
Appeal Decision

Hearing held on 11 July 2022 and 1 August 2022

Site visit made on 11 July 2022

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Appeal Ref: APP/C1435/W/21/3285498

The Bay Hotel, 2 Eastbourne Road, Pevensey Bay BN24 6EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr George Macari against the decision of Wealden District Council.
 - The application Ref WD/2020/2241/F, dated 1 December 2020, was refused by notice dated 11 October 2021.
 - The development proposed is a change of use of the ground floor from hotel bar/restaurant to convenience store and 1.5 storey rear extension together with raising the rear balcony and external staircase and alterations to the front elevation. Current hotel rooms above retained with minor internal and external alterations at first floor level.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of the ground floor from hotel bar/restaurant to convenience store and 1.5 storey rear extension together with raising the rear balcony and external staircase and alterations to the front elevation. Current hotel rooms above retained with minor internal and external alterations at first floor level in accordance with the application Ref WD/2020/2241/F, dated 1 December 2020 at The Bay Hotel, 2 Eastbourne Road, Pevensey Bay BN24 6EJ, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Prior to the Hearing the appellant submitted a draft S106 agreement which would secure improvements to the access and changes to the Traffic Regulations Orders (TROs) to meet the highway authority's requirements. An executed agreement was presented at the Hearing, and I have taken it into account in reaching my decision.
3. All the substantive matters in dispute were fully discussed at the in-person event on 11 July. It was also confirmed that no party wished to raise any issue in respect of the completed S106 agreement. However, in order to accommodate attendees and undertake the site visit on the day of the Hearing, there was insufficient time to discuss suggested conditions on a without prejudice basis. It was therefore agreed that the Hearing should be adjourned, solely for that reason. A virtual event was arranged for 1 August when the Hearing reconvened solely to discuss possible conditions.

4. During the Hearing the appellant agreed to withdraw the intention to install an ATM in the north-east elevation of the building. I will return to this matter later.

Main Issues

5. The main issues are:

- a) The effect of the development on the significance of The Bay Hotel, a non-designated heritage asset;
- b) The effect of the development on the safety and operation of the surrounding highway network having regard to access, parking provision and servicing arrangements;
- c) Whether or not the change of use would result in the unnecessary loss of community facilities.

Reasons

Effect on heritage assets

Significance

6. The Bay Hotel is a prominent landmark building in Pevensey Bay, identified as a non-designated heritage asset. It dates from the late Victorian/early Edwardian period and contributed to the expansion of the village for tourism and housing with the coming of the railway in the 1890s. It is located in the centre of the village with two of its elevations facing Eastbourne Road and Wallsend Road. Its architectural details are typical of the early part of the 20th century with prominent gables and applied timber, a moulded frieze below deep eaves and various casement windows. However, its most distinctive feature is the unusual tower with its pointed finial which projects above the surrounding townscape. This contributes to the building's prominence, even though its direct line of sight to the sea has been obscured by development which has occurred since the 1960s.
7. The hotel has remained in the use for which it was built for over 100 years. However, during that time its appearance has been altered frequently and incrementally both externally and internally. In the 1930s substantial alterations were undertaken adding flat roofed extensions to the western and northern elevations and rebuilding the original wooden veranda in brick. The hotel continued to evolve in the latter half of the 20th century. In 1959 one of the front bays was extended to the full depth of the first-floor balcony. In 1977 the rest of the ground floor was expanded creating two vestibules on either side of the lounge. Modern windows and doors were inserted on this part of the southern elevation. Consequently, one of the original front entrances became part of an enclosed porch between the two bays; the other entrance has retained its original form. Further works to the rear elevation took place in 1977 and the metal fire escape staircase was added in 2001.
8. Internally, the ground floor of the hotel originally comprised a series of small rooms/bars. This is evident from the varied but limited amounts of surviving cornicing. This indicates where walls have been removed over time to create a more open area for the bar and restaurant. There is also an interesting arcade feature with its own cornicing which may have denoted the bar to the original

lounge. However, it is now part of the extended bar and makes only a minor contribution to an understanding of the original plan layout. Floorplans presented in the evidence indicate that the kitchen and toilets have been moved several times to different locations through successive refurbishments. The legibility of the original layout has therefore been largely lost. The ground floor now comprises a collection of awkwardly shaped inter-connected spaces, parts of which are on different floor levels connected by short flights of stairs.

