

## REPORT SUMMARY

<b>REFERENCE NO - 21/02264/FULL</b>			
<b>APPLICATION PROPOSAL</b> Change of use of units 1 - 9 Sussex Mews (and courtyard area) to the new 'town centre' Use Class E (incorporating commercial, business and service uses) and implementation of Canopy over Central Portion of Sussex Mews as approved under TW/12/03193			
<b>ADDRESS</b> 1 - 9 Sussex Mews Royal Tunbridge Wells Kent TN2 5QJ			
<b>RECOMMENDATION</b> to GRANT planning permission subject to conditions (please refer to section 11.0 of the report for full recommendation)			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> <ul style="list-style-type: none"> <li>• The proposal would be located within the Limits to Built Development.</li> <li>• The change to a mixed use (Class E) would not have a detrimental impact on the vitality and viability of this part of the town centre.</li> <li>• There would be no harm to the Conservation Area.</li> <li>• The proposal would not harm the residential amenity of neighbouring properties</li> </ul>			
<b>INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL</b> The following are considered to be material to the application: <b>Contributions (to be secured through Section 106 legal agreement/unilateral undertaking): N/A</b> <b>Net increase in numbers of jobs: 5</b> <b>Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: £73,217</b> The following are not considered to be material to the application: <b>Estimated annual council tax benefit for Borough: N/A</b> <b>Estimated annual council tax benefit total: N/A</b> <b>Estimated annual business rates benefits for Borough: No change</b>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Tunbridge Wells Borough Council are the Freeholder landowners			
<b>WARD</b> Pantiles & St Marks	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Lower Pantiles LLP <b>AGENT</b> Mrs Louise Caney	
<b>DECISION DUE DATE</b> 31/08/21	<b>PUBLICITY EXPIRY DATE</b> 13/08/21	<b>OFFICER SITE VISIT DATE</b> 16/07/21	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>19/02964/FULL</b> 4 Sussex Mews	Change of use from Class A1 (Retail) to allow a range of use falling within Use Classes: A1, A2, B1a, D1 and/or D2	Permitted	16.12.2019
<b>12/03193/FUL</b> 5 - 8 The Corn Exchange, Dowding	Part change of use of ground floor shop (Use Class A1) to form delicatessen and cafe (Use Classes A1 & A3) with frontage to Sussex Mews. Works to support the creation of a new	Permitted	23.01.2013

House, Frant House, Eridge House, The Pantiles	pedestrian passage to link the Corn Exchange with Sussex Mews. New 'street' frontage to Sussex Mews, to include shopfronts and covered pedestrian colonnade (glazed canopy over). Frant House and Dowding House - first and second floors (part), change of use from office (Use Class B1) to form a Rosemary Shrager Cookery School (Use Class D1) with ancillary Head Chef's apartment (Use Class C3). Canopy over central portion of Sussex Mews		
<b>97/01086/FUL</b> 4 Sussex Mews	Change of use to health studio	Permitted	22.08.1997
<b>96/02051/FUL</b> 6 Sussex Mews	Change of use to artist studio & workshop with gallery	Permitted	25.02.1997
<b>84/00341/LBC</b> General Land	Listed Building Consent - Demolition and reconstruction	Permitted	07.11.1984
<b>84/00340/FUL</b> General Land	Reconstruction as craft studio/workshops with toilets	Permitted	07.11.1984

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 This site forms part of the 'Lower Walks' area of The Pantiles and is positioned to the southeast of The Pantiles and forms an enclosed square that has pedestrian links to The Pantiles via Coach and Horse Passage and also to Nevill Street/Frant Road and Linden Park Road.
- 1.02 The site includes a group of commercial units located along the southeast boundary and also the public courtyard to the northwest of these units. There are nine units in total, with the central three units being two-storey and the units either side being single storey. These were constructed as craft studio/workshop units (application 84/00340/FUL refers) but there have been various changes of use of individual units to health studios and artist studio/workshop/gallery and most recently unit 4 was granted planning permission for a range of uses falling within Use Classes: A1, A2, B1a, D1 and/or D2 (19/02964/FULL).
- 1.03 To the west is the Sussex Arms Public House and to the north are the larger scale buildings (Frant, Dowding and Eridge Houses) that contain office/commercial uses. To the east of the site is 2a Frant Road, which is currently in office use, and 2 Frant Road, a dwellinghouse.
- 1.04 Planning permission has been granted and implemented for alterations and change of use of 5 - 8 The Corn Exchange, Dowding House, Frant House, Eridge House located to the northeast of the site (12/03193/FUL). This included the addition of a canopy over courtyard area of Sussex Mews. This part of the proposal has not been implemented but remains extant.

