

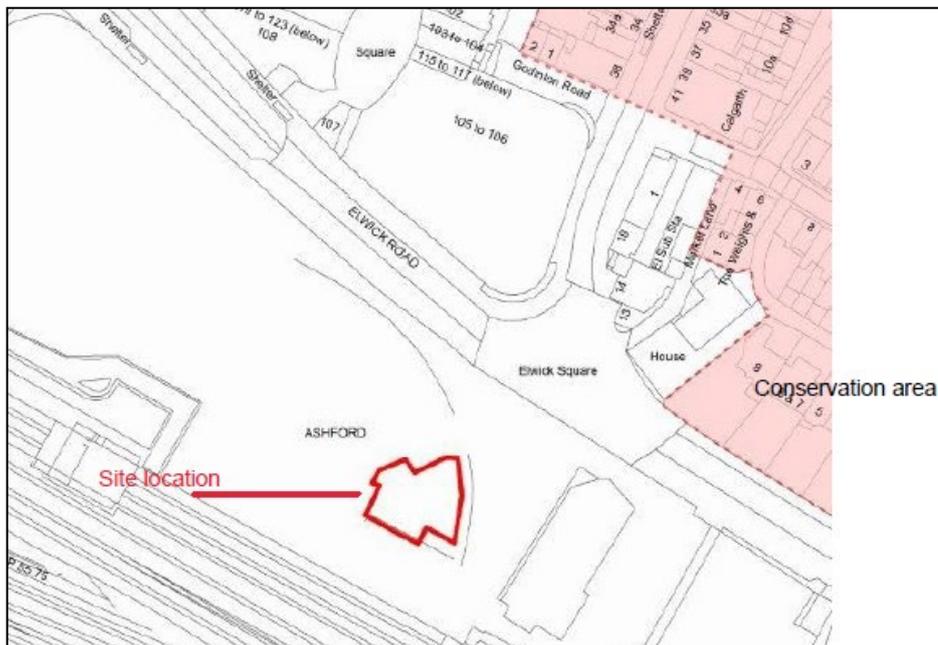
<b>Application Number</b>	20/00473/AS	
<b>Location</b>	Unit 5, Elwick Place, Elwick Road, Ashford, TN23 1AX	
<b>Grid Reference</b>	00793/42500	
<b>Ward</b>	Victoria	
<b>Application Description</b>	Change of use from a vacant restaurant / cafe / drinking establishment (Class A3 / Class A4) to a flexible planning permission within Class V of the Town and Country Planning (General Permitted Development) Order 2015 for an office (Class B1) or restaurant / cafe/ drinking establishment (Class A3 / Class A4)	
<b>Applicant</b>	Mr Bourne, Stanhope PLC, c/o Agent	
<b>Agent</b>	Mrs C Clarke, Savills, Embassy House, Queens Avenue, Bristol, BS8 1SB	
<b>Site Area</b>	0.04 ha	
(a) 7/0	(b) -	(c) AAG/R

## Introduction

1. This application is reported to the Planning Committee because the Council owns the retail unit subject to this change of use application.

