

Application No: Y18/0670/FH

Location of Site: Olivia Court, Court Road, Hythe, CT21 5HD

Development: Erection of a fourth storey on both apartment blocks to create two penthouse flats.

Applicant: Mr J Digges

Agent: Mr Stan Beanland
Beanland Associates Architects Ltd
Unit 4 Observation Court
84 Princes Street
Ipswich
Suffolk
IP1 1RY

Date Valid: 21.05.18

Expiry Date: 16.07.18

PEA Date: 02.11.18

Date of Committee: 30.10.18

Officer Contact: Paul Howson

SUMMARY

This is an application for the increase in height of two blocks of apartments, through the addition of a fourth storey to create two penthouse apartments. The application buildings are a landmark development on the coastal frontage. The design and proportions of the additional storey are important given the visual prominence of the site, and the proximity to Scheduled Monuments. In this regard, as set out in this report, it is considered that the proposal represents an enhancement to the appearance of the building and the wider streetscene. The setting of heritage assets, the amenities of existing and future occupants, and telecommunications infrastructure are all safeguarded, and the proposal raises no highway safety concerns.

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 Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that she considers necessary.

1.0 THE PROPOSAL

- 1.1 This application is for the erection of a fourth storey on both apartment blocks to create two penthouse flats. The proposal would raise the height of the buildings from 16.5m to 19.1m.

- 1.2 The proposed units would be handed and would each contain a living / kitchen room, three en-suite bedrooms, a study, a utility room and a WC. The main living area and principle bedrooms would be served by balconies.
- 1.3 The proposed additional storey would be partially set in from the existing elevations with a lipped eaves detail to provide greater articulation. The design would incorporate the material palette of the existing development, with white render, powder coated windows, and laminate cladding.
- 1.4 The application is accompanied by a Design and Access Statement, a Heritage Statement, and a Flood Risk Assessment.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:

- Within the Seabrook/Hythe settlement boundary
- Small section of the site is in Flood Zones 2 & 3
- The site is not shown at risk from flooding in the SFRA
- The site lies between a group of Scheduled Monuments

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The site is in a prominent location between the A259 Seabrook Road and the coastal frontage. To the south of the site is a public footpath and Princes Parade road, separating the application site from the beach. Immediately to the west of the site is a pumping station which includes a 7m high single storey building, and a telecommunications mast. West of this is the outfall where the Royal Military Canal discharges to the sea. To the east of the application site separated by Court Road are a petrol filling station a single storey building previously used as a restaurant and currently empty. To the north of the site on the opposite side of Seabrook Road is residential development.
- 3.2 The application buildings comprise two contemporary 3 storey blocks of 11 apartments per block over three floors (22 in total, constructed approximately 3 – 4 years ago under planning permission Y13/0172/SH. The buildings have contemporary green and grey cladding and white render finishes. The existing buildings are three storeys above a lower ground floor, with balconies on three of the elevations, and featuring a flat roof design. The site formerly contained a collection of outbuildings used by Seapoint Canoe Centre and the Seabrook Youth Club.

4.0 RELEVANT PLANNING HISTORY

- | | | |
|-------------|---|--|
| Y07/1137/SH | - | Erection of 14, three storey dwellings with semi basement parking and provision of a community |
|-------------|---|--|

facility with associated storage facilities comprising development affecting a public right of way following demolition of existing building. Approved with conditions. 03.10.08.

- Y10/0573/SH - Section 73 application - variation/removal of conditions 2, 4, 5, 23, 27 and 29 of planning permission Y07/1137/SH, which provided for 14 dwellings with semi-basement parking and provision of a community facility, to remove the on-site community facility provision and substitute this with a contribution of £150,000 and allocation of community facility space for parking & ancillary facilities, in connection with the development. Approved with conditions. 12.01.11.
- Y11/0435/SH - Erection of 14 three storey dwellings with semi basement parking and contribution of £150,000 towards community facilities comprising development affecting a public right of way and following demolition of the existing building. Approved with conditions. 02.03.12.
- Y13/0172/SH - Erection of two three storey blocks of 22 flats with semi basement parking, comprising development affecting a public right of way. Approved with conditions. 28.10.13.
- Y17/1021/SH - Removal of condition 7 of planning permission Y13/0172/SH to omit the requirement for further works to the highway, and variation of condition 23 to enable the brick boundary wall to be retained as constructed. Approved with conditions. 31.10.17.

5.0 CONSULTATION RESPONSES

- 5.1 Consultation responses are available in full on the planning file on the Council's website.

<https://searchplanapps.shepway.gov.uk/online-applications/>

Responses are summarised below.

5.2 Hythe Town Council

Object on grounds that this development was overintensive, affects the streetscene, would affect the amenity of surrounding properties, and be contrary to the saved Local Plan Review policies SD1, BE1 and BE8.

