

DCL/19/09

Application No: Y18/1097/FH

Location of Site: 19 St Nicholas Road, Hythe, CT21 6JQ

Development: Erection of a two-storey dwelling.

Applicant: Mr & Mrs C Ricket

Agent: Keith Barker Design
25 Lucy Avenue
Broadmead Village
Folkestone
CT19 5UF

Date Valid: 18.12.18

Expiry Date: 12.02.19

PEA Date:

Date of Committee: 23.07.19

Officer Contact: Louise Daniels

SUMMARY

The application seeks permission for a new single dwelling within an area at significant risk of flooding as set out within the Council's Strategic Flood Risk Assessment (SFRA). It fails to comply with the sequential test as set out in the NPPF and there is considered to be no benefit to the application that would outweigh the potential harm of the development in posing a potential threat to life and property due to flood risk. The design, detailing and materials proposed for the new dwelling are considered to have a negative impact upon the character and appearance of St Nicholas Road and Boundary Road. The amenity area proposed is unsuitable for a family sized dwelling and does not meet the requirements of the emerging adopted space provision required for new dwellings, resulting in a poor level of accommodation being provided for the future occupants of the dwelling. In addition, insufficient parking and visibility splays are proposed.

RECOMMENDATION: That planning permission be refused for the reasons set out at the end of the report.

1.0 THE PROPOSAL

1.1 This application is for the erection of a two storey, three bedroom dwelling to be attached to 19 St Nicholas Road with the front door fronting onto Boundary Road. The dwelling would have a hipped roof and would extend approximately 4.6m in width at ground floor when viewed from St Nicholas Road at its widest point. It reduces in width towards the centre to accommodate the front door which is recessed under the first floor which projects over. The first floor of the proposed dwelling would over-hang the

ground floor towards the rear to maximise the first floor living accommodation.

- 1.2 The proposed dwelling would be finished with natural slate on the roof, red brick to the ground floor and to the boundary walls with Cedral weatherboarding to the first floor. A glazed balcony is proposed to the elevation fronting onto St Nicholas Road with access out onto the balcony from the master bedroom. High level windows are proposed to the first floor fronting onto Boundary Road.
- 1.3 A 1.2m high brick wall is proposed to the elevation fronting St Nicholas Road to contain the proposed patio area with double doors proposed from the lounge opening into this patio area and fronting St Nicholas Road. The front door facing Boundary Road would have a block paving area in front so that the door is set back from the pavement. A higher boundary brick wall is proposed to the rear of the site, with a maximum height of 1.8m to enclose the rear garden. Towards the rear, the boundary wall is separated by access into the site to provide one rear parking space which would be surfaced in block paving and surrounded by a 1.8m high close boarded fence and access gate into the rear garden. Decking is proposed to the rear garden as well as a timber building for cycle and refuse storage, details of which could be secured by condition.

2.0 SITE DESIGNATIONS

2.1 The following apply to the site:

- Settlement boundary
- Environment Agency Flood zones 2 and 3
- Significant risk of flooding in 2115 on the Council's SFRA

3.0 LOCATION AND DESCRIPTION OF SITE

3.1 The site is located on the corner of St Nicholas Road and Boundary Road. To the east of the application site is the Hythe Green, and to the south is the site proposed for a mixed use allocation in the draft Places and Policies Local Plan (PPLP), Smiths Medical. To the north and west of the application site are two-storey terraced dwellings with pitched roofs and gable ends. Dwellings in the area are designed largely of facing bricks with some dwellings being rendered. The dwellings along St Nicholas Road (and surrounding roads) are relatively uniform in style, being built in the same period (early 1900's), with bay windows at ground floor and uniform windows at first floor, originally sliding sash with some having been replaced to uPVC casement, but retaining the general appearance, proportions and window sizes within the elevations.