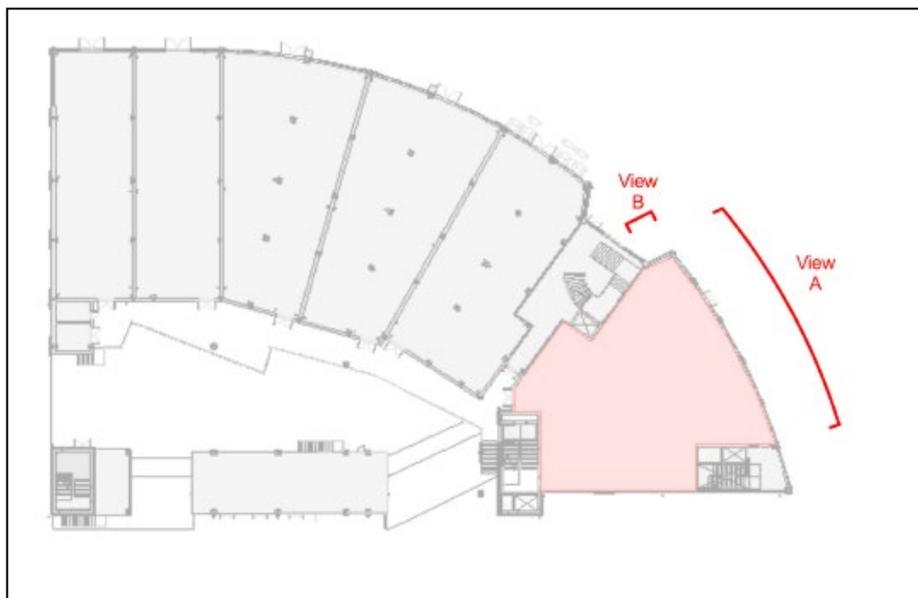
## Site and Surroundings

2. The application site is located at the Elwick Place development on Elwick Road in Ashford town centre. Elwick Place is a recent mixed use development comprising, among other facilities, a cinema, hotel, gymnasium, and food and beverage units.
3. The proposal involves a vacant ground floor unit of 436 sq. metres with permission for an A3/A4 (restaurant or café/drinking establishment) use. The location of unit 5 is located on the site location plan (see **figure 1**).



**Figure 1 – Site location**

4. **Figure 2** below locates the unit in relation to part of the wider Elwick Place development. Current development at Elwick Place represents Phase 1. Development of Phase 2, granted outline planning permission, would comprise residential development located to the south east of Phase 1 on Elwick Road. Unit 5 adjoins the ground floor circulation areas of both the cinema entrance and gymnasium. The unit is accessed from the public open space that adjoins Elwick Square and the hotel site.



**Figure 2 – Location within Elwick Place development**

5. The Ashford town centre conservation area is located on the opposite side of Elwick Road approximately 60 metres distant (see **figure 1**).

## Proposal

6. The proposal is for the use of unit 5 as an office (under Class B1 of the Town and Country Planning (Use Classes) Order 1987) or a restaurant/café or drinking establishment (under Classes A3/A4 of the Order), as previously approved (see planning history).
7. The applicant has emphasised that a flexible planning permission is proposed in accordance with the provisions of Class V of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) (England) (as amended) ('GPDO'), whereby uses granted permission can alternate during a ten year period. At the end of this ten year period, whichever use is in operation would become the lawful use.
8. The proposal only seeks to establish the change of use of the unit, and any future external or visual changes or alternations, including advertisements, would be sought separately through applications by future occupiers.

## Planning History

**15/01195/AS** – Planning permission was granted in December 2015 for a mixed use development comprising restaurants and cafes (Class A3), a hotel (Class C1), leisure and assembly, including a cinema (Class D2), a car park, associated highway works, vehicle access, infrastructure, plant, car and cycle parking and landscaping (Phase 1).

**15/01195/AM01/AS** – A non-material minor amendment application was approved in November 2018. This application increased the number of ground floor units and established unit 5 to be either an A3 or A4 use.

## Consultations

**Ward Members:** Cllr Farrell and Cllr Suddards have not commented in relation to this application. Neither councillor is a Member of the Planning Committee.

**Neighbours:** 7 consulted. 0 comments received.

**Ashford Access Group** comment:-

*'Though the red line indicating Site seems to exclude entrance area, it will be necessary for this entrance to be flush from the pavement to allow w'chair access.'*

*Will the ABC supervise the construction of steps and ramp? the drg merely states 'potential' This also will need to comply with regs., and to have suitable handrails, each side. with 390mm return to assist the poorly sighted. steps should be suitably marked. There is no WC provision shown. It will be necessary to provide Accessible WC. If it is to be an eating/drinking establishment there are certain requirements as to the arrangement and style of seating.'*

**[SDDM comment:** The principle of a change of use of the unit is the sole matter under consideration. If external / internal changes prove to be needed in respect of the accessibility issues that the Group raise then these would either require a further application for planning permission or, if purely internal, would be considered pursuant to the building regulations.]

## **Planning Policy**

9. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).
10. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
11. The relevant policies from the Local Plan relating to this application are as follows:-
  - SP1 – Strategic Objectives
  - SP3 – Strategic Approach to Economic Development
  - SP5 – Ashford Town Centre
  - SP6 – Promoting High Quality Design
  - EMP1 – New Employment Uses
  - EMP6 – Promotion of Fibre to the Premises (FTTP)
  - EMP7 – Primary and Secondary Shopping Frontage in Ashford Town Centre
  - TRA3b – Parking Standards for Non-residential Development

#### TRA6 – Provision for Cycling

12. The following are also material considerations to the determination of this application:
- Transport issues
  - Residential and visual amenities
  - Provision of fibre broadband and waste services

#### **Government Advice**

##### National Planning Policy Framework (NPPF) 2019

13. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-
14. Paragraph 48 states in relation to the stages of preparing a Local Plan that:
- “Local planning authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”
15. Paragraph 80 states that “planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”

16. Similarly, paragraph 85 states that planning decisions should “support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation”.

