

## ADDENDUM

**Application No:** Y18/1580/FH

**Location of Site:** Bridge Tavern 129 Station Road Lydd TN29 9LL

**Development:** Change of use from Drinking Establishment (Class A4) to 3 residential units (Class C3) comprising two 4 bedroom dwellings and one 5 bedroom dwelling with associated parking and garden areas.

**Applicant:** Mr Stephen Komolafe

**Date Valid:** 09.01.19

**Expiry Date:** 06.03.19

**PEA Date:** 07.05.19

**Date of Committee:** 30.04.19

**Officer Contact:** Robert Allan

<b>RECOMMENDATION:</b> That planning permission be refused for the reasons set out at the end of the report
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### 1.0 UPDATE

- 1.1 This application was originally reported to the Planning and Licensing Committee on 19th March 2019 with a recommendation that planning permission be refused on 5 grounds. Following a request from the applicant, Members resolved to defer consideration of the application as, following publication of the Committee Report, the applicant had submitted additional information to try to address the reasons for refusal.
- 1.2 The applicant submitted revised drawings identifying alternative room layouts, parking layouts, bin storage areas and bike storage, as well as a supporting statement with several appendices on the topics of ecology, marketing, valuation, alternative public houses in the area, parking, bin and bike storage, and the condition of the building.
- 1.3 The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the

policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

## **2.0 CONSULTATION RESPONSES**

### **2.1 KCC Ecology**

A bat scoping survey has been submitted which advises the need for an emergence survey to be carried out, the results of this survey and any mitigation required must be submitted prior to determination of the planning application. If the application is approved, ecological enhancements should be required by condition.

### **2.2 Lydd Town Council**

Support. The property is empty and derelict, renovation will be beneficial to the public realm.

## **3.0 REPRESENTATIONS**

### **3.1 One further representation received objecting that:**

- The parking and fenced garden area will block large vehicles accessing the factory units in Kitewell Lane;
- Alleged ownership issues regarding the strip of land between the Bridge Tavern and Kitewell Lane.

## **4.0 APPRAISAL**

### **Principle of change of use / loss of public house**

- 4.1 The proposed development would result in the loss of a public house which the NPPF classes as a community facility. Paragraph 92 of the NPPF sets out that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. At the local level, Core Strategy policy SS3 states that development must address social and economic needs in the neighbourhood and not result in the loss of community, voluntary or social facilities unless it has been demonstrated that there is no longer a need or alternative social / community facilities are made available in a suitable location.
- 4.2 Further to this, emerging policy C2 of the Places and Policies Local Plan Submission Draft requires an applicant to demonstrate that there is no longer a demand for the facility within the locality. This needs to be supported by evidence that the premises have been actively marketed for a minimum period of 12 months in the recent past prior to submission of the planning application and evidence that the sale price was realistic for the existing use, supported by a written valuation from a commercial estate agent.
- 4.3 The applicant had supplied some information with the original application, but it did not clearly demonstrate marketing of the public house for a period of 12 months, or include evidence that the sale price was realistic for the existing use. Consequently, Officers concluded that insufficient evidence had been submitted to demonstrate that

the site was no longer suitable or viable for a public house or community facility, or that alternative social / community facilities have been made available in a suitable location.

- 4.4 Subsequent to the publication of the committee report, the applicant submitted additional information relating to the sale price, as assessed by a surveyor and valuer, together with marketing information from Fleurets, a leisure property specialist, which confirms the property was marketed at an appropriate price for this type of use. The marketing information does not include any alternative uses and makes it clear that the premises was licensed for the sale of alcohol. A covering letter from Fleurets also states that the property was marketed locally and nationally from 30<sup>th</sup> September 2015 until 20<sup>th</sup> March 2018, when the applicant purchased it, with details forwarded to 10,100 parties, of whom 1,515 downloaded the sales particulars, resulting in 7 viewings being arranged.
- 4.5 The applicant has also submitted evidence of the range of alternative public houses in the vicinity, identifying the Dolphin Inn, the Royal Oak and the George Hotel within Lydd. Three other public houses are identified, but these are considered not to be relevant as they are outside of the town of Lydd, in New Romney.
- 4.6 Following the assessment of the additional information, it is now considered that the property has been marketed for a period in excess of 12 months, at a realistic sale price and, whilst the loss of a public houses is regrettable, the facility in question has been closed for some time and three alternative public houses remain within the town of Lydd, which would continue to meet the day-to-day needs of the community. The proposed loss of the public house is therefore considered to be acceptable and the proposal complies with emerging policy C2, Core Strategy policy SS3 and paragraph 92 of the NPPF.