### 2.0 PROPOSAL

- 2.01 The application seeks consent for the change of use of units 1 - 9 Sussex Mews and the courtyard area to Use Class E and the implementation of canopy within the courtyard area of Sussex Mews as approved under TW/12/03193.

2.02 By way of background, in September 2020, the Government introduced a new use Class E (Commercial, business and service) into the Use Classes Order. Class E subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1(Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes) and Class B1 (Business). Class E includes;

- the display or retail sale of goods, other than hot food;
- restaurants/cafes;
- the provision of the following kinds of services principally to visiting members of the public—
  - financial services,
  - professional services (other than health or medical services), or
  - any other services which it is appropriate to provide in a commercial, business or service locality;
- indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public;
- for the provision of medical or health services, principally to visiting members of the public;
- a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- offices;
- the research and development of products or processes; or
- a light industrial process

2.03 The proposal does not include any physical changes to the building to facilitate the proposed uses.

2.04 The only external alteration is the provision of a glazed canopy within the courtyard that has been approved under application 12/03193/FUL. This would be constructed in accordance with the details submitted as part of the approved application. This current application seeks consent for the use of this canopy for uses falling within Class E, as described above, but the submitted details indicated that the intention is for this area to be used for markets, book sales etc.

### 3.0 SUMMARY INFORMATION

	Existing	Proposed
Land use	<ul style="list-style-type: none"> <li>• Craft studio/workshops</li> <li>• Artist studio &amp; workshop with gallery</li> <li>• Use Classes: A1, A2, B1a, D1 and/or D2</li> </ul>	Class E
Floor Area	408m <sup>2</sup>	408m <sup>2</sup>
No. of Employees	15	20
<b>Proposed Canopy</b>		
Max height	4.6m	4.6m
Max eaves height	2.5m	2.5m
Floor area	72m <sup>2</sup> (6m x 12m)	72m <sup>2</sup> (6m x 12m)

### 4.0 PLANNING CONSTRAINTS

- Inside Limits to Built Development (LBD)
- Tunbridge Wells Conservation Area (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)
- Area Of Special Advert Control Local Plan 2006

- Tunbridge Wells Site Allocations 2016
- Central Parking Zone (commercial) - TP7
- Potential Archaeological Importance
- Area Of Special Advert Control
- Air Quality Management Area
- Ashdown Forest Within 9-10km Zone Of Influence For Ashdown Forest SAC/SPA
- Ashdown Forest Ashdown Forest 15 Km Habitat Regulation Assessment Zone
- Grade II Listed buildings to the southwest (The Sussex Arms and Nos. 51-55 The Pantiles) and to the northeast (Dowding House) (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)

## 5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2021

National Planning Practice Guidance (NPPG)

Tunbridge Wells Borough Core Strategy 2010:

CP1 Delivery of Development

CP3 Transport

CP4 Environment

CP5 Sustainable Design and Construction

CP7 Employment

CP9 Development in Royal Tunbridge Wells

Tunbridge Wells Borough Local Plan 2006:

EN1 Development Control Criteria

EN5 Development in Conservation Areas

TP4 Access to the Road network

TP7 Tunbridge Wells Central Parking Zone (Commercial)

Supplementary Planning Documents:

Tunbridge Wells and Rusthall Conservation Area Appraisal (Nov 2000);

Noise and Vibration SPD (2014);

## 6.0 LOCAL REPRESENTATIONS

6.01 Site notices were displayed at various locations around the site on 16 July 2021. In addition, an advert was placed in a local newspaper on 23 July 2021.

6.02 No representations have been received in response to these notifications

## 7.0 CONSULTATIONS

Conservation Officer (05/08/21)

7.01 Of the view that that specialist advice from the Built Heritage Team is not, in this case, necessary for the determination of this application.

Environmental Protection (10/08/21)

7.02 There are no residential uses within the application buildings, but there are a significant number of residential units in the wider vicinity. The Pantiles accommodates various evening uses which is part of its established character, but there is a need to balance disturbance to residential amenity from noise and odour. Whilst the use of the canopy would have potential for noise & odour disturbance, this could be controlled through a condition regarding hours of use and/or through the licensing process.

