

Officer Report

Application No.	25/1176/FH
Site Address	Land Rear 112 & 112a High Street, Hythe, CT21 5LE
Officer Name	Macey Douglas
Proposal	Prposed two storey three bedroom detached dwelling.

Recommendation

Report Number	RD-438146
Recommended Decision	Recommended to be Refused
Recommendation Date	20 August 2025

Report

Site

The application relates to an area of land to the rear of 112 and 112a High Street, Hythe. The site is within an area of identified archaeological potential and is within the Hythe Conservation Area. The properties at the front of the site, 112 and 112A, are Grade II Listed and are of two storeys with rooms in the roof space served by dormers. The ground floor is shop frontage built out toward the High Street from the front of the house, which has two shops separated by a doorcase giving access to the house.

The rear of the properties, which appears to be used on an ad-hoc basis for parking, is accessed from Prospect Road and is formed of large area of hard standing with some existing vegetation. Two trees on the eastern boundary have been protected under TPO no.9 of 2020.

Updated flood mapping has removed the site from the Flood Zones and it is not within an area at risk of flooding in the councils SFRA, which takes account of climate change.

Relevant Site History

Y15/1046/SH - Change of use of the first floor and second floor levels of 112 and 112A High Street, Hythe, from mixed use commercial/residential to three self-contained flats (2 x 1 bedroom and 1 x 2 bedroom) and new shopfront of 112 and 112A High Street Hythe, together with demolition of rear single storey extensions and construction of a cycle store and bin store. - Approved with conditions.

Y15/1047/SH - Listed building consent for internal structural alterations to allow for change of use of the first floor and second floor levels to three self-contained flats and new shopfront, together with demolition of rear single storey extensions. - Approved with conditions.

Y19/0946/FH – Erection of a detached 3-bed two storey dwelling facing Prospect Road. - Refused

1. The proposed development would result in the loss of the visually prominent high quality mature lime tree upon the eastern boundary and the bay tree within the site, as such the proposal would be detrimental to the visual amenity value and character of the conservation area and wider street scene. In addition, the proposed dwelling being sited in close proximity to a retained mature sycamore upon the eastern boundary, would result in potential structural damage, together with a significant loss of light to the rear elevation and habitable rooms of the proposed house, to the detriment of future resident's amenities. As such, following the occupation of the house this retained tree is likely to be placed under unnecessary and unacceptable pressure for excessive pruning and/or its removal to the detriment of the health of the tree and the visual amenity of the street scape and the conservation area. As such the development would result in poor town planning and arboricultural practice and as such be contrary to saved Local Plan Review policies SD1, BE4(f) and EB16, as well as the NPPF.

20/0506/FH - Proposed detached three bed two storey dwelling facing Prospect Road. - Approved with conditions

24/0497/FH - Proposed detached three bed two storey dwelling facing Prospect Road - Approved with conditions

25/0236/FH - Proposed two storey three-bedroom dwelling – Refused

1. The proposed dwelling, by virtue of its design, untraditional planform and lack of architectural detailing, would result in a development that would be out of keeping and visually detrimental to the surrounding area, harmful to the special character and appearance of the street scene, conservation area and to the setting of nearby listed buildings. In the absence of any overriding public benefits to justify the harm caused, the proposal is contrary to policy HB1 of the Places and Policies Local Plan 2020 and the aims and objectives of the National Planning Policy Framework.

2. In the absence of an appropriate Arboricultural Survey or Report, the application fails to properly assess the impact of the development upon protected trees within the site, and therefore the Local Planning Authority is unable to confirm that the trees would be protected during and after construction of the proposed dwelling. The proposal fails to demonstrate the deliverability of the scheme in accordance with BS5837-2012 and is therefore contrary to policies HB1 of the Places & Policies Local Plan (2020) and paragraph 136 of the National Planning Policy Framework (2024), which seek to protect trees of significant value.

3. 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 ecological potential of the proposal site and, if necessary, propose 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 harm protected species in a manner contrary to policies HB1 and NE2 of the adopted Places and Policies Local Plan 2020, and the National Planning Policy Framework.

Proposal

Planning permission is sought to erect a three-bedroom two storey dwelling that would be accessed from Prospect Road. As set out above a previous scheme was refused on grounds of a lack of information surrounding arboriculture, ecology as well as poor design.

The design of the dwelling would have an L-shaped plan form, a lean-to car port to the eastern side elevation with solar panels to the roof, and a canopy to the front of the property in front of the entrance.

The proposed internal area is approximately 120 sq. metres. The external amenity area would be greater than the width of the property. One off street parking space would be provided underneath the car port as well as an area suitable for both bin storage and cycle storage.