4.0 RELEVANT PLANNING HISTORY

4.1 There is no planning history on the site.

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

No objection

5.3 Environment Agency

Object as the application lies within flood zone 3a and the application fails to demonstrate that all living accommodation will be located the required 300mm above the design flood level. The applicant will need to demonstrate that all living accommodation will be located 300mm above the design flood level in a residual risk scenario (5.1mAOD). All sleeping accommodation must be located on the first floor and above.

We are awaiting amended comments from the Environment Agency following the agent submitting an amended plan showing the finished floor level of the living accommodation being 5.1mAOD. Members will be updated at the committee meeting.

5.4 Southern Water

A formal application for a connection to the public sewer is required.

6.0 PUBLICITY

6.1 Neighbours notified by letter. Expiry date 13.02.19

6.2 Site Notice. Expiry date 04.03.19

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 1 representation received in support of the application for the following reasons:

- There are no other properties on Boundary Road that would be affected by the proposal.
- Regarding flood risk, the Portex site for 90 houses is directly opposite and none of the houses in the surrounding houses have ever flooded.
- The design is charming and will enhance the area.

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, U1, U4, TR5, TR11 and TR12
- 8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, SS5 and CSD7
- 8.4 The following policies of the Places and Policies Local Plan Submission Draft apply: HB1, HB3, HB8, HB10, T1, T2, T3, T5 and CC2
- 8.5 The following paragraphs of the National Planning Policy Framework 2018 apply:
7, 8, 9, 10 – Achieving sustainable development
11 – Presumption in favour of sustainable development
47 – Determining applications
127 – Achieving well-designed places
149, 150 – Planning for climate change
158 – Sequential test
155, 163 – Planning for flood risk

9.0 APPRAISAL

Relevant Material Planning Considerations

- 9.1 The main issues for consideration are the principle of a dwelling on this site, flood risk, amenity, standard of accommodation, design and visual appearance and parking and highway safety.

Principle of development

- 9.2 Paragraph 11 of the National Planning Policy Framework (NPPF) states that Local Planning Authorities should apply a presumption in favour of sustainable development. Policy SS3 of the Core Strategy states that development should be directed towards existing sustainable settlements. The proposal for a residential dwelling within an existing residential settlement is considered acceptable in principle, subject to other relevant material planning considerations, as set out below.

Flood risk

- 9.3 The site is located within flood zone 3a, an area with a high probability of flooding. The area is identified within the Council's Strategic Flood Risk Assessment (SFRA) as being at 'significant' risk of flooding in 2115, taking account of climate change. Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or

future). This should be assessed by applying the sequential test and then, if necessary, the exception test.

- 9.4 Paragraph 158 states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
- 9.5 The application Flood Risk Assessment incorrectly applies the sequential test, stating that the local plan shows that there is an allocated site for housing located in flood zone 3 about 3.5km southwest of the site and therefore the sequential test is deemed to have been carried out for this area. Firstly, the requirements for undertaking a sequential test for formulating planning policies is different to the requirements for undertaking the sequential test for assessing planning applications. Secondly, the test has to be carried out taking into account the size of the site. On applying the sequential test correctly for the Folkestone and Hythe character area (as required to be considered by policy SS3 of the Core Strategy Local Plan), there are multiple other development sites capable of accommodating a single dwelling that are available and at a lower risk of flooding. The proposal is therefore considered to fail the sequential test as set out in National Planning Policy.
- 9.6 In terms of the exception test, the NPPF requires that this is only to be applied in cases where the sequential test has been passed. However, if it were to be carried out in this case, paragraph 160 of the NPPF states that it should be demonstrated that:
 - a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) 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.
- 9.7 In terms of criterion A, the NPPG guidance on sustainability benefits in this context requires a planning application to score positively against the aims and objectives of the Local Plan Sustainability Appraisal or Local Plan Policies, or other measures of sustainability. The Local Planning Authority should consider whether the use of conditions could make it do so. Where this is not possible, the exception test has not been satisfied and planning permission should be refused.
- 9.8 No information has been submitted to seek to demonstrate that the proposal would meet the aims of the Local Plan Sustainability Appraisal or that the sustainability benefits are so great, these outweigh the flood risk. Neither has a sustainability appraisal been submitted with the application. The benefits of providing one residential dwelling are not considered to represent wider sustainability benefits to the community that outweigh flood risk over

