

## **Application for a Planning Permission F/TH/19/1740 – 51-59 Norfolk Road Margate**

**Planning Committee – 19th August 2020**

Report Author                      **Duncan Fitt, Planning Officer**

Planning Reference:                F/TH/19/1740

Site Address:                        51-59 Norfolk Road Margate

Applicant:                          Mr T Dale

Status                                 **For Decision**

Classification:                      Unrestricted

Ward:                                 **Cliftonville West**

### **Executive Summary:**

This report concerns an application for planning permission (Reference F/TH/19/1740) for the change of use and conversion of upper floors to 14 self contained flats with access from ground floor and erection of first and second floor rear extensions, enlargement of front dormer window, alterations to fenestration and removal of existing fire escapes together with associated parking and bin stores.

The application was presented to members at the planning committee on the 1st July with a recommendation of approval. Members raised concerns about the proposed development and requested that the application was returned to officers to prepare a report with potential reasons for refusal and providing additional information about whether the buildings can be converted into family housing, and then reported to members at a future meeting for a final decision on the application.

It is considered that given the existing use on the site, the extant permissions for the ground floor and the limited external changes to the property that on balance the proposed development should be approved subject to the recommended conditions.

### **Recommendation:**

Members approve the application subject to the safeguarding conditions outlined in the planning committee report of 1st July 2020, appended at Annex 1.

**CORPORATE IMPLICATIONS**

**Financial and Value for Money**

The Planning Committee is not bound to follow the advice of Officers. However, should Members decide not to accept the advice of Officers it should be mindful of the potential cost implications in doing so.

The advice from Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

The advice outlined is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.

**Legal**

The Planning Committee is not bound to follow the advice of Officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision.

The reasons for any decision must be formally recorded in the minutes and a copy placed on file.

If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.

The advice from Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

**Corporate**

The delivery of new housing through the Local Plan and planning applications supports the Council's priorities of supporting neighbourhoods ensuring local residents have access to good quality housing, and promoting inward investment through setting planning strategies and policies that support growth of the economy.

<p><b>Equalities Act 2010 &amp; Public Sector Equality Duty</b></p>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy and maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <p>In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.</p>
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## **1.0 Background**

- 1.1 This application was reported to the planning committee on the 1st July 2020 with a recommendation of approval subject to the required conditions (Annex 1).
- 1.2 The motion to approve the application was lost and a motion requesting that the application was returned to officers for further information was carried.
- 1.3 Members raised a number of concerns regarding the proposed development and requested that a further report was produced outlining potential reasons for refusal of the application.
- 1.4 Members also raised concerns that the proposed development would not comply with policy CV3 of the Cliftonville Development Plan and requested that officers explore the conversion of the building to family housing.

## **2.0 Additional Information Submitted by the Applicant**

- 2.1 Officers contacted the applicant for further information regarding why the previously approved residential development on the site (Application reference F/TH/18/0459) has not come forward.
- 2.2 The applicant's planning agent has provided the following statement regarding the previously approved development on the site. "When the planning application was submitted for a residential development the market was more buoyant. Unfortunately, during the period of determination of the application the Brexit effect on the property market in Margate resulted in a significant drop in property prices in Cliftonville which meant that the permission achieved was no longer financially viable. The added uncertainty caused by Covid-19 combined and the rising costs of building materials the means that the current residential permission has become even less viable."

No further information or evidence has been provided in support of this statement.

- 2.3 The statement also outlines the reasoning behind the subsequent applications that have been submitted following the approval of the 2018 application. “In marketing the site to establish interest we identified a need for community uses to serve the area, as referred to in the Cliftonville DPD. As a result, the decision was taken to obtain permission for community use based upon the interest shown. To deliver the community use on the ground floor we must have the consent on the upper floors to enable construction simultaneously on both areas. It would not be appropriate to finish the ground floor then proceed with construction on the upper floors both from a cost and inconvenience point of view. In addition, we must establish a valid planning permission for the upper floors which are presently tied to the ground floor use.”

Permission was secured for a D1 use on the ground floor of the site under application reference F/TH/19/0772.

- 2.4 The statement continues to say that to deliver the community use on the ground floor consent is required for the upper floors to enable construction simultaneously on both areas to limit both cost and inconvenience. In addition, a valid planning permission for the upper floors is required as presently this is tied to the ground floor use.

