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| Tonbridge Castle | 559042 146693 | 17 June 2013 | TM/13/01197/FL |
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| Proposal: | Change of use from retail into 2 no. residential units including single storey extension to rear of both units including demolition of existing rear addition and chimney along with external alterations seeking to remedy works undertaken without approval |
| Location: | 4 Bank Street Tonbridge Kent TN9 1BL |
| Applicant: | Basi Construction Ltd |

1. Description:

- 1.1 Retrospective planning permission is sought for the change of use of a retail unit into two residential units and the construction of a rear extension to both those units, facilitated by the demolition of a previous lean-to element to the rear of the building. The retrospective element of the scheme also relates to the retention of some windows in positions not as the approved scheme.
- 1.2 The submission also includes a schedule for external works seeking to remedy works previously undertaken without the necessary planning permission having been obtained. The remedial works now proposed are summarised as follows:
 - Reinstatement of the pre-existing dormer;
 - Removal of the second dormer and construction in accordance with the approved plans on planning application TM/10/00504/FL;
 - Rendered panel ("Honey Beige/Sandstone colour) to cover steel beam and brick scar to former shop window;
 - Installation of stone cills and detailing.
- 1.3 Reference is also made within the submission to the previous demolition of the chimney but this alone did not require any formal approval from the LPA.

2. Reason for reporting to Committee:

- 2.1 In light of the fact that in April 2013 Members resolved to issue an Enforcement Notice to require certain works to mitigate the harm caused to the building arising from elements of the unauthorised works. The previous report is attached as an annex.

3. The Site:

- 3.1 The site lies within the Tonbridge Conservation Area. It is a three-storey building, with the top floor being accommodated in a Dutch gable style roof. The front (north-west) elevation fronts directly onto Bank Street. A pedestrian access to the High Street forms the north-eastern boundary.

4. Planning History:

TM/10/00504/FL Approved 13 April 2010

Change of use from retail into 2 residential units, including single storey extension to rear of both units

5. Consultees:

- 5.1 Private Reps: 20/1X/0R/0S + site and press notice. Comments made centre on the need to ensure that construction is undertaken in a manner to ensure existing residents are not disturbed.

6. Determining Issues:

- 6.1 At the April APC1 meeting there was a clear consensus amongst Members that a significant proportion of the unauthorised works undertaken to this building were not of a quality expected in the CA, particularly given that the approved scheme had carried with it the hopes that a fairly dilapidated building would be brought back into positive use and be visually enhanced. This consensus led to a resolution to take enforcement action to require the following:

- Reinstatement of the pre-existing dormer in a form that accords with the approved plans in planning application TM/10/00504/FL;
- Removal of the second dormer and construction in accordance with the approved plans on planning application TM/10/00504/FL;
- The carrying out of remedial work to the brickwork, windows, window cills, doors and door arches/surrounds on the front and side elevations in accordance with a detailed specification to be included in the Notice.

- 6.2 Since making this resolution, but prior to the Council formally issuing the Enforcement Notice and following detailed discussions with Officers, the current planning application was submitted. Officers felt it reasonable to invite and consider the application formally given that it attempts to deal with the very matters that would have been sought to be resolved through the Enforcement Notice.

- 6.3 The application now before Members seeks planning permission in part for some of the development already undertaken, including the change of use to residential itself because given the degree to which the works that have been undertaken depart from those approved under application TM/10/00504/FL, they did not amount to an implementation of that permission, and the development in its entirety is currently unauthorised. The principle of the change of use to residential and the inclusion of the rear extension remain acceptable although the policy framework has moved on since the 2010 decision was made, through the publication of the NPPF in 2012.
- 6.4 It is, therefore, necessary to assess whether the proposals now put forward – the aspects of the unauthorised works sought to be retained on a retrospective basis and those proposed works seeking to remedy unacceptable aspects of those works – accord with the adopted policies contained within the Development Plan. In this respect, TMBCS policy CP24 sets out the general criteria for all new development including a provision that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:
- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
 - the distinctive setting of and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.
- 6.5 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that there is a general duty when carrying out any functions under the Planning Acts with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 6.6 Paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the Conservation Area). Paragraph 132 states 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. Paragraph 133 goes further in saying that where a proposed development would lead to substantial harm to a designated heritage asset, LPAs should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. The Tonbridge CAA recognises that this part of the CA forms an important part of the historic core of the town and states that the retained medieval street pattern and historic buildings are a key feature.