and above the adopted Local Plan Policies that require development to safeguard and enhance the amenity of residents. The proposal only represents the normal benefits of redevelopment of any brownfield land in any settlement. The site is part of the residential garden of 19 St Nicholas Road and there are no overriding benefits of its redevelopment. Any benefit of providing one residential dwelling is outweighed by the potential serious risk to life due to flood risk and it has not been demonstrated that this dwelling could not be located elsewhere in an area at lower risk of flooding.

- 9.9 In terms of criterion B, the submitted Flood Risk Assessment claims that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, as the owners will be vested with the responsibility of maintaining the mitigation measures periodically, including sewers, sustainable drainage systems and manage the risks during the life time of the development, this includes obtaining of insurance cover as appropriate. This is not relevant to comply with the requirements of criterion B. However, during the processing of the application, the proposed floor levels of the living accommodation have been raised by 100mm to be 300mm above the predicted flood event level to attempt to address the comments from the Environment Agency. Updated comments from the EA on this are awaited and will be reported to Members on the Supplementary Sheets.
- 9.10 In summary, the application fails to demonstrate that the proposed dwelling cannot be located in an area of lower flood risk areas, as required by the sequential test in the NPPF. As such the application is proposed to be refused on flooding grounds.

Visual Impact and Design

- 9.11 The proposed dwelling would be positioned at the end of a row of identically designed modest terraced properties with historic and elegant proportions and detailing. The existing properties are of a simple, yet attractive design set within a grid style street pattern. The proposed dwelling, would fail in many respects to fit in with the surrounding street scene, particularly due to it having a hipped roof rather than a gable end, with a front door that addresses Boundary Road rather than St Nicholas Road. It would feature patio doors opening onto St Nicolas Road with a balcony above and a mid-height boundary wall which would be out of character with the row of terraced properties along this road. In addition, the ridge height and eaves of the proposed dwelling would be lower than 19 St Nicholas Road which would create a poor relationship with the adjoining property, impacting negatively upon the street scene of St Nicholas Road. This combined with the fact that although the width of the proposed dwelling is similar to that of the dwellings within the terrace, it is set lower, and proposes modern rather than traditionally proportioned windows, gives the building a squat like appearance. Non-traditional boarding is proposed to the first floor which is alien within the street scene and wider area and further enhances the difference between the proposed dwelling and the surrounding character of residential dwellings. As such, the design and layout is considered to be inappropriate for the character of the area and would have a negative impact

upon the character and appearance of St Nicholas Road and Boundary Road.

- 9.12 Emerging Policy HB10 of the PPLP sets out criteria where the partial redevelopment of residential garden land would be acceptable; this includes a requirement that development must be appropriate to the character and appearance of the area, as well as the layout and pattern of the existing environment, taking into account views from streets, footpaths and the wider residential and public environment. For the reasons outlined above, the proposal is considered to conflict with this policy.
- 9.13 The proposed dwelling is therefore considered to be unacceptable in design, detailing, and materials, contrary to saved policies SD1 and BE1 of the Local Plan Review and emerging policies HB1 and HB10 of the PPLP which seek proposals to make a positive contribution to their location and surroundings.

Amenity of Occupants

- 9.14 The proposed dwelling would be in conflict with emerging policy HB3 of the PPLP which requires new dwellings to have a private garden of at least 10m in depth. As the proposed dwelling would be a family sized dwelling featuring 3 bedrooms, it is considered that the rear garden measuring approximately 6.7m in length at the maximum point, reduced to 4m in length when measured to the close boarded fence would be unacceptably small. Therefore the level of amenity for future occupants would be poor and in conflict with policy HB3 of the PPLP. The internal floor area of the proposed dwelling is considered to be acceptable.

