

Officer Report

Application No.	24/0061/FH
Site Address	Tree Tops, Cannongate Road, Hythe, CT21 5PT
Officer Name	Danielle Wilkins
Proposal	Erection of a new dwelling with access and layout

Recommendation

Report Number	RD-434047
Recommended Decision	Recommended to be Refused
Recommendation Date	20 March 2024

Report

SITE

Tree Tops is a detached house situated within the built up area of Hythe. It occupies a large plot on the escarpment to the north of the town, and is positioned towards the southern end of the site with vehicle access from a private road to the rear. The property is of an arts and crafts style design but the wider area is characterised by detached dwellings of various scales and designs (as larger plots have been subdivided and infilled with modern development).

The application site comprises roughly the northern half of the rear garden. Land levels slope downwards to the south so much of the land is at a higher level than the main dwelling. The site is occupied by a small detached garage/workshop building and informal garden planting. Land levels also slope dramatically upwards to the west and east (the site effectively occupies a hollow) and the neighbouring properties (Woodpeckers to the west, and 1 Cannongate Gardens to the east) are set at a much higher level.

Due to land levels there are few public views of the site other than from Princes Parade – which runs along the seafront – but this is at a significant distance.

RELEVANT HISTORY

20/0569/FH - Approval of reserved matters (scale, appearance, and associated landscaping) relating to outline planning permission Y15/1245/SH. Approved with conditions

Y15/1245/SH - Outline application for the erection of a dwelling with access and layout. All other matters (appearance, landscaping and scale) reserved for future consideration. Approved with conditions

PROPOSAL

This application seeks planning permission for the erection of a new dwelling with associated access and layout.

The proposed house would be positioned where the detached garage/workshop currently sits, as approved at outline stage. Vehicle access would be from the existing private road to the rear, with a driveway leading to a parking/turning area to the east of the property, in front of a sunken garage area.

The house would effectively be three stories: the ground floor (comprising garage and storage space) would be set into the hillside and largely only visible from the east with a small section above ground level to the west. The first floor would comprise an open-plan living / kitchen / dining area, “snug,” WC, and utility room. The second floor would be partially set within the roof level due to lowered eaves, and will provide three bedrooms, en-suite, family bathroom, and a balcony area on the SW corner, accessed from the master bedroom. The balcony would have frosted glazing along the western side.

The property would measure a maximum of approximately 10.6m tall (when viewed from the east, with the garage area visible – 8m from the south, 8.3m from the north, and a maximum of 9.3m from the west) x 10m wide x 12m deep. External materials are proposed as artificial slate roofing tiles, composite horizontal cladding, red multi-stock brickwork, and galvanised powder-coated joinery (anthracite grey).

Two parking spaces are provided within the internal garage and further parking on the driveway/turning area.

The application is a resubmission of the previously approved reserved matters application.

CONSULTATION RESPONSES

Consultation responses are available in full on the planning file. The main points raised are summarised below.

Hythe Town Council – no objections – subject to clarification regarding overlooking on the east and west elevations and an environmental report regarding the loss of mature trees and biodiversity

Southern Water – no objections

Environmental Health – no objection subject to condition

KCC Highways – no comments to make

REPRESENTATIONS

1 representation received objecting the application, the main points have been summarised below and the full comments are available to view on the planning file.

- Loss of privacy
- Risk of land slip
- Use of shared access

PUBLICITY

Neighbours notified by letter. Expiry date 15/02/2024

RELEVANT POLICIES

Core Strategy Local Plan: SS1 SS2 SS3 CSD1

Places and Policies Local Plan: HB1 HB3 HB10 T2 NE2 NE6 CC2

NPPF: 11, 38, 47, 55, 57, 70, 123, 124, 126, 131, 180, 186

NPPG:

APPRAISAL

Principle of development

The application site is located within the settlement boundary for Hythe. Policy SS1 District Spatial Strategy in Core Strategy Local Plan 2013 states that additional development should be focused on the most sustainable towns and villages as set out in policy SS3.

Policy SS3 Place-Shaping and Sustainable Settlements Strategy states that development within the District is directed towards existing sustainable settlements to protect the open countryside and the coastline, in accordance with policy SS1. Change in settlements will be managed to occur in a form that contributes to their role within the Settlement Hierarchy and local place-shaping objectives, to promote the creation of sustainable, vibrant and distinct communities.

In this application, the site is garden area with a previous footpath/access land included within the red line. However, being garden land it does not meet the definition within the NPPF of 'previously developed land'. The site is located within the urban area in Hythe, therefore, it is within a sustainable location and within an urban area.

It is considered that new housing development is acceptable in principle in this location but the proposal must be assessed in respect to matters of design and character of the area, impact on neighbours' amenities and in respect to parking and highway matters. These issues are considered further below.

Design and visual appearance

Policy HB1 requires new residential development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materiality.

It is considered that the proposed dwelling would sit comfortably on the site and be relatively in-scale and proportion with the surrounding properties. I note concern from the neighbours with regard to scale, but do not consider the proposed structure to be excessive, as illustrated by the submitted site section which shows the ridge to be set below the main ridge of Woodpecker.

