

**Report to:** PLANNING COMMITTEE

**Date of Meeting:** 22 February 2023

**Report from:** Assistant Director of Housing and Built Environment

**Application address:** **Unit 2 Lacuna Place, Havelock Road, Hastings, TN34 1BG**

**Proposal:** **Change of use of the vacant ground floor unit of Lacuna Place to Class E - Commercial, Business and Service Use**

**Application No:** **HS/FA/22/00865**

**Recommendation:** **Grant Full Planning Permission**

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

Applicant: Hastings Borough Council Unit 2 Lacuna Place  
Havelock Road East Sussex Hastings TN34 1BG

**Public Consultation**

|                                  |                         |
|----------------------------------|-------------------------|
| Site notice:                     | Yes                     |
| Press advertisement:             | Yes - Conservation Area |
| Neighbour Letters:               | No                      |
| People objecting:                | 0                       |
| 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 application site relates to unit 2 Lacuna Place, a vacant ground floor unit set within a commercial building located within the Hastings Town Centre. This ground floor unit is approximately 292 square metres and has been vacant since its construction in 2008. Lacuna Place is of a modern design, with full height glazed panelling to the front, side and rear elevations with the creation of new access doors at ground floor which have been

completed following the approval under application HS/FA/19/00664.

The unit is located on the west side of Havelock Road but is also accessible from Priory Street. Havelock Road is predominately made up of commercial uses at ground floor level, with ancillary office space, storage or residential above. The exception to this is the former University of Brighton building sited opposite, for which a change of use to a dual use comprising of student and visitor accommodation under application HS/FA/20/00404 was approved, although works have begun on site they have not yet been completed.

The application site lies within the Academic Cultural Quarter as defined by the Hastings Development Management Plan 2015, as well as the Hastings Town Centre Conservation Area.

### Constraints

SSSI Impact Risk Zone

Hastings Town Centre Conservation Area

Hastings Town Centre

Archaeological Notification Area

Ground Water Flooding

Academic Cultural Quarter

Land Owned by Hastings Borough Council

GCN District Licensing Scheme IRZ - Green

GCN District Licensing Scheme IRZ - White

### Background Information:

Planning permission was granted in 2006 under application HS/FA/06/00307 (a variation of application HS/FA/05/00664) for the erection of two new buildings for B1 use at upper levels, with flexible commercial uses of A1, A2 or A3 fronting Havelock Road, and A1, A2, A3 or B1 fronting Priory Square. The ground floor unit in question as part of this application therefore currently has permission for an A1, A2, A3 or B1 use, although it has remained vacant since its construction in 2008.

A further planning application for this ground floor unit was granted for a flexible use for A1, A2, A3, A5, B1, D1 and D2 use under application HS/FA/19/00814. This permission was not commenced within the 3-year requirement and has since expired.

It is noted the permitted uses A1, A2, A3 or B1 for this ground floor unit were re-grouped on the 1 September 2020 and now fall under Class E which is more broadly made up of 11 parts.

As noted above the unit has permission for E(a) (A1), E(c) (A2), E(b) (A3) or E(g) (B1) use, but not for E(e) and E(f) (D1 prior to 1 September 2020) and for E(d) (D2 prior to 1 September 2020). This application has now been submitted to reflect the current use classes which were updated on 1 September 2020, and to optimise the unit's marketability and secure occupancy for the future. This application proposes Class E to the ground floor unit to include all 11 parts contained under the canopy of Class E.

This report will assess the suitability of all uses being proposed at the premises, considering its location, surroundings, and impact on neighbouring sites.