Neighbouring Amenity

- 9.15 The proposed dwelling would extend from 19 St Nicolas Road and would be in line with the front and rear elevations of this neighbouring dwelling, therefore there is not considered to be any detrimental impact upon this neighbouring dwelling 19 St Nicholas Road in terms of loss of light or loss of privacy. The dwelling to the rear of the application site, 53 Frampton Road is positioned a sufficient distance away from the proposal to not be significantly impacted.
- 9.16 Due to the site being at the end of a terrace and on the corner of St Nicholas Road and Boundary Road, there would be no other neighbouring properties that would be impacted by the proposed development in terms of loss of light, overshadowing or loss of privacy.

Highways and Transportation

- 9.17 The application proposes 1 parking space for the new dwelling which is considered to be an under provision for the suburban location in accordance with Kent IGN3 parking standards which requires 1.5 parking spaces (rounded up to 2 parking spaces) for a 3 bedroom dwelling. It has not been demonstrated that the 1 parking space is sufficient due to there being

appropriate on-street capacity in the locality to overcome this requirement. Therefore the proposal would be contrary to saved Local Plan policies TR11 and TR12 and emerging policy T2 of the Places and Policies Local Plan which seek to ensure sufficient levels of parking are proposed or that there is appropriate on-street capacity in the locality.

- 9.18 The proposed access to the new dwelling, due to the location of the proposed high wall, would provide insufficient visibility splays for a vehicle to drive in and reverse out of the site, or vice versa, onto the public highway across a pedestrian footpath. As such, it is considered the proposed access and parking arrangements would be of unacceptable risk to both pedestrian and vehicular highway safety, contrary to saved policy TR12 of the Local Plan which seeks to ensure there would be no adverse effect on road safety.

Environmental Impact Assessment

- 9.19 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

- 9.20 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.
- 9.21 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 £111.15 per square metre for new residential floor space.
- 9.22 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 £1,337 for one year and £5,349 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.

Human Rights

9.23 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.

Public Sector Equality Duty

9.24 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.

Other matters

9.25 The application has been called in by Cllr Martin.

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).