5.3 Sandgate Parish Council

Object to the proposal on the grounds the building dominates the eastern end of the Royal Military Canal (RMC), a scheduled monument. The NPPF and the Core Strategy emphasise the setting of the scheduled monument as equally meriting protection from harm as the monument itself.

The developer's Heritage Statement / Visual Impact Assessment considers that an additional storey does less than significant harm to that setting and is therefore assessed as low impact. Sandgate Parish Council does not agree with this assessment. Taking the viewpoints in the developer's own heritage statement the parish council is strongly of the view that Viewpoint A, figure 42, Viewpoint D, figure 48, clearly highlight a significant adverse visual impact on the setting of the RMC, a harm that is incrementally and exponentially increased by each additional storey (and by any additional development).

5.4 Historic England

Has no objection on heritage grounds.

5.5 Environment Agency

Has no comments to make.

5.6 EE

Has no objection.

5.7 Wireless Infrastructure Group

Has no objection.

6.0 PUBLICITY

6.1 Neighbours notified by letter. Expiry date 14th June 2018

6.2 Site Notice. Expiry date 21st June 2018

6.3 Press Notice. Expiry date 28th June 2018

7.0 REPRESENTATIONS

7.1 Representation responses are available in full on the planning file on the Council's website.

<https://searchplanapps.shepway.gov.uk/online-applications/>

Responses are summarised below:

7.2 55 letters/emails received objecting on the following grounds:

- Disturbance to residents during construction
- Security issues during construction
- Health and Safety issues during construction
- Disturbance to residents below after occupation

- The existing Penthouse flats will no longer be the top level flats
- Loss of value of other properties in block
- Developers only interested in profit
- No significant public benefit
- Overdevelopment of site
- Visual prominence of the building would be increased
- Impact adversely on the appearance of the building
- Would impact negatively on visual amenity of streetscene
- Increased light pollution
- Would be incongruous with surroundings
- Would dominate the canal setting
- Harm to Scheduled Monument
- Insufficient parking
- Insufficient bin storage
- Loss of views for neighbouring occupiers
- Increased overlooking of neighbouring properties
- Overlooking of existing balconies
- Overbearing in relation to surrounding properties
- Loss of light for neighbouring properties
- Would set a precedent for other local developments

7.3 Statement containing 18 signatures:

- 15 supporting
- 3 objecting

7.4 19 letters/emails of support raising the following points:

- Would enhance and complete the appearance of the building
- Would be set back to protect privacy
- Would create a more iconic landmark building

7.5 Sandgate Society objects to the proposal

- Spoils setting of canal
- Detrimental to streetscene
- Does not preserve historic environment

8.0 RELEVANT POLICY GUIDANCE

8.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

8.2 The following saved policies of the Shepway District Local Plan Review apply:
SD1, BE1, BE11, HO1, HO4, LR9, LR10, SC1, SC2, SC7, TR5, TR6, TR11, TR12, U1a, U2, U4, U10, U10a, U15

8.3 The following policies of the Shepway Local Plan Core Strategy apply:

CSD1, CSD2, CSD5, SS1, SS2, SS3, SS5

- 8.4 The following policies of the Places and Policies Local Plan Submission Draft apply:

HB1, HB3, HB8, T2, T5.

The emerging local plan is at an advanced stage, and these policies have no significant objections and are consistent with the NPPF, and therefore in accordance with paragraph 48 of the NPPF 2018, the LPA can give considerable weight to these policies.

- 8.5 The following Supplementary Planning Documents apply:
Sandgate Design Statement

- 8.6 The following paragraphs of the National Planning Policy Framework 2018 apply:

- Chapter 2 Achieving sustainable development
- 8 – Achieving sustainable development
- 11 – Presumption in favour of sustainable development

- Chapter 5 Delivering a sufficient supply of homes
- 73 – Requirement to provide a minimum 5 year supply of housing, including a buffer

- Chapter 10 – Supporting high quality communications
- 112- Reliable communications infrastructure is essential for economic growth

- Chapter 12 Achieving well designed places
- 124 – Creation of high quality buildings is fundamental to planning
- 127 – Decisions should ensure developments are visually attractive

- Chapter 16 Conserving & enhancing the historic environment
- 190 – LPAs to identify and assess significance of a designated heritage asset
- 192 – Criteria to be used when determining applications
- 196 – Proposals resulting in less than substantial harm
- 200 – New development within settings to enhance or better reveal their significance

9.0 APPRAISAL

Relevant Material Planning Considerations

- 9.1 The relevant issues for consideration with regard to this application are the acceptability of the proposed design of the additional storey and its impact on the overall design and appearance of the existing buildings and the streetscene, heritage issues, neighbour amenity, highway safety, flooding and telecommunications.