## 2. Proposed development

This application proposes to use the vacant ground floor unit of this commercial building for Class E - Commercial, Business and Service Use. Class E uses are defined as follows :

- E(a) Display or retail sale of goods, other than hot food (A1 prior to 1 September 2020)
- E(b) Sale of food and drink for consumption (mostly) on the premises (A3 prior to 1 September 2020)
- E(c) Provision of :
  - E(c)(i) Financial services,
  - E(c)(ii) Professional services (other than health or medical services), or
  - E(c)(iii) Other appropriate services in a commercial, business or service locality (A2 prior to 1 September 2020)
- E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink) (D2 prior to 1 September 2020)
- E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner) (D1 prior to 1 September 2020)
- E(f) Creche, day nursery or day centre (not including a residential use) (D1 prior to 1 September 2020)
- E(g) Uses which can be carried out in a residential area without detriment to its amenity :
  - E(g)(i) Offices to carry out any operational or administrative functions,
  - E(g)(ii) Research and development of products or processes
  - E(g)(iii) Industrial processes (B1 prior to 1 September 2020)

No external alterations are proposed as part of this proposal, this application relates solely to a change of use.

The works which were approved under application HS/FA/19/00664 for full height glazed panelling to the front, side and rear elevations with the creation of new access doors having been completed on site.

### Relevant planning history

- |                |  |
|----------------|--|
| HS/CD/22/00090 | Discharge of Condition 4 (material) of Planning Permission<br>HS/FA/21/00120 - Installation of a wall to house the incoming water mains to meet Southern Water's requirements<br>Permission with conditions on 07/03/22      |
| HS/FA/21/00120 | Installation of a wall to house the incoming water mains to meet Southern Water's requirements<br>Permission with conditions on 05/08/21   |
| HS/CD/21/00213 | Discharge of condition 4 (materials) of Planning Permission<br>HS/FA/19/00664<br>Permission with conditions on 28/04/21  |
| HS/FA/19/00814 | The proposal is for the change of use to the vacant ground floor unit of Lacuna Place to a flexible A1, A2, A3, A5, B1, D1, and D2 use.<br>Permission with conditions on 20/12/19  |
| HS/FA/19/00664 | Removal of hoarding to be replaced with full height glazed panelling to front, side and rear elevations with 1 x glazed bi-parting door to front, 1 x glazed bi-parting door to side and creation of new access door to rear |

elevation

Permission with conditions on 20/12/19

HS/FA/06/00307 The demolition of 11,12 and 13-15 Havelock Road and the redevelopment of these and the adjoining vacant sites to provide two buildings: both designated for business use (class B1); with the ground floor to Priory Street designated as retail and or business (class A1/A2/A3 &/or B1) and the ground floor to Havelock Road designated as retail (class A1/A2 &/or A3); and with basement car parking. (Revision to scheme approved under reference HS/FA/05/00664).

Permission with conditions on 23/06/06

HS/FA/05/00664 Redevelopment of 11, 12 and 13-15 Havelock Road and the adjoining vacant sites to provide two buildings; one designated for business use (Class B1); one designated for educational use (Class D1) with retail at ground floor (Class A1/A2 and/or A3); and with basement car parking. (Application HS/CA/05/00663 for the demolition of 11, 12 and 13-15 Havelock Road also applies)

Permission with conditions on 03/02/06

### **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 SC7 - Flood Risk

Policy EN1 - Built and Historic Environment

Policy E3 - Town, District and Local Centres

#### Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy SA4 - Drinking Establishments and Hot Food Take-Aways

Policy CQ1 - Cultural Quarters

#### Revised Draft Local Plan (Regulation 18)

#### 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**

#### **Licensing - No objection**

A separate Licensing Act application will be required should the implemented use include matters covered under the Licensing Act 2003.

#### **Environmental Health Team - No objection subject to conditions**

Require condition to protect amenities of neighbouring sites if commercial kitchen and external extraction system installed (condition 4) :

Prior to the first operation of the premises, a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity

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

#### Planning Policy Team - **No objection**

Considers the proposal to be complementary to the Town Centre shopping area, in line with Policy E3 of the Hastings Planning Strategy.

#### Waste Team - **No objection**

Waste generated from this business would need to be properly contained, emptied frequently enough to prevent any detriment to the surrounding area, with these bins stored off of any public highway.

### **4. Representations**

Two site notes were displayed at the site. One on each of the Havelock Road and Priory Square frontages. No representations have been received.

