subject to a condition that limited its opening hours from 9-5 Monday to Sunday. At the time there was public concern that the building would be used for private events such as parties late in to the evening which could be a potential source of noise and disturbance, and the condition was imposed in part to assuage those fears.

The visitor centre was originally envisaged for 'education and conservation purposes'. As such the lawful planning use of the building is use class F1 - (defined in law as schools, galleries, museums, libraries, halls or churches). The cafe use is ancillary, or secondary, to this. An inspection of the interior of the premises shows that the centre is being currently run as originally envisaged, with the bulk of the space being used to provide information boards about the park.

The applicant makes clear that the type of activities that will take place within the building in the extended opening hours would be for the purposes of education, health and well-being; with a particular focus on the use of the centre for hosting walks in the evening around the country park. This is all consistent with the lawful F1 use of the premises.

It is noted that there are concerns that the cafe will operate in to the evening but the applicant has confirmed this is not their intention in pursuing this planning application and the opening hours of the cafe will remain as present. There would be no change to the current situation, whereby the cafe is functioning as an ancillary element to the visitor centre. Concerns regarding the potential use of the premises for loud events are addressed through condition 2 preventing the playing of live or recorded music in the evening. This will be discussed further in the report.

In consequence, the principle of the development is considered to be acceptable. The proposal accords with the relevant policies in the Hastings Local Plan - Development Management (2015) in this respect.

b) Character and Appearance (including effect on the High Weald Area of Outstanding Natural Beauty)

The visitor centre is located within the High Weald AONB, where there is a statutory duty to conserve and enhance natural beauty. Within this context, the site is close to a built up area associated with the village of Fairlight. It is adjacent to a car park used by people accessing the Country Park, which is regularly used in daylight hours.

The proposal will lead to further use of the building and car park in the morning and evening, and this will be particularly noticeable in the darker months of winter. However, the impact in terms of noise and disturbance, light pollution and tranquillity through artificial light and vehicular movements would be negligible given that they will not extend past 9pm, and given the close proximity of the building to existing built development associated with Fairlight.

It is also noted that people regularly visit the Country Park to walk dogs including, although more occasionally, in the darker evenings of winter. The additional people visiting the site between 5pm to 9pm will not represent a significant change that could be deemed harmful to the character of the area of qualities of the AONB.

Given the location of the site on the fringe of Fairlight adjacent to a tranquil area, it would be reasonable to impose a further condition (no.2) preventing the use of the premises for the

playing of live or recorded music in the building, in the extended evening opening hours.

It is therefore considered that, subject to conditions being imposed as per the above, there would be no harm to the character and appearance of the area or the High Weald AONB, and no conflict with planning policy on this issue.

c) Amenity (including noise and disturbance)

Under the proposed arrangements, the building will open at 8am and cease operating at 9pm. The main consequence of the extended opening hours would be more comings and goings to the visitor centre in the morning and evening, as people access the building for community uses.

There is a significant separation distance to the nearest residential property, and there is good existing infrastructure around the site, including car parking, to accommodate such additional movements, which would stop at 9pm when the building must in any event close.

As noted previously, the applicant has confirmed that there is no intention to extend the opening hours of the cafe. As such, there is no risk that the use of the premises will change to being that of a destination restaurant in the evenings, so the proposal would not lead to additional noise and disturbance of this nature, as feared by some consultation respondents.

In the circumstances of this case it is considered that there are no planning reasons relating to noise and disturbance to justify refusal of planning permission for the extended opening hours requested.

d) Ecology

The existing building stands next to a road, close to a built up area, on the edge of a well used Country Park. There would be a small amount of additional vehicular movements arising from the longer opening hours, but this would not lead to material harm to wildlife or ecological interests, including the Local Wildlife Site and Nature Reserve.

e) Other issues

Any future proposals for changes to the venue would need to be considered on their merits, as would any application for any future alcohol license associated with the building. These are not considerations that would justify the refusal of planning permission or the imposition of additional conditions.

There is no planning justification to grant permission subject to a temporary time period, or to limit the number of days the building can open in to the evening.

It is acknowledged that the Council have an ownership interest in the land, but the proposal has been assessed against the development plan and other material considerations as required by planning law.

6. Conclusion

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 carried out in accordance with the following approved plans:

101C; 108C; 240/204D; 240/205B; 240/106/D; 240/107/D; 240/219E; 240/214B; 240/223.
2. The visitor centre shall not be used except between the following hours:
8am - 9pm Monday to Sunday.

Within these operating hours
 - i) no food, drinks or other forms of refreshment shall be sold within the visitor centre to visiting members of the public between the hours of 5pm and 9pm daily.
 - ii) no Live or recorded music shall be played in the venue between the hours of 5pm and 9pm daily.
3. The Amphitheatre is to be used as an outdoor classroom only and for no other use.

Reasons:

1. For the avoidance of doubt and in the interests of proper planning.
2. To safeguard the amenity of adjoining and future residents, and to preserve the tranquillity of the High Weald Area of Outstanding Natural Beauty.
3. To protect the amenity of neighbouring residents.

Notes to the Applicant

1. 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.
2. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.

3. You are advised that the Council consider that the Visitor Centre falls within the F1 use class, having regard to the The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Officer to Contact

Mr Neil Holdsworth, Telephone 01424 783275

Background Papers

Application No: HS/FA/22/00601 including all letters and documents