

## **Subject: CLIFTON SQUARE AND THE LYTHAM CONSERVATION AREA**

### **BACKGROUND**

In the absence of a town or parish Council for Lytham, which we hope will be rectified in 2025, Lytham Voice was established in 2023 by a random but concerned group of Lytham residents.

It was felt that, although the majority of businesses and residents of Lytham always behave responsibly, there are exceptions facilitated by a general lack of transparency, consultation, accountability, and information regarding changes to and the development of Lytham **which require democratic processes and the rule of law to be fully implemented.**

To address this and establish a mandate for our views an extensive survey was carried out with over 600 responses from Lytham residents/business owners and a public meeting was held at St Bede's High School on the 10<sup>th</sup> October 2023 with approximately 350 attending.

**Unauthorised and illegal building and development in the Lytham Conservation Area** was one of a number of issues raised during the meeting as an area of considerable concern.

The survey and public meeting raised substantial concerns on unauthorised and illegal developments in Lytham and, in particular, Clifton Square. By a unanimous show of hands the public meeting voted in favour of:-

- I. All democratic processes should be followed
- II. The rule of law should be applied

The importance of Clifton Square is succinctly represented by a Planning Inspector appointed by the Secretary of State:

“Clifton Square is a busy and vibrant area and would probably be described as being in the heart of the town centre.....The canopies to the front of commercial properties are open sided and have light-weight and thin frames, some of which include traditional decorative brackets. Overall this ensures that most of the canopies appear subservient in scale to the more imposing and characterful buildings behind. The aforementioned attributes add positively to the overall character of the Conservation Area as a whole”.

**This paper highlights examples of unauthorised building and development in Clifton Square.**

## INTRODUCTION

What is set out herein is merely a factual history of recent developments in the Square. Lytham Voice have no opinion as to the developments themselves. Our purpose is to put into the public domain (and particularly Lytham) information. Otherwise we remain neutral. It is a matter for others what individual views they have as to the merits of such developments.

1. The purpose of the **Planning System** is to ensure:-

“..... that the right development happens in the right place at the right time, benefitting communities and the economy. It plays a critical role in identifying what development is needed and where, what areas need to be protected or enhanced and in assessing whether a proposed development is suitable”. (Guidance Dept for Levelling-up, Housing and Communities 5 January 2015)

2. **Conservation Areas** exist to manage and protect the special architectural and historic interest of a place, in other words the features that make it unique. In Conservation Areas there are some extra planning controls and considerations to protect the historic and architectural elements which make the place special. (Historic England website)

3. “Conservation area status gives the **Local Authority additional powers** to ensure that development is in keeping with existing styles and the character of the area and to prepare schemes of enhancement for such areas.”

“While Conservation Areas may contain Listed Buildings the Council will be concerned to protect, as far as it can, the total environment and all elements that contribute to it, including: buildings, walls, railings and other means of enclosure, open spaces and trees etc. It is equally important that land uses which would disrupt or prejudice the character of the area are not allowed”. (Fylde Borough Council website “Conservation Areas”)

4. Lytham Conservation Area runs from Fairlawn Road (West) to St John’s Church (East). It includes Clifton Square Lytham. (FBC website)

6. It would appear that **democratic processes and the rule of law** are not being followed in respects of certain developments in, inter alia, Clifton Square Lytham

7. **The Deacon. 84 Clifton Street**

- I. On 14<sup>th</sup> March 2018 planning permission was granted for an open canopy at this property. This was of a limited area and retained the west wall of the original bank
- II. The building constructed in 2018 in breach of the permission granted, is a fully enclosed structure, in excess of the permitted floor area and connected to the main building through a permanent opening, rather than doors to an outside space.
- III. In 2018 there was an application for retrospective planning permission. This was refused by a Fylde Borough Council Planning Committee of elected councillors on the 31<sup>st</sup> May 2018
- IV. An Enforcement Notice was served on that day, 31<sup>st</sup> May 2018

- V. The refusal of planning permission and the Enforcement Notice was appealed to the Planning Inspectorate and a decision published on 14<sup>th</sup> January 2019 by D A Hartley BA (Hons) MTP, MBA, MRTPI, an Inspector appointed by the Secretary of State. He had visited the site on the 18<sup>th</sup> December 2018
- VI. The Inspector dismissed the appeals and ordered that the unauthorised structure be removed
- VII. He expressed the view, inter alia, that the main issue was .....”whether or not the development preserved or enhances the character or appearance of the Conservation Area.”
- VIII. He further stated : “.....it appears dominant and bulky when read against the more traditional building behind and detracts significantly from the open appearance of the vibrant Clifton Square.” And “the harm that has been caused by the Conservation Area by the breach of planning control is considerable”.
- IX. He heard argument that a dismissal of the appeal would render the business unviable in financial terms. He stated that this was not reasonably substantiated.
- X. Further, he heard evidence from the then Councillor for Lytham West, Raymond Thomas re: the impact on tourism and the local economy. He rejected such evidence. It is noteworthy that Lytham Voice are not aware of any residents of the Lytham West Ward who were consulted by Councillor Thomas as to his evidence at the appeal
- XI. The Planning Inspector ordered a period for compliance of 6 months which expired on 14<sup>th</sup> July 2019

