

a) **DOV/17/01098 – Part change of use and conversion of first, second and third floor to nine self-contained flats and installation of a replacement shopfront - 50 and 51 Biggin Street, Dover**

Reason for report: The application has been 'called in' by Councillor Jones and Councillor Collor.

b) **Summary of Recommendation**

Planning permission be granted

c) **Planning Policies and Guidance**

Core Strategy Policies

- DM1 – Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM13 – Parking provision should be design-led, based upon an area's characteristics, the nature of the development and design objectives, having regard for the guidance in Table 1.1 of the Core Strategy.

Land Allocations Local Plan (LALP)

- DM27 - sets out standards for providing open space to meet the additional need generated by residential development of 5 or more dwellings. It also requires that a minimum of 15 years maintenance be demonstrated. Where it is impractical to provide open space on site, consideration will be given to accepting a commuted payment to providing and maintaining improvements to existing facilities.

National Planning Policy Framework (NPPF)

- Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.
- Paragraph 11 states that "planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise".
- Paragraph 23 sets out 'planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of town centres over the plan period and amongst other things that should
- Recognise town centres as the heart of their communities and pursue policies to support their viability;
- Recognise that residential development can play an important role in ensuring the viability of centres and set out policies to encourage residential development on appropriate sites; and
- Paragraph 123 advises that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
- Paragraph 129. "Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking into account of the available evidence and any necessary expertise. They

should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal".

- Paragraphs "132 – 134."Consideration has to be given to whether there is significant harm, less than substantial harm or neutral harm to heritage assets".

Planning Act (Listed Buildings and Conservation Areas) 1990

Section 72 (1) requires LPAs to have a duty to respect conservation areas in the exercising of planning functions. It states that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.

The Kent Design Guide (KDG)

The Guide provides criteria and advice on providing well designed development.

Flat Conversion Guidelines 2006

- Advises on room and unit sizes and facilities required to provide a good level of amenity for future residents.

Guidance on Shopfronts within Conservation Areas.

- Provides advice to help ensure that alterations to shopfronts will preserve or enhance the conservation area.

The Kent Design Guide (KDG)

- The Guide provides criteria and advice on providing well designed development.

d) **Relevant Planning History**

Pre-application advice was sought, a planning officer met with the owners and architect at the site. Following the meeting written advice was given and several queries and concerns were raised which the applicant responded to in the presentation of this application.

e) **Consultee and Third Party Responses**

Councillor Jones –I am calling this application so the Committee can consider whether it meets the required criteria in DDC planning policies on the impact of development in a conservation area, the retention and reinstatement of traditional shop fronts and the minimum guidelines for the development of flats.

Councillor Collor – I formally request that this application is heard and decided by the Planning Committee. We are in desperate need for more residential accommodation and we need to improve the street scene in Central Dover. This scheme would help to achieve these aims.

Principal Heritage Officer – Detailed written advice was given to the architect regarding the interpretation of the SPD, the character of surrounding shop fronts and alterations to the shop front at 50 and 51 Biggin Street. Subject to conditions the Heritage Officer does not raise an objection to the amended plans.

Environmental Health – no objection subject to a condition requiring sound proofing.

Principal Infrastructure Officer – Policy DM27 is applicable because it is not a tariff-style payment, however the commuted sum contribution would be extremely small. Furthermore, it would use up one of the five pooled payments for the project at Pencester Gardens. No final figure has been given and the contribution not sought.

KCC Highway Services – no objection because the proposed would not generate more car parking than the existing lawful use and the site is within a town centre location. Standard informative is suggested if permission is granted.

Dover Society – Object for the following summarised reason;

- Storage of rubbish – this could result in bags being left on the pavement and attacked by seagulls resulting in a mess in a very public area.
- Shop front design – the use of porcelain tiles erodes the historic character. The shop front should be similar to the one at Burtons.
- Room sizes

Dover Town Council – Objects

- The density of flats is too high
- Inadequate natural daylight
- Not enough space for bin and bike store
- The shopfront is not being retained and the proposed shopfront would not enhance the conservation area.

Third Party – 4 objections received the comments are summarised as follows;

- Supporting the views expressed by the Town Council and Dover Society
- The flats are too small and of poor quality
- poor residential amenity for the future occupiers

- f) 1. **The Site and the Proposal**
- 1.1 The site is located within the urban confines of Dover within a primary shopping frontage. It is also within a designated conservation area.
- 1.2 Biggin Street is characterised by three storey, terraced buildings entirely commercial in character at road level. The upper floors generally appear to be used for a mixture of storage, commercial or residential accommodation.
- 1.3 No.50 and 51 have a vacant retail unit at ground floor level, the upper floors are also vacant and have been for many years. The Design and Access statement advises that the last known use was as a hotel but there is no evidence of this throughout the building.
- 1.4 The buildings do not benefit from a rear curtilage or access, the sole access to the floors above is through the retail units. Permission will also be sought for a new self-contained access from Biggin Street, this will be created by reducing the width of unit 51 and inserting a passage way and staircase behind a new front door.
- 1.5 Planning permission is being sought for the change of use and conversion of the first, second and third floor to residential accommodation. The proposal is for 3 x studio flats and 6 x 1 bedroom flats.
- 1.6 A new staircase to access the flats from ground level will need to be provided. This will be achieved by the subdivision of the retail unit at no.51 by creating a

1m wide passage way. The creation of the passage will result in a narrower shop and the provision of a new shop frontage.