- 7.03 The use of mechanical ventilation would have the potential to cause significant disturbance to residents and other occupiers of buildings and would need to be controlled by suitable conditions.
- 7.04 The site is within the Tunbridge Wells Air Quality Management Area, but it is not considered that the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it.
- 7.05 There is no indication of land contamination based on information from the contaminated land database & historic maps databases.
- 7.06 Details regarding any external lighting should be required as a condition of any planning permission granted.
- 7.07 Any demolition or construction activities may have an impact on local residents and so the usual conditions/informatives should apply in this respect. Any parts of the buildings being altered should be checked for the presence of asbestos and any found should only be removed by a licensed contractor.
- 7.08 No objection, subject to following recommended conditions and informatives.
- 7.09 Conditions:
- Details of extraction/treatment of fumes/odours
  - Compliance with industrial/commercial noise rating level
  - Control of external apparatus
  - Restrictions on times of use
  - Restrictions on hours of working (demolition/construction)
  - Details of external lighting
- 7.10 Informatives:
- Compliance with Mid Kent Environmental Code of Development Practice
  - Noise and Vibration transmission between properties
  - Disposal of Asbestos

## **8.0 APPLICANT'S SUPPORTING COMMENTS**

- 8.01 A Planning Statement has been submitted and this concludes:  
*In conclusion we consider that the proposed town centre Class E use(s) of units 1-9 Sussex Mews and courtyard area will add to and complement existing and planned uses for the Lower Pantiles and will create vitality and interest in this rear courtyard area. Furthermore, the economic, environmental and social benefits of the scheme weigh in favour of the proposals such that they comply with the provisions of the NPPF, promoting economic development and the Council's policies and adopted Core Strategy aimed at maintaining the character and historic qualities of The Pantiles.*

## **9.0 BACKGROUND PAPERS AND PLANS**

Planning Statement (including Heritage Statement and Design & Access Considerations)

57001\_PL-301A Site Location Plan

57001\_PL-302A Site Block Plan

57001\_PL-303B Existing Ground Floor Plan

57001\_PL-304B Existing First Floor Plan

57001\_PL-305B Proposed Ground Floor Plan  
57001\_PL-306B Proposed First Floor Plan

## 10.0 APPRAISAL

10.01 The main issues to consider are:

- The principle of the development
- Visual Impact (including impact on Conservation Area)
- Residential amenity
- Highways and parking

### **Principle of Development**

10.02 This site does not form part of the primary shopping area of Tunbridge Wells. However, it is in close proximity and provides good pedestrian links to The Pantiles, which is designated as a Primary Shopping Area, and this site currently contains a number of existing commercial premises.

10.03 This proposal seeks to provide flexible uses within this group of commercial premises and introduces new Class E uses to the site. Class E broadly covers uses that previously fell within Classes A1, A2, A3, D1(a-b) and indoor sport from D2(e) and these are uses that are commonly found in town or shopping centre locations.

10.04 The proposal would not result in the loss of the existing commercial units but would offer a mixed/flexible use, which are considered to have the potential to retain the viability of these units and to make a significant positive contribution to the viability and vitality of the locality and the Primary Shopping Area. The proposed uses are uses that are found in this area and could be considered compatible with the existing uses and character of this area.

10.05 With regard to the proposed glazed canopy within the courtyard area, this could be constructed under the extant planning permission 12/03193/FUL. It was intended as part of this approval that this would be used as a flexible space for markets, occasional functions, meetings and demonstrations connected with local food and produce. The proposal would increase the scope of uses that could occupy this area but it is considered that this would provide flexible facilities that in turn would help to improve links and pedestrian flow to and from the Pantiles and has the potential to improve the vitality of this space and the adjacent shopping area.

10.06 It is considered that a flexible use of this area could be acceptable in principle and would help to retain existing uses and promote new uses that would be of benefit to the viability and vitality of the wider area.

### **Impact on Visual Amenity including Conservation Area and adjacent listed buildings**

10.07 There are no changes proposed to the existing building, either internally or externally, and therefore it is not considered that this potential change of use of the current units would have a visual impact on the area or the character or appearance of this part of the Conservation Area.

10.07 The proposed glazed canopy would be constructed in accordance with the plans approved by planning permission 12/03193/FUL. Full consideration of the impact that this structure would have visually on the area was considered as part of this previous proposal and it was considered that this was an appropriate form of structure and made much better use of the space. Conditions requiring large scale details of the proposed canopy would need to be discharged in relation to

12/03193/FUL prior to construction to ensure a satisfactory form of development. There have been no changes in policy or the surroundings that would result in a different conclusion being reached on this matter.