### **5. Planning and legislative background**

Planning permission was granted in 2006 (HS/FA/06/00307) for the erection of two new buildings for B1 use at upper levels, with flexible commercial uses of A1, A2 or A3 fronting Havelock Road, and A1, A2, A3 or B1 fronting Priory Square. The unit in question as part of this application therefore currently has permission for an A1, A2, A3 or B1 use, although it has remained vacant since its construction in 2008.

For clarity, these uses are described as follows :

E(a) (A1 prior to 1 September 2020) - shops

E(c) (A2 prior to 1 September 2020) - financial and professional services

E(b) (A3 prior to 1 September 2020) - restaurants and cafes

E(g) (B1 prior to 1 September 2020) - business

Schedule 2, Part 3, Class V of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) allows for some changes of use from existing authorised uses to alternative uses, which would have been specifically authorised when granted. This means that through permitted development rights, the authorised E(a), E(c), E(b) and E(g) use of the application site, could legitimately change to any other use if allowed by the GPDO, subject to several conditions.

As noted above the unit has permission for E(a) (A1), E(c) (A2), E(b) (A3) or E(g) (B1) use, but not for E(e) and E(f) (D1 prior to 1 September 2020) and for E(d) (D2 prior to 1 September 2020), as such this application has been submitted to reflect the current use classes which were updated on 1 September 2020, and to optimise the unit's marketability and secure occupancy for the future.

### **6. Determining issues**

The application proposes a variety of uses within Class E for the premises. It is therefore important that this report assesses the suitability of all the potential uses within Class E operating from the premises having regard to the site's surroundings, and impact on

neighbouring sites.

No external alterations are being considered as part of this application and as such, the impact on the character and appearance of the conservation area does not need to be considered, other than the impact that the proposed uses may have on the character of the area.

The premises is not sited within the licensing saturation zone, which restricts the numbers of licensed premises that are operating in a defined area. Therefore, there are no concerns regarding over concentration of licensed premises. However, if uses are pursued that require a license under the Licensing Act 2003, this will be subject to a separate licensing application process.

#### a) Principle

Policy LP1 of the Hastings Local Plan - Development Management Plan 2015, paragraph 4.3 of the Hastings Local Plan – Planning Strategy 2014 and paragraph 11 of the National Planning Policy Framework set out a presumption in favour of sustainable development. The site is within a sustainable location with reasonable/good access to public transport, shops, services and facilities and as such the development is considered acceptable in principle subject to other Local Plan policies.

#### b) Loss of existing use

This application relates to a vacant ground floor commercial unit in an occupied office building. The 2006 consent under application HS/FA/06/00307 (a variation of application HS/FA/05/00664) for the entire building, included a flexible use of E(a) (A1), E(c) (A2), E(b) (A3) and E(g) (B1) but was never implemented at ground floor level due to lack of interest in the unit. All of these uses are proposed in this latest application, and as such, the commercial ground floor element is being retained. No objection is therefore raised with the loss of the existing flexible use.

#### c) Proposed new use

As several uses are proposed for this application, the potential impacts of each will be considered in turn below. It is important to note that the application site does not fall within the primary shopping area as defined by the Hastings Local Plan Policies Map, so E(a) (A1) uses do not need to be the primary focus in this area.

It is also important to recognise that 'main town centre uses' are defined by the National Planning Policy Framework (NPPF) and include the following :

- Retail development (including warehouse clubs and factory outlet centres).
- Leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls).
- Offices.
- Arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

Every use applied for in this application is shown as an appropriate town centre use, as defined by the National Planning Policy Framework (NPPF). The Planning Policy Team considers the proposal to be complementary to the Town Centre shopping area, in line with Policy E3 of the Hastings Planning Strategy.

*E(a) (A1 prior to 1 September 2020) (Shops)*



The application site faces out on to both Havelock Road and Priory Square. Havelock Road at ground floor level is well populated with retail units, offices falling within E(c) use, and public houses. The site is located in Hastings Town Centre, and as such, an additional E(a) use would complement the nearby primary shopping area by improving its vitality and viability, in accordance with Policy E3 of the Hastings Planning Strategy 2014. In addition, a new retail use will be in accordance with Policy FA2 of the Hastings Planning Strategy (Strategy for Hastings Town Centre), in that it would promote competitiveness in terms of the range and type of shops operating in the area.