Consultation Responses

Environmental Health – No objection subject to contamination condition
KCC Highways – No comments to make
KCC Archaeology – No objection subject to condition
Southern Water – No objection subject to conditions
Affinity Water – No comments received
KCC Ecology – No objection subjection to BEP condition
Hythe Town Council – Object to impact on trees

Representations

No representations have been received

Relevant Policies

NPPF

Paragraphs 11, 12, 48, 49, 50, 124, 125, 127, 129, 131, 135, 187, 192, 196, 202-221

NPPG

Historic Environment

Places and Policies Local Plan (2020):

HB1, HB3, T1, T2, T5, NE7, CC2, HE1, HE2

Core Strategy Review (2022):

SS1, SS3

Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act

Appraisal

Principle

Core Strategy policy SS3 directs development towards existing sustainable settlements to protect the countryside and the coastline. The application site is within the defined settlement boundary and therefore creating an additional dwelling on the site is acceptable in principle as the site is in a sustainable location, although must be subject to all other material considerations.

Visual Amenity

The issues to be considered are the impact on the Hythe Conservation Area and on the setting of the nearby Listed Buildings and the statutory tests as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF. It should be noted that the Conservation Area has been designated as such due to its historical and architectural significance.

Section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses.

The NPPF requires the impact on the significance of the designated heritage asset to be considered and where potential harm is identified, the harm needs to be categorised as either "less than substantial harm" or "substantial harm" as described within paragraph 205. The National Planning Practice Guidance (NPPG) states that whether a proposal causes substantial harm will be a judgement for the decision maker, but it also makes it clear that substantial harm is a high test.

Paragraph 205 of the NPPF states that great weight should be given to the conservation of a designated heritage asset when considering applications that affect its significance, irrespective of how substantial or otherwise, that harm might be. Paragraph 207 states that any harm to or loss of the significance of a designated heritage asset should require clear and convincing justification. Where a proposal would result in less than substantial harm, the NPPF requires that it is weighed against the public benefits of a proposal in the manner described in paragraph 208. Heritage benefits are a public benefit to consider in the weighing exercise.

The scale and the massing of the dwelling is not too dissimilar from the previously refused scheme, retaining the proposed L-shaped form. As a result of this, the western side elevation would remain as a large blank protruding side elevation lacking any architectural interest, ultimately resulting in a dwelling visually detrimental to the character and appearance of the area.

The detailing of the dwelling, remains of a simplified appearance, where previous weight had been given to the proposal from a heritage perspective, failing to reflect the nearby Listed Buildings and surrounding conservation area such as sash windows and traditional proportions. Where these elements have been omitted, and replaced with a more contemporary design and plain approach it is considered that the proposal would fail to enhance the conservation area and respect the historic significance of the site.

Furthermore, the proposed car port to the eastern side of the property with the addition of solar panels to the proposed roof of the car port would result in unnecessary bulk to the side of the property appearing as a visually jarring addition within the conservation area and to the setting of the listed building.

Given the above, it is considered that the overall quality of the proposed dwelling would fail to conserve and enhance the special character and character and appearance of the conservation area. Though some amendments have been made since the previous scheme, the design of the dwelling remains of a significantly lesser quality than the approved dwelling under the 2024 planning permission. Therefore, it is considered that the absence of design features which were present in the 2024 application, the application would result in an incongruous design within the setting of several listed buildings, detracting from the architectural significance of the site.

While the harm referenced above is 'less than substantial', both in terms of the impact on the setting and special architectural interest of the Listed Buildings and on the character and appearance of the conservation area, no sufficient justification has been provided by the applicant that would outweigh the harm identified. It is therefore considered that planning permission should be refused on these grounds as the scheme is contrary to the advice provided in the NPPF as well as policy HB1.

Residential Amenity Impact

There is considered to be sufficient space separation between the application site and the neighbouring properties to ensure that the development would not cause undue loss of light, overshadowing or overbearing to the neighbouring properties. With regard to overlooking, the neighbours to the rear (High Street) are considered to be of some distance from the proposed

dwelling to avoid any significant overlooking. There is no external amenity areas associated with these properties.

The side elevations of the proposed dwelling include side windows, but these are not serving habitable rooms (bathroom and stairs) and so could be secured by condition to be obscure glazed, although this is not considered to be necessary

Space Standards

Policy HB3 of the PPLP refers to internal and external space standards and says that planning permission will be granted where the proposed scheme meets the nationally described space standard. In this case the gross internal space provided of approx. 120 sqm meets the internal space criteria of a 2 storey, 3-bed, 5 persons dwelling. Whilst the proposal would not meet the minimum requirement of a 10m depth garden the garden would be more than the width of the dwelling. Consequently, although the space does not meet the defined standards, it provides a very usable space, that would be private and which would also be in keeping with the character of the area, where the residential properties have small garden areas.