Design and Layout

- 9.2 The two buildings comprising Olivia Court, are now an established part of the streetscene in a visually prominent seafront location at the junction Princes Parade, Seabrook Road and Court Road. They bookend Princes Parade at the eastern end, with the Hythe Imperial Hotel at its western end. The existing blocks of apartments punctuate the skyline in views when heading westwards from Sandgate Esplanade in particular, and less so in views from Seabrook Road and Princess Parade due to partial screening from vegetation, and in the case of the latter due to the backdrop of the escarpment. As such, the existing development makes a clear visual statement, and has an established visual prominence making no claim to accord with the surrounding built environment. Given this it is considered that the proposed addition of an additional storey to each block which would increase the height of the buildings by approximately 2.6m would not significantly exacerbate the visual presence of the buildings in the streetscene as evidenced in the Visual Impact Assessment contained within the submitted Heritage Statement.
- 9.3 In terms of the acceptability of the design of the additional storeys and their impact on the overall design and appearance of the buildings, they currently have flat roofs of uniform height across the full extent of the buildings. It is considered that the proposed additional storey on each, set back from the elevations of the buildings, with a roof overhang detail and a light render finish, would give the buildings a softer, more articulated and complete appearance, which would enhance their appearance. The proposal would therefore embellish the existing high quality design and maintain the high specification of materials by carrying forward the existing external finishes of white render, powder coated windows, and laminate cladding. It is considered therefore that improvement to the overall appearance of the buildings would be a positive outcome for the visual amenity of the area.
- 9.4 Overall the design and appearance of the additional storey to both buildings is considered acceptable as their visual prominence would not be significantly exacerbated and their overall appearance would be more holistic aesthetically pleasing appearance. As such the proposal is considered to be in accordance with section 12 of the NPPF and local plan policies which seek good design and the creation of high quality buildings.

Impact on heritage assets

- 9.5 It is not considered that the current proposal would compromise the existing design principle of the two blocks being separated to allow views through the site, particularly in relation to the Royal Military Canal (RMC). This was an important consideration in the original scheme as it enables the ability to appreciate the significance of the functional interrelationship between the RMC and the surrounding Napoleonic fortifications. There would be no direct impact from the proposal on these Scheduled Monuments, as the footprint of the buildings would not change. Therefore, the assessment on the significance of any harm revolves around any changes to the setting of these monuments. Harm to the setting of the Scheduled Monuments was

addressed through design modifications during the evolution of the current development on the site. The scale and design of the existing buildings has been accepted through the granting of planning permission for them, following consultation with Historic England. The assessment now rests with whether the proposed increase in height and mass of the buildings that would result from the additional storey to each will cause any additional harm in this regard. The Heritage Statement submitted with the application concludes that the level of additional harm to the heritage significance of the Scheduled Monuments would be low, and Historic England officers concur with this view. As such, the proposal is considered acceptable on heritage grounds, as the appreciation of the heritage assets would not be undermined. In conclusion the modest extension and alteration to these existing buildings is considered to represent 'less than substantial harm' to the historic interest of the heritage assets (Royal Military Canal, The Battery Wall and the Martello Tower). Paragraph 196 of the NPPF requires that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. In this case the public benefits are considered to be the improved appearance of the buildings in the streetscene and the provision of two additional dwellings while making more efficient use of the site. These are considered to outweigh the 'less than substantial harm' to the heritage assets.

Amenity

- 9.6 It is not considered that the proposed modest increase in height and the provision of two additional dwellings would result in any more impact on the amenity of surrounding residents and those in the existing building flats in Olivia Court than already exists. The proposed modest increase in height would not significantly reduce light received to the houses directly opposite on the northern side of Seabrook Road (Wellesley Villas) given the space separation of the road. Furthermore, any perception of interlooking would not be any worse than existing, especially given the slight set back of the new storey. Further to this, with over 45m of space separation it is considered residents on the higher ground of Battery Point would not be affected. Objections raised regarding the intensity of the development and the design are subjective, and concerns regarding a loss of view are not a planning consideration. Overall, it is considered the two additional units can be provided without significant impact on the amenity of surrounding occupiers.
- 9.7 Saved policy SD1 of the Shepway District Local Plan Review, policy HB8 of the Places and Policies Local Plan and the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and future occupiers of a development. The proposed additional dwellings have been designed through the set back of the proposed balconies to minimise loss of privacy and enjoyment of the use of the existing balconies in the apartments below. The additional floor would not be considered to be significantly overbearing or to have a significant enclosing impact on occupiers of the existing units due to the levels of space separation between the blocks. At the closest point of 8m space separation the existing units are designed with just one small secondary window. The main outlook and

light source being on the outward facing elevations. The remainder of the courtyard elevations benefit from 23m of space separation. In the light of the above, the proposed modest increase in height would not be considered to have an adverse overbearing or enclosing impact on existing residents. The Building regulations would ensure there is sufficient insulation between the floors to minimise noise disturbance for occupiers below the proposed development. The additional units, as is the case with the existing units in the block, provide generous levels of living accommodation, along with outdoor private amenity space.