- 6.7 I consider that the works that the applicant is now seeking to regularise and retain – being the slight repositioning of windows and the use of render to finish the rear extension in place of brick cladding – have resulted in only a minor overall change to the aesthetic of the building and should not be resisted.
- 6.8 As detailed in the April Committee report, there were certain elements of the executed works that were considered to have a wholly unacceptable visual impact on the building and wider CA. To reiterate, the new dormer window installed at second floor level within the roof slope facing Bank Street is significantly larger in size and scale than approved and the original dormer has been enlarged and altered in order to match this new dormer.
- 6.9 The drawings approved in 2010 also indicated that new facing brickwork would be used to “make good” around the windows that replaced the shop window on ground floor level on the Bank Street elevation, and that the bricks would match the original. The brickwork used in this and other locations does not satisfactorily match the original building in respect of colour or bond.
- 6.10 These aspects of the works have undoubtedly caused harm to the appearance of the building and the CA and the building as it currently stands now appears completely out of keeping with its historic setting.
- 6.11 I welcome the fact that the works now proposed to rectify this position are fundamentally what an Enforcement Notice would have required had it been issued. I am therefore satisfied that when completed the remedial works would result in a building that would appear largely as the approved scheme would have done, with some very minor, non material variations. As I have stressed, the replacement of the front dormers is crucial and this will go a substantial way to improving the aesthetic of the building.
- 6.12 Needless to say that it would be most welcome for these works to be undertaken by the applicant at the earliest opportunity but this cannot legally be required by condition should Members be minded to grant planning permission. Instead, the standard condition requiring commencement within 3 years will apply. However, it is my view that it would be in the best interests of the applicant to complete the project without delay and an Informative encouraging this can be included should Members be minded to grant planning permission.
- 6.13 I would also suggest that, given the particular circumstances and the considerable amount of time that has passed, that the applicants be required, by condition, to submit a detailed programme of works, including appropriate junctures at which the Local Planning Authority will be contacted in order to be able to fully monitor the works on an ongoing basis. This will give some confidence that the remedial works will progress.

6.14 In light of the above assessment, I consider that the scheme as a whole, being those parts for which retrospective planning permission is sought and those proposed works to mitigate the harm caused by certain elements of the unauthorised development, is now acceptable. It closely follows the scheme previously approved and is in accordance with the requirements of the NPPF, policy CP24 of the TMBCS and policy SQ1 of the MDE DPD. As such, the following recommendations are put forward:

7. Recommendation:

7.1 **Grant Planning Permission** in accordance with the following submitted details: Planning Statement dated 19.06.2013, Letter dated 19.06.2013, Site Plan 0512.WD.02 dated 25.04.2013, Floor Plan 0512.WD.03B dated 25.04.2013, Floor Plan 0512.WD.03D dated 25.04.2013, Section 0512.WD.05C dated 25.04.2013, Photographs 0512.WD.08 dated 25.04.2013, Proposed Elevations 0512.WD.10D dated 25.04.2013, Existing Elevations 0512.WD.11 dated 25.04.2013, subject to the following:

Conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 Within one month of the date of this permission, a timetable for the carrying out of the remedial works hereby approved shall be submitted to the Local Planning Authority. The remedial works shall be carried out in strict accordance with the approved scheme and timetable.

Reason: To ensure that the approved remedial works are carried out expeditiously, in the interests of preserving and enhancing the character and appearance of the Conservation Area.

3 The works shown on the approved plans shall be provided in their entirety and in complete accordance with the approved plans and specifications.

Reason: To accord with the terms of the application in the interests of enhancing the appearance of the Conservation Area.

4 All materials used externally shall accord with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in any elevation of the building other than as hereby approved, without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of visual amenity.

- 6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), no windows or similar openings shall be constructed in the roof of the building without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of the visual amenity.

- 7 The standard of workmanship achieved in the carrying out of the development shall conform with the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

Informatives

- 1 The Local Planning Authority would strongly encourage the applicant to undertake the remedial works to the building at the earliest opportunity whilst considering the requirements set out in Condition 2.
- 2 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to write to Street Naming & Numbering, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to nameandnumbering@tmbc.gov.uk. To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.
- 3 To reduce the severity of domestic property fires and the number of injuries resulting the Fire Officer recommends that consideration should be given to the installation of a sprinkler system in all new properties. (Q053)
- 4 On the day of refuse collection, the wheeled bin from each property should be placed on the shared entrance or boundary of the property at the nearest point to the adopted KCC highway.

- 5 The applicant is advised that the proposal would be required to satisfy the Approved Document E (Resistance to the Passage of Sound (2003)) to the Building Regulations 2000.
- 6 During the construction phase the hours of working (including deliveries) shall be restricted to Monday to Friday 0800-1800 hours, Saturdays 0800-1300 hours with no work on Sundays or Public or Bank Holidays. You are however asked to consider the possibility of not working on Saturdays. You are advised to contact the Environmental Health Pollution Control Team on pollution.control@tmhc.gov.uk in advance of the commencement of works to seek the necessary consents required under Section 61 of the Control of Pollution Act 1974.
- 7.2 Upon the satisfactory completion of the works hereby approved, including full compliance with conditions 2 and 3, the resolution to serve an Enforcement Notice (Minute AP1 13/010) **be rescinded**.

Contact: Emma Keefe