9. Other features of note include a small Victorian/Edwardian metal and tiled fireplace with a modern wooden surround which served the original saloon bar. The painted stone or concrete fireplace and the wooden panelling in the western extension appear to date from the 1930s. However, these are not unusual for a property of this era and are therefore of little historic interest.
10. The ground floor has been used as the hotel's bar and restaurant, a facility that was open to non-residents and used by the local community. However, although this area was refurbished in 2019 and briefly reopened following the pandemic it is now closed, and the kitchen has been removed. The remainder of the hotel has been refurbished to provide en-suite guest rooms on the first and second floors. These are accessed from the car park at the rear of the building.
11. Notwithstanding these changes, as a hotel with a bar/restaurant that was open to the public, it was valued by local people. However, its open plan form pays little respect for, or resemblance to, the numerous small rooms that were originally on the ground floor. Its value in the communal sense was therefore not primarily derived from its heritage features but from its function as a place where local people have been able to socialise in the past. Although regrettable, this use has now ceased and there was no evidence to suggest that this former use would be reinstated in the event that the appeal was dismissed.
12. For all these reasons, I consider that the significance of the building as a non-designated heritage asset derives primarily from its prominence within the street scene and its architectural features at first floor level and above. Its siting and design also contribute to an understanding of the historic development of the village. The external alterations, combined with development which has taken place within its setting, have reduced its prominence and significance. Furthermore, the ground floor of the hotel has been significantly altered over the last 80 years both externally and internally. This has considerably eroded its architectural and aesthetic value. The character of the ground floor has been partially derived from its use as a communal area within the hotel which was also open to the public. This has now ceased. The internal features and use of this part of the hotel as a bar/restaurant therefore make only a very limited contribution to the building's significance.

Assessment of proposed change of use

13. The proposal to change the use of the ground floor to a convenience store would require a series of changes to the appearance of the front of the building. Firstly, the three large pane floor-to-ceiling height window in the western extension would become a service entrance. This would be backed by grey vinyl and would remain shut other than for receiving deliveries. No views into the building would be lost as this window has partially obscure glazing at

present. As this window is part of the 1930s extension to the building and is set back from the main front elevation, these changes would have a minimal effect on the building's appearance.

14. The main entrance to the store would be between the two front bays. The existing modern double doors would be replaced by automatic sliding ones. The internal porch and doorway would be removed, resulting in a minor loss of historic fabric. However, the remaining original doorway between the western extension and the bay projection would be retained but permanently closed.
15. The plans showed that the windows associated with the original doorway and those within the bays would be backed with vinyl. However, the appellant indicated a willingness to keep them clear and conditions to secure them as such have been suggested by the Council. This would provide some limited views inside the building and indicate that it remains an area open to the public. This would be preferable to the windows appearing as a blank façade or being used as advertising for the convenience store. There would therefore be no loss of original fabric or other change that would adversely affect the appearance of the front elevation.
16. The addition of the extension at the rear of the building would result in the loss of 3 of the 4 original sash windows. I acknowledge that this elevation is visible to anyone travelling towards the village along Sea Road. However, the rear of the building has a somewhat incoherent appearance with differing heights and shapes as a consequence of previous alterations and extensions. The proposed extension would rationalise its appearance with the introduction of a timber balcony and railing to integrate with the existing fire escape. In my view the treatment of the lower part of the elevation would be compatible with its position within the rear of the building adjacent to the car park. During the Hearing the appellants offered to remove the ATM from the scheme. This would avoid the introduction of a commercial element within part of the rear facing elevation. As a minor amendment to the plans, I am satisfied that this change could be secured by condition.
17. Within the building there would be some loss of the remaining remnants of historic fabric in order to provide an open sales area. The arcade feature would be lost along with the cornicing at ceiling level and the 1930s panelling. The two small fireplaces would either be removed or covered. However, as I have found the internal features of the building make a very limited contribution to the significance of the Bay Hotel, I consider these changes would have a very limited effect on the building's value as a non-designated heritage asset.
18. The character of a convenience store would be different from that of a bar/restaurant. However, from what I heard and read, the hotel use remains viable but there is little or no prospect of the bar/restaurant being reinstated within the ground floor. The proposal would be a change in the character of part of the building which would diminish the understanding of its historic role within Pevensey Bay to a limited degree. On the other hand, its use as a convenience store would prevent the ground floor remaining vacant, secure an active frontage and provide continued public access to the building.
19. For all these reasons I conclude that the proposal complies with Policy EN27 of the Wealden Local Plan 1998 (Local Plan) which requires high quality design that respects its context. Internally there would be a small loss of historic fabric and limited harm arising from the change of character of the building.