- 9.8 Disturbance to neighbours during construction is not a planning consideration.

Highway Safety

- 9.9 The proposal includes reconfiguring the lower ground floor layout to provide two further parking spaces per unit, which is considered sufficient for the additional two 3 bedroom apartments the development would provide. Kent Highways and Transportation officers have provided informal advice that the parking arrangement is workable, and have no objection to the proposal on highways grounds. Cycle parking and bin storage is retained in association with this. Further to this the site has two public car parks immediately to both the west and east of the site. As such, parking and highways matters are not a constraint to the proposed development.

Flood risk

- 9.10 Flood risk would not be a constraint to the proposed development as the proposed additional accommodation would be at fourth floor level. The residents would be safe from flooding and the additional storeys would not increase flood risk elsewhere.
- 9.10 The NPPF states that a sequential approach should be used in areas known to be at risk from any form of flooding, with the Sequential Test applied with the aim to steer new development to areas with the lowest risk of flooding (para. 158). The NPPF further states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding with the strategic flood risk assessment (SFRA) providing the basis for applying this test. According to the Shepway District Council SFRA, at predicted sea-levels in 2115, accounting for climate change, the site falls outside of the flood risk zone. However, due to its location within Flood Zones 2 and 3, it is still necessary to undertake a sequential test.
- 9.11 The Government Planning Practice Guidance advises that a pragmatic approach on the availability of alternatives should be taken when assessing individual planning applications, as for proposals to extend existing premises, it would be impractical to suggest that there are more suitable alternative locations elsewhere. For this proposal, as it is an existing block of flats with the additional units located on top of the building, it is considered that, adopting the pragmatic approach, that sequentially, the site is

acceptable. As such, the future occupants would be safe in the event of a flooding event.

9.12 Consequently, as the proposal includes 'more vulnerable' development, it is necessary to apply the exception test. The exception test states that in order to grant planning permission or allocate a site;

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment;
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

9.13 As regards sustainability benefits, the site is within the Hythe settlement boundary, a Strategic Town for Folkestone & Hythe that can accommodate significant development in order to help maintain the viability of local transport hubs, the town centre and tourism, employment and public services. The additional units would contribute to these aims.

9.14 With regard to the second criterion, the development would be safe from flood risk as it is on the top floor of a building. The residents would be safe from flooding and the additional storeys would not increase flood risk elsewhere. Consequently the proposal is considered to be acceptable with regard to flood risk in accordance with Core Strategy Policy SS3 and NPPF Paragraphs 155-161.

Telecommunications infrastructure

9.15 Adjacent to Olivia Court on its western side is a telecommunications mast, which has recently been upgraded. The construction of Olivia Court caused disruption to the signal from the original mast. The original mast has since been replaced with a taller structure to overcome this issue. There were initial concerns that raising the height of the existing buildings would once again interfere with the signal coverage of the replacement mast, and consequently EE and the Wireless Infrastructure Group objected to the proposal. Subsequently, following clarification of building levels, both parties are now satisfied that this would not be the case, resulting in both objections being rescinded. As such, impact on telecommunications infrastructure is not a constraint on the proposed development.

Environmental Impact Assessment

9.16 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.

Other Issues

- 9.17 In terms of other matters raised in the representations that are not covered in this report, property values and profits generated from a development are not material planning considerations.

Local Finance Considerations

- 9.18 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.
- 9.19 In accordance with policy SS5 of the Shepway 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 £109.40 per square metre for new residential floor space.
- 9.20 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district for a four year period. The New Homes Bonus funding regime is currently under review and is anticipated to end. In this case, an estimated value of the New Homes Bonus as a result of the proposed development would be £2,545 for one year and £10,181 for 4 years when calculated on the basis of the notional council tax Band D on which NHB is based. If an authority records an overall increase in new homes in any one year, but this increase is below the 0.4% threshold, the authority will not receive any New Homes Bonus funding relating to that particular year. New Homes Bonus payments are not a material consideration in the determination of this application.

Human Rights

- 9.21 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.
- 9.22 This application is reported to Committee due to the views of Hythe Town Council and Sandgate Parish Council.

10.0 BACKGROUND DOCUMENTS

10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be granted subject to the following conditions and that delegated authority be given to the Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that she considers necessary:

1. Standard time condition
2. Approved plan numbers
3. Materials
4. Parking retained as per approved plans
5. Cycle parking retained as per approved plans
6. Bin storage retained as per approved plans

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