### **3.0 Officer View**

- 3.1 The current application for planning permission must be considered on its own merits and in accordance with local and national policy. Whilst previous applications can form a material consideration, new applications cannot be refused because a previous proposal was preferable. Harm must be identified from the current proposal.
- 3.2 An extant planning permission is in place for the use of the ground floor of the property as a non-residential institution with training, therapy and meeting spaces (Application F/TH/19/0772). Only the use of the upper floors, access to the upper floors and facilities ancillary to the residential use are being considered as part of this application. The use of the ground floor is not under consideration as part of this proposal and therefore no further information is provided.

### *Character and Appearance*

- 3.3 Amended plans were sought during the application process to address concerns regarding the impact of the initial proposal upon the character and appearance of the conservation area. Alterations to the Norfolk Road and original section of the building fronting Cumberland Avenue are limited in nature. External alterations are predominantly concerned with the modern extensions at the rear of the property. As outlined in the original report the external changes are considered to result in a modest improvement to the character and appearance of the conservation area.
- 3.4 The flat roof front extension is an existing feature in the street scene and has been in situ for a significant period of time. Whilst it is not considered to make a positive contribution to the conservation area, due to the long period of time that this extension has been in place it is considered to be lawful and the Council cannot insist on its removal.

- 3.5 A reason for refusal based upon the impact of the development upon the character and appearance of the conservation area is therefore not considered to be justified and is likely to be overturned at appeal.

#### *Living Conditions*

- 3.6 The existing use of the building could recommence at any time which would include residential accommodation on the upper floors and a variety of ancillary functions on the ground floor. Residential dwellings are not considered to result in a significant level of noise and disturbance and when compared to the existing use there is not considered to be any significant change.
- 3.7 Following the submission of the amended plan the arrangement of the openings and the proposed alterations are not considered to result in loss of light or sense of enclosure to the neighbouring dwellings and the level of overlooking is considered to be similar to the existing residential uses on the upper floors.
- 3.8 As outlined in the original report the development is not considered to result in any significant harm to the living amenity of the neighbouring property occupiers. A reason for refusal based upon harm to the living conditions is therefore not considered to be justified and is likely to be overturned at appeal.
- 3.9 Members raised concerns regarding whether the building can be converted to family housing and whether the proposed development would comply with policy CV3 of the Cliftonville Development Plan.
- 3.10 As outlined above, this proposal must be considered on its own merits and can only be refused if harm is identified. The potential for an alternative development does not form a material consideration.
- 3.11 Policy CV3 states; *'In new development or redevelopment flats of any size will not be permitted unless it can be clearly demonstrated that there are overriding design or townscape reasons for allowing such development and that no acceptable design solution can be found to accommodate individual family dwellings.'* The policy is appended to this report at Annex 2.
- 3.12 The explanation and justification for policy CV3 clearly states that; 'In seeking to make Cliftonville a prosperous and attractive community again, it is important that attention is focused on how new development can contribute to this and not just on controlling conversions and retaining family housing.' The explanation goes on to state that *"There will still be many properties brought forward for conversion rather than redevelopment."* The focus of this policy is therefore on new build development and redevelopment of sites (demolition and rebuild), and not the conversion of existing properties, with the conversion of properties to flats dealt with by Policy CV2 (avoiding subdivision of existing family homes). Therefore to refuse this application on the basis of this policy would conflict with the stated aim of the policy and its purpose in the opinion of officers. Furthermore the existing building has been empty for a substantial period of time and the benefits of bringing the existing building back into use must be given weight in the determination of this application.

3.13 Policy GI04 of the new Thanet Local Plan defines family dwellings as those having two bedrooms or more. All of the proposed dwellings have two bedrooms, and all exceed the minimum floor areas set out within the Nationally Described Space Standards, with many being much larger than required. The proposed flats are considered to provide a good standard of accommodation with a variety of different sized units available.

3.14 Therefore refusal of the application on the standard of accommodation for the future occupiers or under policy CV3 of the Cliftonville Development Plan Document is not considered to be justified.

#### **4.0 Options**

4.1 Members approve the application subject to the safeguarding conditions outlined in the planning committee original report of 1st July 2020, appended at Annex 1.

4.2 Members propose an alternative motion.

#### **5.0 Recommendations**

5.1 Officers recommend Members of the Planning Committee to agree option 4.1.

Contact Officer:	<i>Duncan Fitt, Planning Officer</i>
Reporting to:	<i>Iain Livingstone, Planning Application Manager</i>

#### **Annex List**

<i>Annex 1</i>	<i>Planning Committee Report F/TH/19/1740 - 1st July 2020</i>
<i>Annex 2</i>	<i>Policy CV3 of the Cliftonville Development Plan Document 2010</i>