## **Design and Layout**

- 4.7 As submitted, the enclosed garden area for unit 'a' was shown to be long and narrow, with a width of over 18 metres but a depth of only approximately 4.75 metres, as well as being located away from the unit. This was considered to constitute poor layout and likely to result in this garden space being of poor quality, that would get little use from the future occupants.
- 4.8 Further, the submitted block plan showed the bins for each unit being stored externally, with the bins for units 'a' and 'b' being in front of the principle elevation of the building, in front of a bedroom and lounge window, without bin enclosures or a designated collection point. The bins could be left anywhere on the area of hardstanding to the front of the building, resulting in a cluttered and untidy appearance, that would have a detrimental visual impact on the site and the street scene.
- 4.9 On the revised drawings, each unit is now shown as having a bin storage area within the proposed amenity areas, for when the bins are not being collected, which is considered acceptable. However, the enclosed garden area for unit 'a' remains, although the long axis is now only approximately 14.5 metres, as a consequence of car parking spaces being moved from the rear of the property to the side. As before,

this is considered to be a poor solution to external amenity space for the future occupants of the proposed residential unit, being separate from the dwelling and accessed across a shared hard standing area that gives access to the rear car parking area, as evidenced by the utility room door from unit 'c' that opens onto this space.

- 4.10 It is further noted that the proposed garden area and bike storage area for unit 'a' would, together, occupy much of the existing grass verge, to the back edge of the highway. Whilst fencing has not been indicated on the proposed plan, in order for the bike storage to be secure and the garden area to be considered likely to be used by the future occupants, both would need to be enclosed by fencing. This would lead to a large, enclosed area immediately at the back edge of the roadway, which would dominate the otherwise open character of Kitewell Lane at this point.
- 4.11 Consequently, although the issue pertaining to the storage of refuse and recycling has been addressed, the revised plans do not address poor quality design and layout for the proposed garden area for unit 'a' to the side of the building, which would also result in an unsightly enclosure at the back edge of the footway. This is contrary to saved policy BE1 that requires a high standard of layout and design for all new development and emerging policy HB1, which requires development to make a positive contribution to its location and surroundings.

### **Residential Amenity**

- 4.12 Saved policy SD1, emerging policy HB1 and paragraph 127 of the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and future occupiers of a development, whilst emerging policy HB3 sets internal and external space standards for new and converted dwellings.
- 4.13 As submitted, bedroom 2 of units 'a' and 'b' located at first floor level does not provide the internal width to provide suitable levels of amenity for the future occupants of these bedrooms, as even if a single bed were to be used, these bedrooms would not provide enough space for other necessary furniture such as wardrobes and would feel cramped to the future occupants, representing a poor level of amenity for the future occupants of these dwellings.
- 4.14 Further, as set out in the previous section, due to the poor layout of the site that separates the proposed garden space from the unit and would be likely to have it enclosed with fencing, it was considered that the future occupants of unit 'a' are unlikely to use this area, resulting in poor amenity due to a lack of acceptable quality, useable external amenity space.
- 4.15 Additionally, unit 'b' would include one bedroom at basement level with no detail of a window serving this bedroom or excavations being made to provide an area of open space adjacent to the building to allow natural light and ventilation into this bedroom. As such, this basement bedroom is considered to represent a poor level of amenity for the future occupants of the dwelling. The proposed parking for unit 'c' would be located immediately outside a window serving one of the ground floor bedrooms of unit 'a', which is considered to represent a poor level of amenity for the future

occupants of unit 'a' with vehicles for unit 'c' causing noise disturbance and a poor outlook for this bedroom.

- 4.16 The revised plans show that bedroom 2 of units 'a' and 'b' located at first floor level now provides the internal width to provide suitable levels of amenity for the future occupants. Further, the bedroom window in unit 'a' previously considered to be impacted by the parking area, has now been removed and the applicant has stated that triple glazing could be installed to the remaining window, which would not overlook the proposed parking area. These concerns from the original layout are now considered to have been addressed favourably.
- 4.17 However, the poor layout of the site that separates the proposed garden space from the unit and would be likely to have it enclosed with fencing has not been satisfactorily addressed, resulting in poor amenity for future occupiers of unit 'a' due to a lack of high quality, useable external amenity space. Additionally, whilst a window has been shown to be provided for the basement bedroom to unit 'b', this would be north-facing and at the bottom of an existing stair well below ground level, so would receive no direct sunlight and provide a poor outlook. It also would serve a large bedroom area, up to 8.3 metres deep, so artificial lighting is likely to be required even in day time. This would be a minimal improvement over the originally submitted plans and would still result an unacceptably poor standard of amenity for future occupiers.
- 4.18 Overall, the proposed development is considered to result in poor amenity for the future occupants of units 'a' and 'b' contrary to saved policy SD1, emerging policies HB1 and HB3 and paragraph 127 of the NPPF.

