

Planning Application F/TH/22/0769- The Royal, 51 Harbour Parade, RAMSGATE, Kent, CT11 8LJ

Meeting	Planning Committee – 19th June 2024
Report Author:	Gillian Daws, Senior Planning Officer
Planning Reference:	F/TH/22/0769
Site Address:	The Royal, 51 Harbour Parade, RAMSGATE, Kent, CT11 8LJ
Applicant:	Mr Jamie Copland
Status	For Decision
Classification:	Unrestricted
Previously Considered by	Planning Committee 16 August 2023
Ward:	Central Harbour

Executive Summary:

This report concerns an application submitted under reference F/TH/22/0769 for the change of use of existing public house (sui generis) to commercial unit (Class E), partial demolition of existing building and erection of five-storey side extension with recessed balconies, single storey roof extension and roof terrace and new three-storey building to rear to provide 8no. new apartments (2no 1 bed and 8no 2 bed), and rearrangement of 2no. existing apartments that was brought to the Planning Committee on the 16th August 2023 with a recommendation to Defer and Delegate the application for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution. Members voted to agree to the officer recommendation.

An acceptable Unilateral undertaking (UU) to secure the SPA contribution was not received within the required 6 months, therefore, the application is reported back to members due to the time that has passed since the original decision. The delay to the UU was in relation to getting all landowners to be party to the agreement. The applicant has made it clear that all land owners cannot be party to the agreement. The area of separate ownership which is not covered by the parties signing the UU is relatively small and the risk is considered low for non-payment. It is advised that Members agree the UU and additional negatively worded condition to require that no development will be carried out unless the remaining landowners first enter a Deed adhering to the obligation in the UU.

There are no changes to the proposed development previously considered by members (see report within Annex 1).

Recommendation:

Members approve the application with the associated unilateral undertaking subject to the safeguarding conditions as set out within the report contained within Annex 1 and with the following additional condition:

“No work shall be carried out under this planning permission

- a) until either all parties with any interest in the site have entered into a s.106 unilateral undertaking on the same terms on which this permission is granted; or
- b) such interests have come to an end and evidence of it having come to an end has been provided to the Council.

GROUND:

The planning permission has been granted subject to a s.106 unilateral undertaking and at the time of this permission being issued the applicant is not able to bind all relevant parties and interests in the site to the terms of the planning obligations that it contains.”

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 Central 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

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.

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.

Equalities Act 2010 & Public Sector Equality Duty

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.

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 & civil partnership.

In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.

1.0 Background

- 1.1 Members considered this application under planning reference F/TH/22/0769 for the change of use of existing public house (sui generis) to commercial unit (Class E), partial demolition of existing building and erection of five-storey side extension with recessed balconies, single storey roof extension and roof terrace and new three-storey building to rear to provide 8no. new apartments (2no 1 bed and 8no 2 bed), and rearrangement of 2no. existing apartments.
- 1.2 The application was brought to the Planning Committee on 16th August 2023 and members voted to defer and delegate the application under reference F/TH/22/0769 for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution within 6 months of this resolution.

2.0 Analysis

- 2.1 The application for the change of use of existing public house (sui generis) to commercial unit (Class E), partial demolition of existing building and erection of five-storey side extension with recessed balconies, single storey roof extension and roof terrace and new three-storey building to rear to provide 8no. new apartments (2no 1 bed and 8no 2 bed), and rearrangement of 2no. existing apartments was

brought to the Planning Committee on 16th August 2023 and recommended to Members to defer and delegate for decision once the Council received a signed Unilateral Undertaking for contributions.

- 2.2 Members voted to defer and delegate the application under reference F/TH/22/0769 for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution within 6 months of this resolution.
- 2.3 In this case the Unilateral Undertaking (UU) to secure the required contribution does not have all owners of the land as party to the undertaking, as some landowners cannot be party to the undertaking. The landowners are a company registered in the British Virgin Islands (Mainwell Capital Ltd) and the other is an individual who the agent believes is either deceased or possibly has moved (a different address to that on the title). It is also possible that they have ceased trading. It is advised that Members agree the UU and impose a negatively worded condition to require that no development will be carried out unless the remaining landowners first enter a Deed adhering to the obligation in the UU.
- 2.4 As the legal agreement securing the SAMM contribution has now been received it is recommended that Members approve the application, subject to an additional condition.
- 2.5 There have been no changes to the assessment of the other material planning considerations set out in appendix 1

3.0 Options

- 3.1 Members agree to the UU and accept the suggested condition for the application.

Suggested condition:

No work shall be carried out under this planning permission

*a) until either all parties with any interest in the site have entered into a s.106 unilateral undertaking on the same terms on which this permission is granted; or
b) such interests have come to an end and evidence of it having come to an end has been provided to the Council.*

GROUND:

The planning permission has been granted subject to a s.106 unilateral undertaking and at the time of this permission being issued the applicant is not able to bind all relevant parties and interests in the site to the terms of the planning obligations that it contains.

- 3.2 Members propose an alternative motion.

4.0 Recommendations

4.1 Officers recommend Members of the Planning Committee agree option 3.1.

Contact Officer: Gillian Daws, Senior Planning Officer
Reporting to: Annabel Hemmings, Principal Planning Officer

Annex 1

Committee Report F/TH/22/0769