- 10.08 This current proposal only relates to the use of this area and it is not considered that the proposed use would have a detrimental impact on the visual amenity of the area or the setting of the Conservation Area or the special character of the adjacent listed buildings

#### **Impact on Residential Amenity**

- 10.09 There are no residential dwellings in close proximity to this site as the properties surrounding this site are in commercial uses, for example offices and the Sussex Arms Public House but there are a significant number of residential dwellings in the wider area, including 2 Frant Road to the east. It is also noted that this is an area where there are a number of premises within The Pantiles, including the Sussex Arms Public House, which are open later hours and are not restricted by planning conditions and would be considered as high noise generators.
- 10.10 In terms of the proposed uses, Class E is considered to contain uses that are commonly found in town centre locations and could be compatible with other uses including residential. The units on this site are already in a form of commercial use and due to the fairly modest size of the units it is not considered that the uses that could be undertaken within Class E would be of a scale or intensification to cause significant disturbance. However, as requested by Environmental Protection and to be consistent with other uses in the immediate area a condition limiting opening hours is considered necessary.
- 10.11 The use of the glazed canopy would have potential for considerable disturbance, particularly during the evenings and late into the night, due to its open nature and this is a concern that has been raised by Environmental Protection. As part of the previous approval for this canopy under planning permission 12/03193/FUL a condition was attached that required the submission of a management scheme and it is considered that this is still applicable to the proposal now put forward. In addition, as requested by Environmental Protection it is considered necessary to restrict the hours of use of this canopy in order to limit the impact that this use could have on the wider area.
- 10.12 Additional mechanical extraction or flue systems could be required in connection with some uses within Class E and these could have an impact on the wider residential uses as well as the occupiers of adjacent units. Whilst external additions and alteration of this nature are likely to require planning permission it is considered necessary to attach a condition to require details to be submitted as recommend by Environmental Protection.
- 10.13 External lighting, particularly in connection with the glazed canopy could have the potential to cause a nuisance and it is considered that a condition is necessary to require details of external lighting to be approved prior to installation.

#### **Highways and Parking**

- 10.14 This site does not have the benefit of parking but it is located within a highly sustainable location where there are a number of public car parks and good links to public transport, with numerous bus services and a train station within walking distance. In this case, it is not considered that the absence of car parking would justify refusal of this application.

**Other matters**

- 10.15 Environmental Protection have requested a condition that restricts construction hours but as this proposal relates to the change of use of this site only it is not considered that this is necessary. Similarly, no construction or demolition is proposed, other than the canopy that is covered by planning permission 12/03193/FUL, and in this case the informative relating to asbestos is not necessary.

**Summary**

- 10.16 The proposed change of use is considered to comply with relevant policies and there are no material considerations that would warrant a departure from these policies. The proposal is therefore considered acceptable.

**11.0 RECOMMENDATION – GRANT** Subject to the following conditions

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory

- (2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:

57001\_PL-301A Site Location Plan  
57001\_PL-302A Site Block Plan  
57001\_PL-305B Proposed Ground Floor Plan  
57001\_PL-306B Proposed First Floor Plan

Reason: To clarify which plans have been approved

- (3) The glazed covered area hereby approved shall be used only for purposes and at times approved as part of a management scheme to be first submitted to and approved in writing by the Local Planning Authority. Such details shall include any proposals for amplified sound.

Reason: To protect the character and amenities of the locality

- (4) The use of the site shall be carried out only between the hours of 08.00 and 23.00 on any day.

Reason: To protect the character and amenities of the locality

- (5) 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 the EMAQ publication Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (September 2018 & any subsequent revisions). 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.

Reason: To protect the amenity of the locality



- (6) The rating level of noise emitted from any proposed plant and equipment to be installed on the site (determined using the guidance of BS 4142 : 2014 Rating for industrial noise affecting mixed residential and Industrial areas) shall be low as can be possible. In general this is expected to be 5dB below the existing measured background noise level LA90, T. In exceptional circumstances, such as areas with a very low background or where assessment penalties total above 5 the applicants consultant should contact the Environmental Protection Team to agree a site specific target level.

Reason: To protect the amenity of the locality

- (7) No fans, louvers, ducts, meter boxes or other similar apparatus shall be installed externally without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of the locality

- (8) No external lighting whether permanent or temporary shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: To protect the character and amenities of the locality.

## **INFORMATIVES**

- (1) Broad compliance with the Mid Kent Environmental Code of Development Practice is expected.
- (2) Attention is drawn to Approved Document E Building Regulations 2010 Resistance to the Passage of Sound Attention should be drawn to Approved Document E Building Regulations 2010 Resistance to the Passage of Sound as amended in 2004, 2010 & 2016. . It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

Case Officer: Kirsty Minney

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.