Therefore, in accordance with paragraph 203 of the National Planning Policy Framework, a balanced judgement will be required having regard to the scale of harm and loss that I have identified. I return to this matter later.

Highway safety, parking provision and servicing

Traffic generation and access

20. The A259 through Pevensey Bay is the main route between Eastbourne and the areas to the east. It therefore carries considerable volumes of traffic via a one-way system that operates around the village centre. The Bay Hotel is located on the corner of Wallsend and Eastbourne Road, immediately to the south of the traffic signal junction with Richmond Road.
21. Not all potential customers to a convenience store in the centre of Pevensey Bay will rely on a car to reach it. Experience of similar stores elsewhere indicates that just over half the customers are likely to arrive on foot, precisely because it is close to where they live or work. Much smaller percentages of customers will come by public transport and only a tiny number will choose to cycle. The remainder, just over 40%, will arrive by car.
22. Based on TRICS¹ data the appellant estimated the total number of vehicular trips to the store between 08.00 and 19.00 hours to be 420. Many of these visits will be made by people as part of another journey, such as going between home and work, rather than for the primary purpose of shopping. This means the number of additional vehicles using roads near the site will be considerably less than 420. Based on TRICS research, the appellant suggested a 72% diversion rate which would reduce the additional traffic passing around the one-way system to 118. Although these figures were contested by the Parish Council, the highway authority was satisfied that they are based on reasonable assumptions and no substantiated alternatives were suggested.
23. In 2019 the annual average daily traffic flow for the A259 in the area was approximately 12,000 vehicles/day. Through the village there is a one-way system so half this flow will pass the site entrance. The proposal would give rise to only a marginal increase in daily flows round the village. Furthermore, there was no evidence to indicate that the estimated additional traffic would lead to a significant increase in congestion at the Richmond Road traffic lights or unacceptable delays elsewhere in Pevensey Bay. The acceptability of the scheme is therefore dependent on the provision of safe access, adequate parking and suitable arrangements for servicing.
24. In terms of safety, improvements to the existing access have been agreed with the highway authority. These would include alternations and widening of the dropped kerb and the provision of additional signage. This should ensure that vehicles only make right turns in and out onto Sea Road (which is a one-way street). Visibility towards Wallsend Road would meet the standards set out in Manual for Streets (MfS). At present visibility towards the stop line in Richmond Road is obscured by vegetation which projects above the low boundary wall. The removal of some of this to improve sight lines in perpetuity could be secured by condition. This would reduce the risk of conflict between vehicles emerging from Richmond Road and entering and leaving the car park.

¹ TRICS – Trip Rate Information Computer System

25. I am therefore satisfied that the additional traffic likely to be generated by the proposal will not give rise to unacceptable congestion on the surrounding highway network and that the improved access arrangements, which could be secured by condition, would not be prejudicial to highway safety.

Parking for customers and hotel guests

26. Eastbourne Road is fronted by shops and commercial activities served by limited on-street parking. This is well used. Demand for parking increases significantly in the summer when there is an influx of tourists. There was clear evidence from local people, confirmed on my site visits, that the existing parking regulations are flouted. Some vehicles do park on double yellow lines. This can give rise to congestion problems, particularly for large vehicles negotiating the corner adjacent to the Bay Hotel. The responsibility enforcing the parking regulations currently resides with the Police, not the highway authority. It may therefore not be undertaken sufficiently frequently to avoid short term problems, and this causes local people and visitors a degree of inconvenience. However, there was no objective evidence to suggest that unlawful parking causes traffic to be regularly blocked, or that it results in unacceptable operational problems on the surrounding highway network.
27. The existing hotel car park accommodates up to 8 vehicles and is only available to hotel guests. The Council's adopted parking standards for a convenience store require the provision of 12 spaces for customers and 2 for staff. The proposal would provide an amended layout which would make more efficient use of the area available. However, it would only accommodate 11 spaces, 2 of which would be for disabled persons. No spaces would be allocated for staff. The standard spaces would be 2.4m x 4.8m which is slightly below the highway authority's usual size requirement.
28. The ability of the car park to meet demand from customers will depend on the amount of time they spend in the store. Observations elsewhere have shown this to be in the range 5.5-8.9 minutes. On this basis, and even making an allowance for the arrivals in the peak period not to be evenly spread during that hour, the analysis shows that the car park should have adequate capacity to accommodate demand from customers. This assessment was sufficient to satisfy the highway authority that the shortfall against the adopted parking standards would not result in overspill parking by customers onto the nearby streets. Furthermore, it is proposed that the car park would be managed on behalf of the store to restrict its use to short stays of up to 30 minutes and ensure it is only used by customers during the day.
29. The proposal is also based on the assumption that hotel guests would only be permitted to use the car park overnight, although they could share it with customers in the early morning and late evening. However, between 0900-2100 hours hotel guests would be required to park elsewhere. It has been suggested that the majority of guests arrive by public transport given the proximity of the station and bus stops. However, there was no evidence to support this assertion. It seems likely to me that hotel guests who choose arrive by car, but then stay in Pevensey Bay rather than visiting other destinations in the area during the day, will be displaced to the Sea Road car park. Although the number who do this is likely to be small, guests should be made aware of these arrangements and the parking charges prior to their arrival.