2. **Main Issues**

2.1 The main issues are:

- The principle of the development
- The impact on residential amenities
- The impact on the character and appearance of the conservation area
- The impact on the highway network
- Other matters

Assessment

Principle

- 2.2 The site is located within the urban area and specifically within Dover Town Centre. The NPPF advises LPA's to support development which will enhance the vitality and viability of town centres. This development would bring more people into the town centre, the residents would use the amenities and surrounding shops which in turn would boost the vitality and viability of the town centre.
- 2.3 In addition the conversion of the upper floors to flats appears to be in-line with the Governments 'No Use Empty' programme. Thus the principle of the development is considered to be acceptable, because

Character, Appearance and Heritage

- 2.4 Paragraph 132 of the NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The existing shopfront is modern but is of traditional detailing. The new shop front as originally proposed was considered unacceptable and detrimental to the visual appearance of the conservation area, alterations and amended plans were sought.
- 2.5 The Heritage Officer advised that drawings were rather basic and that the existing plans were inaccurate as they did not show the shopfront correctly, for example no pilasters and the fascia did not extend up to the underside of the first floor windows. The Heritage Officer stated that the essential issue, is that the surround needs to remain in place, there is no need to replace the shopfront in its entirety to install a secondary door and the existing can be altered.
- 2.6 The Heritage Officer produced a draft sketch for the applicant to help explain and offered the following advice;
- ' The existing pilasters, corbels, upper fascia and cornice should be retained (as shown in green on the draft sketch) the lower is a modern insertion.
 - I have shown the doors at either end of the shopfront window. This allows for the central section to be divided with a main central mullion and each section of glazing either side to be divided into two. This will allow for half to be obscure glazed for the bin storage beyond, and half to remain clear for the shop unit.

- The proposed ventilation grill has been removed and a set of glazed panes runs across the top of the doors and windows. The personal door to the flats must be solid so the glazed panel above lights the hallway beyond.
 - We have no details of the signage proposed, but the fascia is all one unit and should not be split up. I suggest a simple sign fixed to the inner face of the recessed doorway with the flat details.
 - The stall riser can be tiled but we will need details to ensure that it is traditionally detailed. A cill needs to be provided.
 - Aluminium is not an acceptable material under our SPD. The shopfront must be made of timber’.
- 2.7 The architect has taken on board the advice from the Heritage Officer and has amended the shopfront. The Heritage Officer advises that is ‘a more appropriately traditionally detailed shopfront with doors set at either end of the windows’. The shopfront as amended will restore and retain elements of the existing and replace with traditional fittings and materials where it is not possible to retain.
- 2.8 At the request of Waste Services a recessed area behind the faux shop front will be provided, this area will be used for the deposition of rubbish sacks on collection day. Waste Services have advised that nine flats are likely to generate 18 bags of rubbish a week and this area will prevent the sacks from being left on the public highway. It is acknowledged that rubbish left on the public highway and in particular this high profile area will be harmful to the area.
- 2.9 Although the faux shopfront is an unusual feature it is not harmful to the conservation area. The shopfront at no. 51 will be narrow, but there is a mixture of shop types and sizes in Biggin Street and High Street and this would not be incongruous.
- 2.10 Paragraph 134 of the NPPF advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The existing shops are empty and have been vacant for some time; they are in a poor state of repair and visually detract from the character and appearance of the shopping area and the wider conservation area. The change to the shopfront would enhance the character and appearance of the conservation area and would result in less than substantial harm, and is outweighed by the public benefits of the development. The proposal complies with the NPPF.
- 2.11 The only other alteration to the front elevation would be the insertion of two roof lights into the roof, this would only be glimpsed from the front streetscene and not harmful to the conservation area. The existing timber sash windows are to be retained and repaired.

Impact on Residential Amenity

- 2.12 It is unclear what the use of the first-floor accommodation in the directly adjoining buildings are; some appear to be residential, office or storage. However, the change of use would not have an impact on these uses and it is not significantly different to the lawful hotel use. Furthermore the adjoining uses are unlikely to have a significant impact on the future residential amenities of the occupiers. Environmental Health have been consulted and they are satisfied with the level of soundproofing to mitigate resultant impacts.

- 2.13 At the rear of the site (south west) there is a building known as The Warehouse which is accessed off Worthington Street, this building is converted to flats and has windows that look towards the rear of the application building. The separation distance is approximately 14m and the buildings are set at an oblique angle to each other. On balance it is considered that the level of overlooking is negligible and would not be harmful to the amenities of the occupiers.
- 2.14 In terms of noise disturbances, in the event of planning permission being granted, it is recommended by Environmental Health that a condition be imposed requiring the submission of details of sound insulation between the residential and commercial parts of the development to ensure high standard of living conditions.