8. **The Olive Tree. 9 Dicconson Terrace**

- I. 9 Dicconson Terrace is a substantial Edwardian property..... At four storeys it is an imposing building next to a two storey terrace. It has an elegant façade with tall and visually dominating stone arches that provide an attractive door and window arrangement. The building has a range of positive features justifying its inclusion in the Local List of Designated Heritage Assets
- II. On the 8<sup>th</sup> June 2018 planning permission was granted (ref 18/0164) to change the use of No 9 to a restaurant and construct a raised decking area with glazed balustrade around it. The scheme would retain the open character and appearance of its host building and preserve its historical and architectural qualities. There was no canopy element to that permission so the timber structure and all other elements on the raised terrace are unauthorised
- III. The present unauthorised structure was constructed in 2018
- IV. An Enforcement Notice was served on the 2<sup>nd</sup> January 2019
- V. The appeal against this Enforcement Notice was dismissed by the Inspector appointed by the Secretary of State, Grahame Kean, BA Hons, Pg Cert CIPFA, Solicitor, HCA on the 23<sup>rd</sup> October 2019 following a site visit on the 19<sup>th</sup> September 2019
- VI. He ordered that the appellants dismantle and remove from the land all elements of the canopy structure and make good the front elevation of the building
- VII. In his decision the Planning Inspector made, inter alia, the following finding:-

“...the canopy enclosed the space in front of its host. Its design including its bulk dominates the façade and obscures views of the ground floor elevation of the main building and its architectural detailing”

“....this results in an adverse effect on the street scene in Clifton Square which is at the heart of the town centre and an integral feature of the Conservation Area”

“ In relation to the Listed Building at No 7 (Spargo) he said:-

“the bulk and enclosed design of the adjacent canopy at No 9 further undermines the setting of the listed building

“...the enclosed nature of the canopy structure causes substantial harm to the building as a heritage asset as well as to views of the adjacent listed building and to the sense of openness of Clifton Square”

VIII The Planning Inspector ordered a period of compliance of 28 days which expired on the 30<sup>th</sup> November 2019. He stated:

“.....given the short period within which it was erected (the unauthorised structure) a period of 28 days to remove the canopy is reasonable.....the sooner the notice is complied with the more quickly the appellant will be able to return to uninterrupted trade”

IX The unauthorised structure remains in place 4 years and 3 months later.

#### 9. Spago. 7 Dicconson Terrace

- I. This building is a Georgian town house constructed in 1835 and was granted Grade 2 Listed Building status in 1971
- II. On the 2<sup>nd</sup> September 2015 planning permission was granted for the erection of a 1.5 metre high clear glass balustrade on a honed York stone upstand around the front terraced area
- III. On the 14<sup>th</sup> January 2016 planning permission was granted for the erection of 2 post-mounted **canvas** canopies either side of the entrance doorway
- IV. In or about 2016 a **glass** canopy was constructed over the front forecourt with 1.8 metre and 2.0 metre glass balustrading (some etched not clear) in breach of the aforementioned permissions
- V. An Enforcement Notice was served on the 10<sup>th</sup> April 2018
- VI. There was an appeal which was dismissed by an Inspector appointed by the Secretary of State on the 13<sup>th</sup> November 2018, following a site visit on the 7<sup>th</sup> November 2018
- VII. In his decision the Planning Inspector made, inter alia, the following findings:-

“....the attributes add considerably to the architectural interest and significance of the listed building and this part of the Conservation Area. There is no doubt that the appeal building contributes positively to the traditional character and appearance of this part of the Conservation Area.”

“ I consider that the appeal development looks out of place and unacceptably interferes with and substantially obscures the strong symmetry and balance of the appeal buildings façade.... The development unacceptably erodes the architectural composition of the façade from which a considerable degree of its special interest and significance derives.”

“.....the appeal development undermines the buildings contribution to the street scene to the detriment of the character and appearance of the Conservation Area.....these considerations lead me to the inescapable conclusion that the

development/works preserve neither the listed building and its special interest, nor the character and appearance of the Conservation Area”  
“.....there are no identified public benefits accruing from the development.

- VIII. The Planning Inspector ordered a period for compliance of 6 months which expired on the 13<sup>th</sup> May 2019
- IX. It is a strict liability criminal offence to alter or extend a listed building where the works are unauthorised. Persons guilty of such offences are liable to fines and /or imprisonment for up to 2 years. Fylde Borough Council have not taken any proceedings

## **CONCLUSION**

We are concerned as to a general lack of transparency, consultation, accountability, information, democracy and application of the rule of law. The history set out above raises the following issues in respect of those principles:

- I. Why are some businesses permitted to intentionally, blatantly and illegally undertake building development with an aim to make profit even to the detriment of Conservation Areas, Listed buildings and the cultural heritage of Lytham?
- II. Why do the planning authority not immediately step-in with their enforcement powers and procedures whilst they are being constructed? These illegal developments are in “the heart of the town centre” and in some cases took months to construct. They could not be missed.
- III. Why have the planning authorities not **actively** taken enforcement proceedings, that is court action; these developments are now 5 – 8 years old?
- IV. What precedent has this set for other businesses and ordinary Lytham residents who may consider applying for planning permission for other developments either business or residential when a small group of businesses in the Town Centre appear to receive preferential treatment and can ignore planning law without fear of enforcement?
- V. Finally, we are attempting to meet the relevant Planning Officer and Legal Officer of Fylde Borough Council and Lytham West Councillors to discuss these matters further with an aim to achieve a satisfactory resolution. We will provide updates of any progress made.

In the interim if anyone wishes to pursue the matter personally the Head of Planning at Fylde Borough Council is:-

Fylde Borough Council is: Mr Mark Evans – [mark.evans@fylde.gov.uk](mailto:mark.evans@fylde.gov.uk)