*E(c) (A2 prior to 1 September 2020) (Financial and professional services)*

Similar to the assessment for E(a) (above), the area is characterised by such commercial uses in this part of the town centre. A further E(c) use would complement the business aims of Policy FA3 of the Hastings Planning Strategy, in recognition of their contribution to the cultural quarter.

*E(b) (A3 prior to 1 September 2020) (Restaurants and cafes)*

An E(b) use in this location also formed part of the original consent for the Lacuna Place development, and as such, the principle of this has previously been agreed. An E(b) use in the form of a restaurant or café would increase footfall in this part of the town centre, encouraging further use in the evening when the offices and shops have closed for the day. This contributes to the aims of Policy CQ1 of the Development Management Plan which seeks to support development that will assist the further expansion of their role of centres for leisure and business activities, will contribute to the mix and diversity of uses and the potential to enhance their attraction to visitors, and improve the vitality of the area.

*E(g) (B1 prior to 1 September 2020) (Business)*

A proposed business use would provide a continuation of the use of the remainder of the building, which is not out of keeping with the commercial nature of the area. Whilst it is acknowledged that the application site lies on the boundary of the Priory Quarter site allocation in the Development Management Plan, it is clear that any development should be considered in the context of this wider area, given the new build developments that took place as a collective. Additional employment space in this location would therefore meet the aims of Policy DS2 of the Hastings Planning Strategy in that it would continue development of new office-based opportunities at Priory Quarter in Hastings Town Centre. Business use in this location is therefore supported, in recognition of its contribution to employment growth in the town centre.

*E(e) and E(f) (D1 prior to 1 September 2020) (Non-residential institutions)*

E(e) and E(f) uses were not included at ground floor level in the original consent for the building, and as such, the principle for this has not yet been established.

A E(e) and E(f) use could comprise of a use for medical and health services, or day centre, creche and day nursery.

Given the size of the unit in question, it is unlikely that the premises would be suitable for a creche or nursery use. The most appropriate use is likely to be for medical and health services which will positively contribute to the diversity of uses found within the centre, in accordance with Policy E3 of the Hastings Planning Strategy 2014. However, all of the E(e) and E(f) uses are considered acceptable, subject to the imposition of conditions 3 and 4 to safeguard neighbouring sites.

*E(d) (D2 prior to 1 September 2020) (Assembly and leisure)*

E(d) uses were not included within the original consent for the building at ground floor level, and as such, the principle for this has not yet been established.

A E(d) use could comprise of a use for indoor sport or recreation, not involving motorised vehicles or firearms or use as a swimming pool or skating rink.

As stated above, the floor area will restrict the types of uses that can be accommodated. However, leisure uses are appropriate town centre uses as defined by the National Planning Policy Framework (NPPF). A E(d) use is therefore considered to contribute positively to Policy CQ1 of the Development Management Plan, which seeks to support development that will assist the further expansion of their role of centres for leisure and business activities, will contribute to the mix and diversity of uses and the potential to enhance their attraction to visitors, and improve the vitality of the area.

#### d) Impact on neighbouring residential amenities

The application premises are at ground floor level in a purpose-built building, with offices occupying the floors above. To the north and west of the unit is open space, with commercial uses opposite, and adjacent to the south. Taking this relative isolation from residential properties immediately adjacent or above, it is unlikely that residential amenities would be harmed from the proposed E(a), E(c), E(g) or E(e) and E(f) uses.

Should the E(b) or E(d) uses be implemented, it will be necessary to fully consider opening hours to ensure that any nearby residents will not be unduly affected by potential noise disturbance. As the future use of the building is not yet known, the applicant will be required to submit opening hours to the Local Planning Authority for approval prior to occupation of the premises (condition 3).

Similarly, any external extract equipment will be conditioned as recommended by the Environmental Health Team to ensure effective management of noise and odour should extraction be required to facilitate the E(b) use (condition 4).