30. I understand that Sea Road car park may not have capacity to absorb additional demand at the busiest times of the year. On such occasions there may be some overspill parking onto the nearby streets, and it may be more difficult for local people to find a parking space during the summer months. However, given the day-to-day variation in numbers of visitors to the area, it is unlikely that any additional parking demand could be directly attributed to its increased use by hotel guests.
31. The highway authority was satisfied that a car park with 11 spaces, combined with the Car Park Management Plan proposed by the appellant, would be adequate to serve the store and the existing hotel use and prevent unacceptable overspill parking. In these circumstances lack of enforcement of the parking regulations by the Police beyond the site is not a justification for rejecting the appeal proposal. Having considered all the evidence, I see no reason to reach a different conclusion.

Servicing and deliveries

32. It is proposed that the convenience store will be serviced from Eastbourne Road. A scheme to provide a loading bay has been agreed with the highway authority which would also require the removal of one on-street space. Implementation of these changes would require amendments to the traffic regulation orders (TROs). This would be secured through the S106 which was submitted at the Hearing. It was accompanied by a Servicing Management Plan (SMP) which would ensure that deliveries would be efficiently timed and undertaken making use of the loading bay. This could be secured by condition, and it seemed to me that its terms are sufficiently precise to enable them to be enforced.
33. I accept that for these arrangements to work entirely satisfactorily, the amended TROs need also to be adequately enforced. The loading bay could be used by others and responsibility for enforcing any contraventions would remain with the Police. However, with the SMP in place, the absence of more rigorous enforcement by the Police is a matter for the responsible authorities to address between themselves. It is not a sufficient reason to reject a proposal which is acceptable in planning terms.

Findings in relation to transport and highway matters

34. Drawing the threads of my assessment together I conclude that the scheme would be provided with safe access, adequate parking and would not perpetuate unacceptable traffic conditions in the village. There would therefore be no conflict with the requirements of Policies TR3 or TR16 of the Local Plan. Neither would the scheme be contrary to the Framework's requirement to only refuse development on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Community facilities

35. There are no development plan policies which seek to protect community facilities. However, paragraph 84 of the Framework seeks to retain and develop accessible local services and community facilities and provides a list of examples. Although it is not a closed list, paragraph 84 d) does not include hotels, whereas it advocates the development of local shops.