Housing Standards

- 2.15 Housing standards are set to ensure that there is a reasonable level of residential amenity for the future occupiers. The Flat Conversion SPG advises that, self-contained studio flats should not have an overall floor area of less than 30 m².
- 2.16 Each studio room should have a minimum net floor area of 16 m². If the kitchen is combined with this room, the area should be 6 m² larger. A separate kitchen should have a net minimum size of 5.6m². In addition to this accommodation there should be a bathroom/shower-room and W.C. There are 3 studio flats in this proposal and the floor area of the studios are between 36 and 37m² which is larger than the recommended size guide of 30m²
- 2.17 The Flat Conversion SPG advises that 1 bed flats should not be less than 40 m² and should have a bedroom 11m² and a living room/kitchen/dining room 20m². All of the 6 flats comply with the individual room sizes but only 2 of them have an overall floor area of 40m² the remaining 4 flats range in size from 36m² to 39.7m² as this is only slightly below the recommended standard and the overall room sizes comply it is considered that on balance the proposal is acceptable.
- 2.18 Natural light and out look to the studio flats is limited, to one aspect. The applicant has however chosen to insert additional windows into the studio flats which would allow extra light into the units. Internal low level privacy screens will be provided adjacent to the sleeping areas, which will allow natural light to filter over the top. The sleeping area in the studio flats is likely to be the darkest area which is the furthest away from the windows. However, this is considered on balance to be acceptable as the flats are small.
- 2.19 A communal bin storage area is provided on the terrace at the rear of the building. On collection day the residents will be expected to bring the bags of rubbish to the front of the property and to leave them in the recessed collection area adjacent to the shop front.
- 2.20 There is a minimal amount of private amenity space, on the terrace for the occupiers. The flats are small and are not expected to be family accommodation. The site is however in close proximity to the seafront and Pencester Gardens.

Impact on the Local Highway Network

- 2.21 KCC highway services do not object to this proposal, it is considered that the lawful use of the building as a hotel would have generated a greater demand of car parking than the proposed 9 flats. Furthermore the future occupiers would be living in a sustainable location within the town centre close to public transport and car parks.
- 2.22 The provision of bicycle storage was considered and could have been provided but this would've been at the expense of the bin storage area on the terrace. As KCC highway authority did not consider bike storage to be a necessity it was not pursued further. A neat and tidy street frontage is considered an important feature in such a location.

Other Matters

- 2.23 The NPPG advises that there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the written ministerial statement of 28 November 2014 and should be taken into account. In this case therefore contributions are not being sought.
- 2.24 Policy DM27 seeks the provision of open space it is applicable because the development is for more than 5 units. It is impractical to provide open space on – site and there are existing facilities (Pencester Gardens) within the access distance which could be improved by the provision of a commuted payment. This policy is not a tariff style contribution and would meet CIL reg. 122. However in this instance, due to small size of the flats (studio and 1 bed flats) and the low of number of units (nine) the commuted sum would be minimal and would be counted towards the 5 pooled payments for this scheme. The Principal Infrastructure Officer has not calculated figure and not pursued the contribution. On balance it is not considered reasonable to make a request for a financial payment.

Conclusion

- 2.25 The proposed development would make good use of a vacant building, within a prominent town centre location. The introduction of flats would help to enhance the vitality and viability of the area and would boost the wider economy. It would provide much needed small units of accommodation in a sustainable location. The change would also result in a new shopfront; which would improve the appearance and quality of the building and thus preserving and enhancing the conservation area. It is accepted that the units are small but on balance it is considered that any shortfall in floor area is outweighed by the benefit brought by the proposal.

g) Recommendation

- I PERMISSION BE GRANTED subject to the following (summarised conditions) conditions:
- 1) Standard time condition
 - 2) In accordance with approved plans
 - 3) Samples of materials to be submitted
 - 4) Full constructional details of the proposed shopfront

- 5) The new shopfront at no.51 shall be fully installed prior to first occupation of any flat
- 6) The new windows in the rear elevation of the building serving flats, 1, 2, 5 and 8 shall be of timber construction (to match existing)
- 7) Prior to the first occupation of any unit, the 1.8m high trellis as shown on the rear terrace shall be fully erected
- 8) Full particulars and details of a scheme for sound insulation between the proposed first floor residential development and the commercial uses on the ground floor shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details on measures to ensure that there are no flanking transmission paths for noise between the commercial and residential premises. The approved scheme shall be installed before the first occupation of flats 1, 2 and 3
- 9) Prior to the first occupation of any flat hereby granted the bin storage area on the terrace and the recessed bin area behind the shop front, shall be provided

- II) Powers be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by planning committee

Case Officer

Rachel Humber