Public views of the dwelling would be limited due to land levels, with the main views being at a considerable distance from the seafront, where the house would be viewed on the escarpment within the context of the surrounding properties. It is considered that the house would not be prominent or intrusive in these views, and consider it would sit comfortably within the wider street scene.

The design of the building is quite contemporary however it is important to note the presence of other contemporary properties within the area. There is no unifying design characteristic to the neighbourhood, and in that regard the building would not be out of place or incongruous. Nevertheless, it is considered it to be of an acceptable design standard that would contribute positively to the area.

Residential Amenity

Concern has been raised in regard to the potential loss of privacy as a result of the proposed dwelling, however privacy screens are proposed to the side of the balcony, thereby minimising the potential for views to the side across neighbouring gardens. It is noted that particular concern has been raised in regard to the overlooking of a bathroom, dining room and garden area of Woodpeckers to the west, however it is considered that the intervening distance would minimise potential for views into this window such that I do not consider the application could be refused for this reason. Additionally, bathrooms do not constitute habitable rooms and it appears from visiting the site that this window is frosted, preventing views inward.

There will, by reason of the position of the new house and land levels, be some views afforded across the grounds of the existing house (Tree Tops) and the residents thereof will lose some of the privacy they currently enjoy. However, the garden and patio to the south of Tree Tops will be screened entirely by the existing house and therefore provide a private amenity space not overlooked by this new house. I also have given some regard to the fact that the residents of Tree Tops have applied to build a house in their own garden, and therefore should be aware of the inherent risks of overlooking their property. Permitted development rights could be removed by condition, to ensure that any future alterations also protect neighbouring amenity.

It is considered that the amenity of neighbouring residents will be safeguarded and the proposal generally complies with policy HB1.

In regard to the amenity of future occupants, internally the size and layout of the dwelling would provide an acceptable level of space for the intended level of occupation, in accordance with policy HB3. In addition, all rooms within the proposed dwelling would be well served by natural light.

Parking and Highway Safety

Policy T2 of the Places and Policies Local Plan sets out the parking standards required for residential dwellings and the adopted 'Kent Design Guide Review: Interim Guidance Note 3 for Residential Parking' is adopted and sets out the parking spaces required for residential dwellings.

At least two off street parking spaces, together with a double garage have been proposed to the serve the three bedroom dwelling, which is acceptable and complies with policy T2 of the PPLP. Additionally, an internal cycle store accessed from within the garage is also proposed with the capacity of three bicycles complying with policy T5 of the PPLP.

Land stability and Contamination

Concern has been raised in regard to landslip, however according the councils mapping the site is within an area where Slope instability problems are not likely to occur. It is considered that subject to a condition requiring further details to be submitted by a competent person, the application is acceptable on these grounds.

Contamination conditions have also been reattached from the previous application. The application is therefore considered to be acceptable on these grounds as well.

Ecology

No ecological information has been submitted with this application.

Ecological information submitted with the original Outline Planning application demonstrated that there were protected species on the site (Great Crested Newts) and consequently a number of planning conditions were imposed on the outline planning permission, none of which have been discharged. In addition, as the previous PEA was submitted in 2015 it considered to be too out of date to refer to in the determination of this planning application.

To ensure that the planning determination is adequately informed in respect of all potential ecological impacts, an Ecological Appraisal must be sought prior to determination of the planning application. This is in alignment with paragraph 99 of ODPM 06/2005 which states “it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision”.

In the absence of satisfactory information the Council is unable to confirm that protected species or habitats would not be harmed by the proposal. This needs to be established at prior to the grant of any planning permission to ensure suitable mitigation is possible.

Trees

Concern has also been raised in regard to the loss of mature trees on the site, it is noted from the site plan that an equal number of trees are proposed to replace the removed trees. Subject to a suitably worded condition requiring further details, including protection measures and species, that the proposal is acceptable in this regard. However, the Council would need to be satisfied that there were no protected species nesting in the trees before they were felled.

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.

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 £135.10 per square metre for new residential floor space.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and

proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

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.

RECOMMENDATION

In light of the above, it is considered that planning permission should be refused.

Recommended Refusal Reasons (1)

1

The application site has the potential to provide habitat for protected species and may be of ecological value. No information has been submitted with the application appraising the ecology of the site and, if necessary, detailing proposed mitigation. In the absence of this information, the application fails to properly assess the impact of the development upon ecology, and therefore has the potential to negatively affect protected species in a manner contrary to policies HB1 and NE2 of the adopted Places and Policies Local Plan, and the advice of paragraph 186 of the National Planning Policy Framework.

Suggested Informatives (1)

1

This decision is based on drawing nos:

01-600-01-Rev P0 – site location plan

01-600-04-Topographical Survey

01-600-05-REV P1-Street Scene

01-600-15-Rev P1 – proposed site plan

01-600-20-REV P2-Proposed Elevations & Plans

01-600-30-Site Sections