36. Insofar as the hotel bar and restaurant was open to non-residents, it was a place of value to the community for social gatherings. While I have no doubt that people used the hotel's facilities in the past, they are not directly comparable with a venue such as a village hall where a variety of public meetings, social and cultural activities often take place. Although it served alcohol and meals, the hotel is not a public house. In my view, the hotel is therefore not a community facility having regard to the advice of the Framework.
37. I appreciate that local people feel the proposed change of use would result in the permanent loss of a valued facility. However, there are other pubs and restaurants in the village which continue to operate. The proposal would therefore not leave the village devoid of places where people could meet, socialise, have a meal or drink together. The loss of the hotel's bar and restaurant may have reduced the choice of available facilities, but it has not adversely affected community's ability to meet its day-to-day needs. In these circumstances resisting the change of use has not been justified.
38. Local people are also concerned about the effect of a second convenience store in the village on the 1066 store which also incorporates a fully functioning Post Office. The owner of the 1066 store and others assert that the opening of another convenience store would inevitably lead to the loss of the post office. I acknowledge that the post office is a community facility. It offers a unique range of services to its customers, including banking and cash facilities, alternatives to which are between 2 and 5 miles away. If it was to be lost, I agree that there would be an adverse effect on the local community's ability to meet its day-to-day needs.
39. However, it is not the role of the planning system to limit competition between individual shops. Indeed, the first objective of paragraph 93 of the Framework is to plan positively for the provision and use of community facilities. Nevertheless, alongside this the second and third objectives are to guard against the unnecessary loss of such facilities and ensure that established shops are retained for the benefit of the community.
40. My attention was drawn a decision² of the High Court in relation to a proposal for a second convenience store in a village where an existing store incorporated a post office. In that case protecting the existing post office depended not on the impact of the proposal on the village retail centre as a whole, but on the likely diversion of trade away from the existing convenience store. It was recognised that a new store would bring benefits to the community. However, the potential loss of the post office, if the existing store was to lose trade, was not taken into account by the local planning authority in reaching its decision. Had it done so, the judge ruled that it might have reached the overall conclusion that planning permission should be withheld.
41. It is therefore appropriate for me to apply the same principles to this case, having regard to the limited evidence before me. I have no doubt that the operators of the 1066 store have worked hard over many years to develop the business which now employs a total of 9 staff. The personal service that is offered to customers, particularly the elderly and infirm, is highly valued by the community. Nevertheless, it is put to me that the business operates at the

² Saga Vishnubhai Patel v Dacorum BC [2019] EWHC 2992 (Admin)

margins of viability for most of the year and if it was in direct competition with the Co-op, the operator believes that there are insufficient customers in the area for both stores to survive. He therefore contends that if his store was to close the post office would be lost.

42. However, no substantiated evidence has been presented to me to enable me to assess the degree of risk of the closure of the 1066 store in any scientific or objective way. There is therefore nothing before me to conclude that because some trade would divert elsewhere, the business as a whole would fail. The post office appears to be a busy one given the significant numbers of customers that were served during 2021. Like any retail business, some adaptation would be required in the event of additional competition. However, the continued inclusion of the post office and the proximity of the ATM would provide the existing store with facilities that would not be available at the new one, enabling it to continue to attract customers.
43. Furthermore, with increased choice there is also the possibility that local residents and visitors to the area would undertake more of their shopping locally, rather than making the journey to larger supermarkets that are further away. On that basis there is no justification for assuming that the number of customers to the village would not increase in the future and that both stores could operate successfully.
44. Taking all these matters into consideration, I conclude that the proposal would not give rise to the unnecessary loss of any community facilities. The scheme therefore complies with the aims of the Framework set out above.

Planning Balance

45. The proposed change of use would make minor changes to the external appearance of the front elevation of the hotel at ground floor level, but without loss of historic fabric. Notwithstanding some loss of some original windows, the proposed rear extension would rationalise the appearance of this subordinate elevation at the lower levels. Internally there would be a small loss of historic fabric, but as the Bay Hotel is not a listed building these internal features are not protected. The revised use would give rise to a change in the character of the ground floor which would diminish its previous value as a social space for the local community.
46. However, the prominence of the Bay Hotel within the street scene, and all the important architectural features which contribute most to the building's significance, would remain unchanged. The first and second floors will remain as a hotel, thereby preserving the building's historic use as a place for visitors to stay in Pevensey Bay. In this context, the scale of the proposed changes to the building's overall character and appearance would be limited. The scheme would provide an active street frontage and ensure that the ground floor would not remain vacant. Taking all these factors into account, I am satisfied that the alterations arising from the proposed change of use would not adversely affect the significance of The Bay Hotel as a non-designated heritage asset.
47. Subject to improvements to the access and changes to the traffic regulations orders, the proposal would not be prejudicial to highway safety, would provide adequate parking for customers and suitable servicing arrangements for the proposed store. These can be secured through conditions and a planning obligation.

48. I have also found there would be no unnecessary loss of community facilities at the Bay Hotel, or an unacceptable risk that the post office would be lost through the diversion of trade from the 1066 store to the new one.
49. Consequently, the proposal would comply with the Framework's requirement to conserve heritage assets in a manner appropriate to their significance. It would also accord with the provisions and advice of the Framework in respect of sustainable transport, the rural economy and promoting healthy and safe communities. Furthermore, there would be no conflict with the development plan's requirements in respect of design or traffic impacts. This leads me to conclude that the scheme would comply with Policy WCS14, which sets out the presumption in favour of sustainable development. The appeal should therefore succeed, and I will move on to consider the need for conditions.