## **Assessment**

### Principle

17. The Ashford Local Plan 2030 highlights the important role that Ashford town centre provides for the local economy and emphasises the desire of a thriving town centre that benefits from an ‘all-day economy’. As part of this wider vision, job creation would bring spending power during the day and evening, helping to drive opportunities for leisure uses.
18. The unit benefits from planning permission for Class A3 or A4 (café/restaurant or drinking establishment) uses and so the principle of that element of the applicant’s proposal has already been accepted.
19. Construction at the site was completed in late-2018 and unit 5 has so far remained unoccupied. Paragraph 80 of the NPPF identifies that planning decisions should help create the conditions where businesses can invest or adapt in order to build on the economic strengths of an area. This particular application would accommodate an additional use option for Unit 5 and would therefore allow adaptation of the unit to suit a wider range of potential occupiers than was originally envisaged.
20. Class V of Part 3 of Schedule of 2 of the GPDO aims to promote flexibility between approved uses. The planning permission applied for would allow for future occupiers to carry out Class A3/A4 or B1 office uses throughout the course of a ten year period. The uses could alternate between the 3 elements during this period and whichever use is in operation at the end of the ten year period would then become the lawful use of the Unit from that point on.
21. The Ashford Local Plan 2030 policy EMP1 allows the reconfiguration of new employment premises in the town centre providing that the character of the development would be acceptable without causing harm to residential occupiers, and that any related transport considerations are carefully considered. These criteria are considered further below.
22. Additionally, it should be noted that the application site is located within the primary shopping area, but not primary or secondary shopping ‘frontage’ in the town centre (wherein the focus is maintain Class A (retail) uses). The preamble to policy EMP7 of the Ashford Local Plan 2030 states that the role of Ashford town centre;-

*“cannot solely rely on its function as a shopping destination. The town centre should be a place that residents and visitors want to visit ... for other purposes such as business...”.*

23. With this in mind, an office use would be acceptable as a matter of principle by broadening the town centre’s role. Moreover, office uses in the town centre would contribute towards maintaining footfall which can further enhance the viability of retail and food & drink uses. If planning permission is granted, future A3 or A4 uses would not be precluded and remain an option at the site along with the flexibility for B1 office use.

#### Transport issues

24. Parking provision has previously been addressed in relation to the A3 and A4 approved use classes of the previous scheme (see the planning history section). The previous scheme resulted in the development of a large car parking facility adjacent to Elwick Place phase 1. There are also various other vehicular parking facilities nearby.
25. Notwithstanding the above, the unit is located in a highly sustainable location within a short walking distance of the railway station and town centre bus stops. The location of the site would encourage visits by public transport and active travel modes.

#### Residential amenity

26. The application site is located within Elwick Place and is surrounded by other business uses. The nature of the proposed use would not lend itself to creating a significant level of noise or other disturbance. In the light of this, there would be no adverse impact caused to the residential amenity of the locality.

#### Other considerations

27. All applications for new employment premises in the Ashford urban area require the delivery of a fibre to the premises broadband connection, in accordance with local plan policy EMP6. As such, a relevant planning condition will be attached to the decision ensuring that a FTTP broadband connection has been provided prior to the occupation of the unit.
28. In terms of waste collection, a central bin store is located in the service yard to the rear of the site. Waste collection would be arranged by the occupier.
29. There are no external changes proposed in the application to the existing building and therefore no adverse impact caused to the locality or the

character of the nearby conservation area. Proposals for external changes or advertisements would be considered at a later stage through the appropriate processes. Proposals that would have an adverse impact on the design quality of the building would be unlikely to be acceptable.

## **Human Rights Issues**

30. I have also taken into account the human rights issues relevant to this application. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## **Working with the applicant**

31. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

## **Conclusion**

32. I am satisfied that the proposal would comply with the requirements of local policy and relevant paragraphs of the NPPF in respect of promoting vibrant town centres. No material considerations outweigh the principle of the development in policy terms which is one that I consider would be acceptable. I recommend that planning permission is granted subject to conditions.

## **Recommendation**

### **Permit**

**(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).**

**Subject to the following Conditions and Notes:**

Proposed conditions:

1. Standard time condition
2. Carry out development in accordance with the approved plans
3. Restrict Use Class
4. Make premises available for inspection
5. Fibre to the premises condition

### **Working with the Applicant**

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance

- the application was acceptable as submitted and no further assistance was required.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

### **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications online](#) pages under planning application reference 20/00473/AS)

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Annex 1