### **Parking and Highway Safety**

- 4.19 Saved policy TR12 and emerging policy T2 require the provision of suitable off street parking in accordance with the parking requirements of Kent Highways Interim Guidance Note 3, which requires 2 independently accessible spaces per unit for 4+ bedroom dwellings in suburban areas. The revised block plan shows 2 parking spaces to the side of the property and 4 to the rear, totalling the 6 required. Kent County Council Highways and Transportation have commented informally upon the proposal, identifying that the spaces immediately adjacent to Kitewell Lane would not interfere with the free flow of traffic and that drivers reversing in and out of the proposed parking spaces is not unusual for a minor road such as Kitewell Lane.
- 4.20 Emerging policy T5 requires the provision of 1 cycle parking space per bedroom for new developments, resulting in a need for 13 cycle spaces. The submitted proposed block plan shows sufficient proposed bicycle storage within the garden areas of each unit to provide sufficient secure cycle parking.
- 4.21 Overall, there is now considered to be sufficient accessible car and cycle storage space to comply with saved policy TR12 and emerging policies T2 and T5.

### **Ecology**

- 4.22 A bat scoping survey was submitted with the application detailing that bat droppings were recorded within the loft space and that there were suitable features for roosting

bats on all elevations of the building. The survey advised of the need for an emergence survey to be carried out to fully assess the presence of bats within the site, how bats are utilising the building and to consider the impact that the proposed development will have on protected species when determining the planning application. This additional information was not submitted with the application and KCC Ecological Advice Service advised that the results of these surveys and details of any mitigation required must be submitted prior to determination of the application.

4.23 Whilst the applicant has submitted a further statement, this merely acknowledges the absence of the additional information sought and states that it is not possible to provide it as the survey window for such information is between May and August, as supported by a statement from the applicant's ecologist. This information has been reviewed by KCC Ecological Advice Service who reiterate their position that the results of these surveys and details of any mitigation required must be submitted prior to determination of the application.

4.24 Natural England Standing Advice identifies that, where a proposal is likely to affect a protected species, planning permission can be granted if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice;
- a wildlife licence is likely to be granted by Natural England if one is needed;
- mitigation plans are acceptable;
- compensation plans are acceptable when mitigation isn't possible;
- review and monitoring plans are in place, where appropriate;
- all wider planning considerations are met.

If these criteria are not met, planning permission should be refused.

4.25 In failing to provide an appropriate survey, it has not been possible for the applicant to develop an appropriate mitigation plan for assessment and, consequently, the additional information fails to demonstrate that the proposal would protect protected species or conclude that the proposed development would not have a significant impact on protected species. Thus the proposed development still fails to comply with saved policy CO11 and emerging policy NE2.

## **5.0 CONCLUSION**

5.1 All the remaining issues are set out in the accompanying original committed report. Following receipt of the additional information it is now recommended that planning permission be refused for the three reasons below.

## **6.0 PUBLIC SECTOR EQUALITY DUTY**

6.1 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Given the building has been closed for several years and is not currently providing any facility for disadvantaged groups it is considered that the application proposals would not undermine objectives of the Duty.

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**RECOMMENDATION – That planning permission be refused for the following reasons:**

1. The proposed development is considered to amount to poor layout and design with the enclosed garden area for unit 'a' being long and narrow and set away from the unit that it is intended to serve, making it a poor standard amenity area which unlikely to be used and likely to be enclosed within a fence which would result in an uncharacteristic enclosure at the back edge of the highway. As such it is contrary to saved policy SD1 of the Local Plan Review which requires a high standard of layout and design and emerging policy HB1 of the Places and Policies Local Plan which requires development to make a positive contribution to its surroundings.
2. The proposed development would result in poor amenity for the future occupants of the proposed dwellings through the provision of a poor external amenity space for unit 'a' being a long and narrow enclosed garden set away from the unit that it is intended to serve, which is not likely to be a practical usable space, as well as the basement bedroom for unit 'b' having a poor outlook and limited natural light. As such the proposed development is contrary to saved policy SD1 of the Local Plan Review, emerging policies HB1 and HB3 of the Places and Policies Local Plan and paragraph 127 of the NPPF, all of which seek to safeguard and enhance the amenity of future occupants.
3. Due to the lack of an emergence survey having been carried out to fully assess the presence of bats within the site, how bats are utilising the building and to consider the impact that the proposed development will have on protected species, it has not been satisfactorily demonstrated that protected species will not be harmed by the proposed development. As such it is contrary to saved policy CO11 of the Local Plan Review, emerging policy NE2 of the Places and Policies Local Plan and paragraph 175 of the NPPF, which seek to conserve and enhance biodiversity through resisting development if it is likely to endanger plant or animal life (or its habitat) protected under law and/or identified as a UK Biodiversity Action Plan priority species.