Conditions

50. In the event that the appeal was allowed, the Council suggested a series of conditions. In addition to the written comments made on these by the appellant before the Hearing, all the conditions were discussed at the reconvened Hearing on 1 August, together with additional conditions suggested by the Parish Council and others. I have subsequently secured the written consent of the appellant to the pre-commencement conditions. Where necessary I have amended the precise wording for the sake of clarity and precision and to ensure that the conditions satisfy the tests set out in paragraph 56 of the Framework.
51. In addition to the standard time limit, a condition specifying the approved plans is required in the interests of certainty. An amendment to No 259_P.013A is required to prevent the installation of the ATM on this or any other elevation of the building. Restrictions on the use of vinyl on the windows are necessary to protect the appearance of the building. I am satisfied that traffic grey would be a suitable colour of vinyl to back the service entrance. However, elsewhere and notwithstanding what is shown on the plans, it was agreed that windows on the elevations facing the highway should remain clear; others could be backed with vinyl. In these circumstances conditions requiring details to be agreed with the local planning authority will ensure adequate and appropriate controls.
52. Notwithstanding the information on the application form, plans and within the design and access statement, a condition to agree details of the materials to be used in the external surfaces of the building is justified to provide clarity and in order to preserve the significance of the Bay Hotel as a non-designated heritage asset.
53. A construction management plan is necessary in the interests of safety and to reduce disruption to residents. Although regrettable, some inconvenience may be inevitable given the siting of the Bay Hotel close the corner of Sea Road and Eastbourne Road. As the hotel car park will be use by operatives and for storage, it is unlikely to be available for hotel guests during the construction period. Nevertheless, I was assured at the Hearing that the planning and highway authorities would work together to minimise disruption to the surrounding area. I am therefore satisfied that the suggested condition is necessary to make the proposal acceptable in planning terms. On that basis I have imposed it with only minor amendments and the appellant's agreement.

54. Improvements to the access as the first act of development are essential in the interests of highway safety. It was also agreed at the Hearing that it is necessary to provide adequate visibility from the site towards the Richmond Road traffic lights and to ensure that it is kept permanently free of obstruction by vegetation.
55. Before the retail store is brought into use, it is essential that the car park is reconfigured, re-surfaced and the signage provided to ensure that the site will function safely. At the Hearing it was also agreed that the provision and retention of secure cycle parking is a necessary requirement of the proposal.
56. In order to reduce the risk of demand for parking exceeding the capacity of the car park, and causing unacceptable inconvenience to other road users, a Car Park Management Plan is needed. Similarly, the management of deliveries is justified in the interests of highway safety and the living conditions of local residents. Conditions are needed to ensure compliance with the terms of these plans which have already been agreed. However, restricting delivery times as suggested by the Parish Council would not be reasonable for the store operator.
57. I have considered the need for a condition requiring a Travel Plan Statement. However, the Car Park Management Plan will ensure only short stay parking is permitted, thereby preventing its use by staff. It will also ensure that when hotel guests make a booking, they are aware of the need to park elsewhere during the day. Whilst a Travel Plan could promote and encourage the use of sustainable modes it is not clear what else it could require and what sanctions would apply in the event of any failure to comply with those requirements. The condition as worded is imprecise and therefore, in my view, unenforceable. I have not imposed it as it would fail to meet the necessary tests.
58. To prevent flood risk both on and off the site it is necessary to agree and implement appropriate measures to deal with surface water drainage of the car park and any discharge from the roof of the rear extension.
59. At the Hearing the Parish Council requested that the store's opening hours be restricted to between 0800 and 2000 hours. However, it is common practice for small convenience stores to be open for long hours virtually every day of the year. Furthermore, there was nothing before me to suggest that the previous use of the hotel's bar and restaurant, which was open in the evenings, had resulted in unacceptable noise or disturbance for local residents. As the numbers of customers to the store in the late evening is likely to be small, I consider restricting opening hours in the manner suggested would be unreasonable.
60. Acoustic screening is needed to protect the living conditions of neighbours, the details of which should be subject to agreement. The operational hours of the air conditioning units should be consistent with the store's opening hours.
61. The appeal site is in Flood Zone 1 but is surrounded by an area which is in the Environment Agency's Tidal Flood Zone 3. This area would be at risk of flooding in the event that the flood defences were breached or over-topped. At the Hearing it was agreed that internal flood resilience measures are adequately controlled through the building regulations, so a condition requiring them is not needed. However, the Flood Risk Assessment recommended that the owner/occupier sign up to the Flood Warnings to receive notifications from the

Environment Agency in the event of an emergency. This is justified to keep future users and occupiers safe.