Highway Safety

The site is located within close proximity to the main High Street of Hythe, bus routes and other means of public transport. There would be a requirement for one parking space per 3 bed dwelling, which the applicant has provided. Prospect Road is an unclassified road with one-way traffic, and the site is currently used for parking provision. As such it is considered that there would not be any likely significant increased highway danger from the additional traffic.

Cycle provision has been shown on the plans, contained within a storage shed within the side/rear garden.

Landscaping and Trees

The 2019 proposal would have seen the loss of the mature Lime tree on the eastern boundary and the loss of the Bay tree in the centre of the site. The mature Sycamore tree on the eastern boundary was shown to be retained.

The previous application was accompanied by a tree survey and constraints plan, it failed to provide a full arboricultural report and therefore it was not possible to adequately assess the impacts of the proposed development.

Although it has been acknowledged that a full arboricultural report has been provided under the current application, the report was produced in 2020, over five years ago and it is not considered to provide an up-to-date arboricultural report to adequately assess the impacts of the development on the trees.

It is considered that the trees make an important contribution to the character, visual amenity and to the Conservation Area. In the absence of this information, the Local Planning Authority is unable to confirm that the trees would be protected during and after construction of the proposed dwelling. The proposal fails to demonstrate the deliverability of the scheme in accordance with BS5837-2012 and is therefore contrary to policies HB1 of the Places & Policies Local Plan (2020) and paragraph 136 of the National Planning Policy Framework (2024), which seek to protect trees of significant value.

It is considered that the application does not sufficiently demonstrate that the proposal would not result in a harmful impact to existing trees on the site and should therefore be refused on these grounds.

Ecology

The previous application was refused based on a lack of information surrounding ecological information.

It is confirmed that one tree which was proposed to be removed was determined to have the potential for roosting bats, and one emergence and one re-entry survey were completed. No evidence of roosting bats were noted and low levels of activity from common pipistrelle, soprana pipistrelle and noctule were recorded.

Through consultation with KCC Ecology it has been confirmed that sufficient information has been received in regard to this application. In the event of an approval, a condition is recommended to be imposed requiring a BEP (Biodiveristy Enhancement Plan) to be submitted including full details of biodiversity enhancements as well as evidence of the implementation of the BEP.

Archaeology

The site is within an area of archaeological potential due to the medieval history of Hythe and the proposal would require penetrative works which could disturb buried archaeological remains. Consequently, the KCC Archaeologist has requested a condition is imposed, if permission is granted, to secure the implementation of a programme of archaeological work.

Contamination

As the site has a filled pond and general made ground and a number of potential pollutant linkages have been identified, it is necessary, if permission is granted, to impose the standard contamination condition, in order to comply with PPLP policy NE7 and NPPF paragraph 178.

EIA

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 site is in zone C where CIL is charged at £138.65 per sqm.

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.

Duty to Cooperate

In accordance with paragraph 38 of the National Planning Policy Framework 2024 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service and, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

Recommendation

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

Recommended Refusal Reasons (2)

1

The proposed dwelling, by virtue of its design, scale, massing, untraditional planform and lack of architectural detailing, would result in a development that would be out of keeping and visually detrimental to the surrounding area, harmful to the special character and appearance of the street scene, conservation area and to the setting of nearby listed buildings. In the absence of any overriding public benefits to justify the harm caused, the proposal is contrary to policy HB1 of the Places and Policies Local Plan 2020 and the aims and objectives of the National Planning Policy Framework.

2

In the absence of an up to date appropriate Arboricultural Survey or Report, the application fails to properly assess the impact of the development upon protected trees within the site, and therefore the proposal fails to demonstrate the deliverability of the scheme in accordance with BS5837-2012. The proposal is

therefore contrary to policies HB1 of the Places & Policies Local Plan (2020) and paragraph 136 of the National Planning Policy Framework (2024), which seek to protect trees of significant value.

Suggested Informatives (1)

1

This decision is based on the following drawings and documents:

0325.WD.22 Proposed Topographical Site Plan & Location Plan - received 30/06/2025

0325.WD.20 Proposed Floor Plans Dwelling - received 30/06/2025

0325.WD.25 Proposed Front Elevation South from Prospect Road - received 30/06/2025

0325.WD.26 Proposed Rear Elevation North - received 30/06/2025

0325.WD.23 Proposed Side Elevation West - received 30/06/2025

0325.WD.24 Proposed Side Elevation East - received 30/06/2025

Design Planning Heritage and Access Statement - received 30/06/2025

Preliminary Roost Assessment with Surveys - received 30/06/2025

Tree Survey Report - received 30/06/2025

Tree Survey 2nd Report - received 30/06/2025

2570/19/B/1 Tree Survey and Constraints Plan - received 30/06/2025

Archaeological assessment - received 30/06/2025

Flood risk assessment - received 30/06/2025