#### e) Highway safety/parking

The wider redevelopment of Lacuna Place provided 33 on-site parking spaces at lower ground floor level, based on extensive parking research. This provision was accepted by the ESCC Highway Authority at that time, given the sites location directly in the town centre, in extremely close proximity to Hastings Railway Station, Priory Street car park and Station Plaza car park.

As previously stated, the original consent took into consideration the provision of alternative commercial uses at ground floor level, with the exception of E(e) and E(f) (non-residential institutions) and E(d) (assembly and leisure) uses. The traffic generated by these uses is not considered to significantly increase, particularly given the restricted size of the unit in terms of its suitability for high intensity uses.

The availability of off-site parking and public transport connections is considered to be acceptable to provide for the proposed use in this instance.

Similarly cycle parking was included in the original consent, and as such, does not need to be reconsidered here for the same reasons.

#### f) Waste

Bin storage for the building is provided at lower ground floor level, with details approved under application HS/FA/06/00307. As no new floor space is being created and a commercial use was included within the original consent, it is not considered that further details of waste storage are required in this instance. The Waste Team have confirmed no objection but have reiterated the fact that waste generated from the premise would need to be properly contained, emptied frequently enough to prevent any detriment to the surrounding area, with the bins stored off any public highway. Informative note 6 has been attached reiterating these requirements.

#### g) Environmental Impact Assessment

The National Planning Practice guidance (Paragraph: 017 Reference ID: 4-017-20170728) states that "Projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not at least partly in a sensitive area, are not Schedule 2 development."

This development is not within a sensitive area as defined by Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and does not exceed the thresholds of schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

#### h) Site constraints

Regarding the site constraints listed above, no ground works or external works are being proposed under this application, the application relates solely to a change of use and as such there will be no impact upon the listed site constraints, no further consideration is therefore required.

### **7. Conclusion**

In conclusion, the proposed use will help ensure the long-term vacancy of the building is addressed, and a viable use occupies the building. This will help to regenerate the Priory Square area, making it more attractive to encourage the envisaged Priory Quarter development, contributing to the aims of the Local Plan to encourage vitality and viability of the town centre, and contribute positively to the defined cultural quarter. As such, it is recommended the proposed use is granted subject to conditions.

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.

### **8. 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:

Location and block plans (ESAD 1883), existing ground floor plan (201) and proposed ground floor plan (201)

3. Prior to occupation of the first implemented use, opening hours must be submitted to, and approved in writing by the Local Planning Authority. The approved hours shall therefore be implemented and retained thereafter, following occupation.

Should the use of the premises change from one use within use Class E to another use within Class E, further details of proposed opening hours shall be submitted to, and approved in writing by the Local Planning Authority prior to commencement of that use. The approved hours shall therefore be implemented and retained thereafter, following occupation.

4. The building shall not be occupied or brought into use until a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises (if required), shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall be designed in accordance with EMAQ+ Control of Odour and Noise from Commercial Kitchen Extraction Systems 2018. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the building being occupied or brought into use and these shall thereafter be operated and retained in compliance with the approved scheme.

Should the use of the premises change from one use within use Class E to another use within Class E, further details of a scheme and maintenance schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises (if required), shall be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of that use. These approved details shall then be implemented prior to the commencement of the proposed use and thereafter maintained to an acceptable standard.

#### **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 form of development in the interests of the character and amenity of the area.

#### **Notes to the Applicant**

1. Failure to comply with any condition imposed on this permission may result in

enforcement action without further warning.

2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
3. The Health and Safety at Work Etc. Act 1974 will apply.
4. The Food Safety Act 1990 will apply.
5. The applicant is advised that should subsequent use of the premises include matters covered by the Licensing Act 2003 a separate application will need to be made to licensing and advertised publicly for 28 days.
6. Waste generated from this premise, would need to be properly contained, emptied frequently enough to prevent any detriment to the surrounding area, with the bins to be stored off of any public highway.

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### **Officer to Contact**

Mrs L Fletcher, Telephone 01424 783261

### **Background Papers**

Application No: HS/FA/22/00865 including all letters and documents