62. At the Hearing it was agreed that there is no need for a condition requiring the appellant to enter into a S278 agreement as a mechanism for this has been included within the S106 agreement.
63. In addition to those referred to above, the Parish Council asked for consideration of further conditions to prevent accumulation of litter on and around the store, to provide better access for disabled customers and to prevent further changes of use within Class E of the Town and Country Planning (Use Classes) Order 1987.
64. While I appreciate the concerns of local people about litter, it would be unreasonable to impose a condition which required the appellant to be responsible for the cleanliness of areas beyond the site boundary. There is a short pinch point on the footpath between the car park and the proposed store where its width is reduced to about 1.5m. However, to rectify this deficiency would almost certainly require changes to the kerb line for some distance along the highway with consequences for the width of Sea Road. I do not consider this could be justified by the current proposal.
65. The government has modified the Use Classes Order to give operators greater flexibility of uses within commercial premises. The Planning Practice Guidance advises that conditions should not be used to impose broad, unnecessary controls. It would therefore be necessary to have a clear justification for doing so here. While local people would prefer to restrict the use of the ground floor of the Bay Hotel to those within Class E (a) or (b), all the alternative uses that are now permitted within Class E would ensure that a degree of active frontage would be retained. In these circumstances, I consider the request would be overly restrictive and would fail to pass the tests of reasonableness and necessity.
66. I was also asked to consider if a condition could be imposed to protect the heritage fabric within the building. However, this would not be reasonable as the building is not listed and internal alterations can, therefore, be undertaken without the need for planning permission.

Conclusion

67. I have concluded that the proposal complies with the development plan as a whole. None of the other considerations, including the provisions of the Framework, indicate that the scheme should be determined otherwise than in accordance with the development plan.
68. I therefore conclude that the appeal should be allowed, subject to conditions.

S M Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. Subject to excluding the ATM shown on drawing No 259_P.013A and identified as [13] on the key to all the submitted drawings, the development hereby permitted shall be carried out in strict accordance with the following approved plans:

259_S.002.1	1 December 2020
259_S.003	1 December 2020
259_S.004A	1 December 2020
259_S.005A	1 December 2020
259_S.006A	1 December 2020
259_S.010	1 December 2020
259_S.011A	1 December 2020
259_S.012	1 December 2020
259_S.013	1 December 2020
259_S.014	1 December 2020
259_S.001A	1 December 2020
259_S.000A	3 December 2020
259_P.005	1 December 2020
259_P.0012A	1 December 2020
259_P.0013A	1 December 2020
259_P.0014	1 December 2020
259_P.0010	1 December 2020
259_P.002B	3 December 2020
259_P.003B	3 December 2020
259_P.004B	3 December 2020
259_P.001F	9 March 2021
259_P.011C	10 March 2021
E3744-CR3 REV 01	18 August 2020
4791-06	16 February 2021

3. The triple-panelled ground floor windows on the far left of the front elevation shall be backed with traffic grey vinyl (finished colour RAL 7043) and retained in that condition thereafter throughout the lifetime of the development.
4. Notwithstanding the details shown on the submitted plans and identified as [7] on the key to those plans, no vinyl backing or stickers shall be applied to the interior of any windows or doors serving the ground floor of the building unless and until details have been submitted to and approved in writing by the local planning authority. The vinyl or stickers shall be applied and retained in accordance with the approved details.
5. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for:

- a) The anticipated number, frequency and type of vehicles required to deliver to the site during the construction period;
- b) The parking of vehicles by site operatives and visitors;
- c) The loading and unloading of plant, materials and waste;
- d) The storage of plant and materials to be used in the construction of the development;
- e) The means of securing the site;
- f) Delivery, demolition and construction working hours;
- g) The provision and utilisation of an effective means of wheel washing and other works necessary to mitigate the impact of construction on the public highway;
- h) Details of public engagement both prior to and during construction works.

