

- Application No:** 21/2178/FH
- Location of Site:** Units 6A, 6B, 8A, and 8B Defiant Close, Hawkinge, CT18 7SU.
- Development:** Alterations and change of use of 6A, 6B, 8A and 8B Defiant Close from commercial uses (Classes A1, A2, A3 and B1) to residential (Class C3) creating 6 no. apartments.
- Applicant:** Pentland Homes Ltd.
- Agent:** Tracey Dixon, TaDPlanning Ltd. 51 Bayham Road, Tunbridge Wells, TN2 5HU.
- Officer Contact:** Ross McCardle

## SUMMARY

Planning permission is sought for the conversion of existing redundant commercial/retail units to 4 residential flats. Hawkinge Town Council has objected to the scheme on the grounds that they consider there to be a need for employment opportunities in the village, but the Town Council has not provided any evidence to support that assertion and the applicant has provided full details of a robust and extensive marketing exercise proving there to be no demand for the units in their existing use. The application is considered to be acceptable in all respects, and recommended for approval subject to the conditions set out at the end of the report.

## RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

## 1. INTRODUCTION

- 1.1. The application is reported back to Committee after being deferred for submission of further information at the meeting on 22 March 2022. The printed minutes state:

*That consideration of this application be deferred for the submission of further information, in particular regarding whether the properties had been made available to lease. And, in addition, for officers to obtain information and report back on the headlease arrangements for the building.*

- 1.2. The application was originally presented to committee due to an objection from Hawkinge Town Council.

## 2. BACKGROUND

- 2.1. The application seeks full planning permission for alterations and change of use of units 6A, 6B, 8A and 8B from commercial uses (Use Classes A1, A2, A3 and B1 when first approved, but now all included within Class E of the 2020 amendment to the Order) to create six residential flats (Use Class C3). A detailed description of the proposed

development (including drawing extracts) and the site and its surroundings (including photographs), the relevant planning history for the site, a list of consultation responses, and a list of the relevant planning policies are set out in full within the original report to committee, attached here as **Appendix 1**.

- 2.2. As set out above, Members voted to defer determination of the application from the March meeting to enable the applicant to provide further information in regards the marketing of the units and, in particular, whether they had been advertised for rent/lease.

### 3. APPRAISAL

- 3.1 The principle of development, scale, design, amenity, and highways considerations are discussed within the original report attached at Appendix 1. Members voted that the item be deferred solely for the reason set out at 1.1 above, i.e. further information in regards the marketing exercise carried out.

- 3.2 Therefore, and in light of the above, the issues for consideration under this report are:

- a) Applicant's further information and policy compliance
- b) Other matters

#### a) Applicant's further information

- 3.3 The applicant has provided a statement in response to the committee's comments (attached in full at **Appendix 2**). This sets out that the application is supported by a full marketing exercise which was carried out over a period of two years, and notes that this is well in excess of the 12 month period required by PPLP policy E2. It also notes that the policy does not specify the nature or content of any marketing exercise and therefore a specific requirement to market for lease/rental purposes does not have policy support.

- 3.4 The statement also comments on the nature of the business model of the applicants, Pentland Homes:

*Their business model is building to sell and it does not allow for any rental opportunities whereby it would act as landlord. To do so would put that building business at risk, with obvious significant implications for the housing market and local economy generally.*

- 3.5 It then continues on to note that the marketing carried out did not restrict who was able to view the premises:

*It was of course open to any commercial agent who has the skill sets and infrastructure to purchase the shops and rent them out themselves. That this didn't happen only adds to the fact that there simply isn't a market for these business units.*

- 3.6 As set out within the original report, a total of only four enquiries were received over the two year period all of which commented on the lack of footfall required to justify

commercial investment here and the consequently far more attractive prospects available for commercial operators in Folkestone or Dover.

- 3.7 While it is evident that no marketing was carried out with *specific* direction towards rental, the premises has been marketed for a sustained and prolonged period as required by the Council's adopted policies and it is reasonable to assume that any potential investors wanting to explore rental opportunities would have had potential to do so within that framework.
- 3.8 Equally, there is no specific policy requirement for the properties to have been marketed for rent. The application particulars and the evidence submitted therefore complies with Development Plan Policy in this regard.
- 3.9 Officers therefore maintain their recommendation that the application should be approved subject to the conditions set out below.

## **Environmental Impact Assessment**

In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. \*The CIL levy in the application area is charged at £59.04 per square metre for new residential floor space.

## **Human Rights**

In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

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. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **4. CONCLUSION**

- 4.1 This application seeks planning permission for change of use of unoccupied commercial units to six residential flats. The applicant has provided evidence of a comprehensive marketing exercise which has yielded no offers, and in that regard the proposal complies with the Council's adopted policies. The proposed flats would provide a good standard of amenity for future occupants without harming the amenity of existing neighbouring residents, and appropriate parking and outdoor amenity space are available within the wider site and nearby. The proposal is considered acceptable and is recommended for approval subject to the conditions set out below.
- 4.2 The application is therefore recommended for approval subject to the conditions set out below.

## **5. BACKGROUND DOCUMENTS**

- 5.1 The consultation responses set out at Section 5.0 of the original report (attached as Appendix 1) are background documents for the purposes of the Local Government Act 1972 (as amended).

## **6. RECOMMENDATIONS**

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

Conditions:

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1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in complete accordance with drawings 29399A 003 rev P3, 011 rev P4, 111 rev P3, 112 rev P3, and 113 rev P3.

Reason: For the avoidance of doubt.

3. Prior to first occupation of the flats hereby permitted details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day shall be submitted to and approved in writing by the District Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

4. Prior to erection of the bin store area hereby permitted details of the external materials to be used in the construction thereof shall be submitted to and approved in writing by the Local Planning Authority. The details shall thereafter be implemented as agreed and the bin store shall be provided prior to the first occupation of any of the flats hereby permitted.

Reason: In the interest of visual amenity.

5. The materials to be used on the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

6. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

7. The car parking spaces shown on the submitted drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

**Appendix 1 – Report presented to committee on 22 March 2022.**

**Appendix 2 – Applicant's further comments.**