The approved Construction Management Plan shall be adhered to at all times throughout the construction period.

- 6. No works shall be carried out on the building until the site access shown on Plan No 4791-06 received on 16 February 2021 has been widened in accordance with construction details that have previously been submitted to and approved in writing by the local planning authority.
- 7. Except for the works to comply with Condition 6 above, no works shall be carried out on the site unless and until (a) details of an intervisibility splay between the site access and the junction of Richmond Road/Sea Road/Wallsend Road have been submitted to and agreed in writing by the local planning authority and (b) the intervisibility splay has been provided in accordance with the approved details. The intervisibility splay shall be retained free of all obstructions over a height of 600mm at all times thereafter.
- 8. No development above slab level shall commence until details of the materials to be used in the external surfaces of the building, including windows and doors, have been submitted to and approved in writing by the local planning authority. Development shall be carried out and retained thereafter as approved.
- 9. Prior to the first use of the retail premises hereby permitted, the car park shall be laid out and surfaced in accordance with the details shown on Plan No 4791-06. The car park shall be retained as approved thereafter for its designated purpose.
- 10. Prior to the first use of the retail premises hereby permitted, secure cycle parking shall be provided in accordance with full details which have previously been submitted to and approved in writing by the local planning authority. The cycle parking shall be retained thereafter for its designated purpose.
- 11. Prior to the first use of the retail premises hereby permitted, details of surface water drainage of the car park and rear extension shall have been implemented in accordance with details which have previously been submitted to and agreed in writing with the local planning authority.

12. Prior to the first use of the retail premises hereby permitted acoustic screening shall be provided in accordance with details that have previously been submitted to and approved by the local planning authority. The acoustic screening shall be retained thereafter as approved.
13. Prior to the first use of the retail premises hereby permitted the owner/operator shall register with the Environment Agency's Floodline Warnings Direct service and provide written confirmation of that registration to the local planning authority.
14. From the date of opening of the retail premises hereby permitted the car park shall be managed in strict accordance with the Car Park Management Plan (received 16 February 2021) throughout the lifetime of the development.
15. From the date of the first occupation by the operator of the retail premises hereby permitted, deliveries shall be undertaken in strict accordance with the Servicing Management Plan (received 16 February 2021) and shall continue in that manner throughout the lifetime of the development.
16. The premises shall not be open to customers outside the hours of 0700 and 2300 on any day.
17. The air conditioning units shall not operate between the hours of 2300 and 0700 on any day.

End of Schedule of Conditions

APPEARANCES

FOR THE APPELLANT

George Marcari	Appellant
Mauro Dias	Business Partner
Alan Gunne-Jones MRTPI MIOD	Planning & Development Associated Ltd
Charles Wagner BSc DipTP MA IHBC MRTPI FSA FRSA	Associate – The Built Heritage Consultancy Ltd
Michael Trentham	Architect – MTA
Andy Miles	Principal Transport Planner – ADL
Craig Smith	Regional Acquisitions Manager – Co-op Property
Clifford Hughes	Hospitality and catering
Andrew Gordon	Hotel management

FOR THE LOCAL PLANNING AUTHORITY

Stacey Robins	Head of Planning Service
Claire Warwick	East Sussex County Council – highways

FOR THE PARISH COUNCIL

Michael Rhimes	Counsel
Philip Villars	WSP
Shirley MacKinnon	Vice Chair of Pevensey Parish Council

INTERESTED PERSONS

Suzanne Ornsby QC	Local Resident
Gail Stoten	Heritage Executive Director – Pegasus Group
Adam Ross	Nexus Planning
BA (Hons) DipTP MRTPI	
Cllr Lin Clark	Ward Member – Wealden District Council
Barbara Barton	Local Resident
Sara Cheesley	Local Resident

DOCUMENTS SUBMITTED DURING THE HEARING

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| DOC1 | Completed and executed S106 agreement to secure highway works |
| DOC2 | Historic England – Local Heritage Listing: Identifying and conserving local heritage |
| DOC3 | Photographs taken by Gail Stoten of interior of the Bay Hotel |
| DOC4 | Statement by Cllr Lin Clarke |
| DOC5 | Abridged bundle of documents presented by the Parish Council. |
| DOC 6 | Conditions to secure visibility splay and cycle parking suggested by the local planning authority, highway authority and appellant. |
| DOC 7 | Additional conditions suggested by the Parish Council |