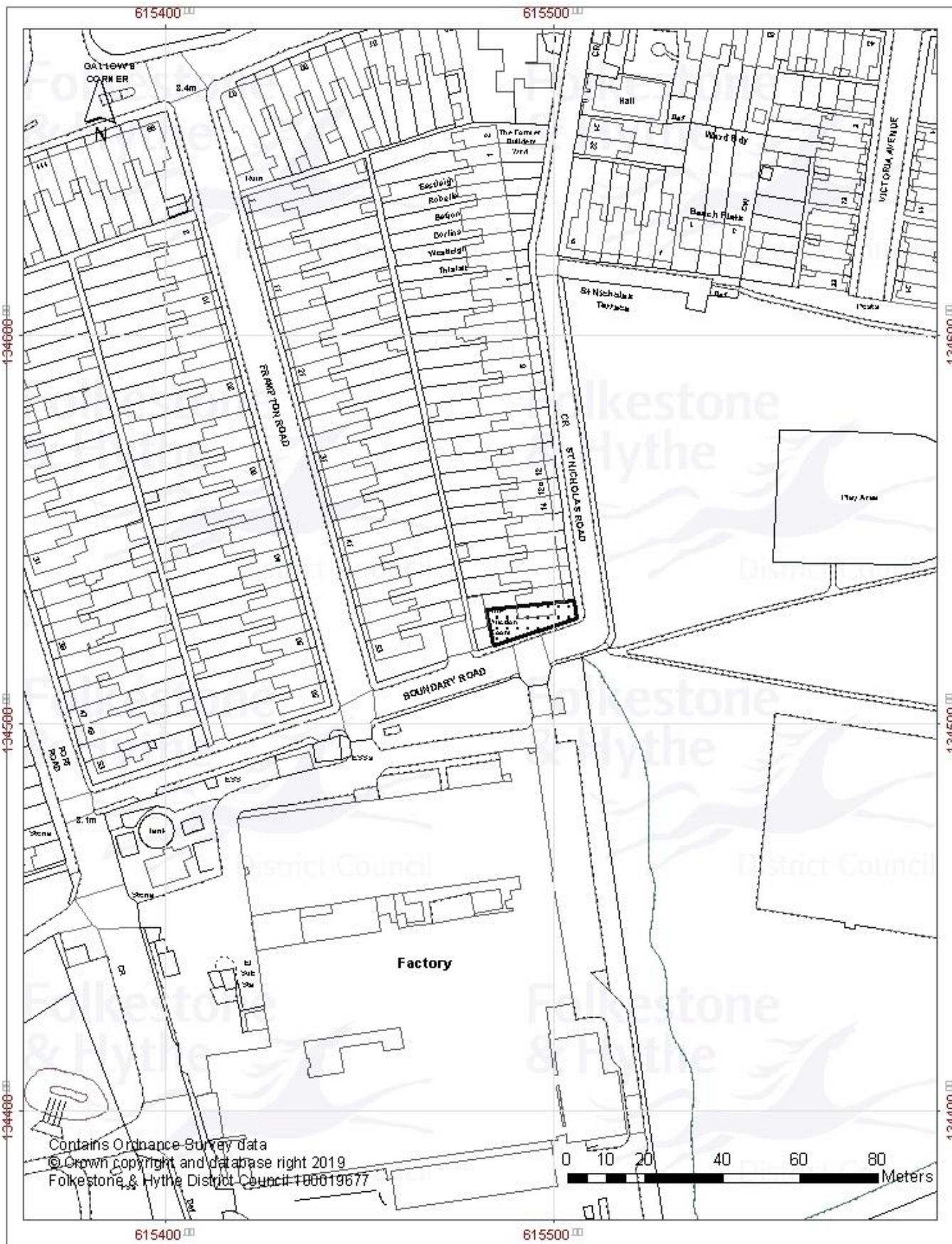
RECOMMENDATION – That planning permission be refused for the following reasons:

1. There are suitable alternative sites within the Folkestone & Hythe character area where the proposed development could be located that are at a lower risk of flooding. The proposal therefore fails the Sequential Test as set out in paragraph 158 of the NPPF which states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. As such, the development is considered to be unsustainable development that would result in an unacceptable risk of flooding both to property and to life,

contrary to paragraphs 157 and 158 of the NPPF and Core Strategy policy SS3.

2. The proposed development, by virtue of its design, detailing and materials would result in a development that is out of character with the surrounding development resulting in visual harm to the character and appearance of the streetscene contrary to saved policy BE1 of the Shepway District Local Plan Review 2006 and emerging policies HB1 and HB10 of the Places and Policies Local Plan Submission Draft which seek for new development to make a positive contribution to its location and surroundings.
3. The proposed amenity area is of an insufficient size for a family sized dwelling, falling significantly short of the required space provision set out within emerging policy HB3 in the Places and Policies Local Plan Submission Draft. As such, the proposed dwelling would result in a poor level of amenity being provided for the future occupants of the dwelling, to the detriment of their residential amenities, contrary to saved policy SD1 (k) of the Local Plan Review, which seeks to safeguard the amenity of residents.
4. The development, due to an under provision of off-street parking; failure to demonstrate sufficient capacity for additional on street parking; and inadequate visibility for vehicles entering and leaving the site, is likely to cause hazards to highway users to the detriment of highway safety. As such the proposal would be contrary to saved Local Plan Review policies TR11 and TR12 and emerging policy T2 of the Places and Policies Local Plan Submission Draft which seek to ensure sufficient levels of parking are proposed or that there is appropriate on-street capacity in the locality and that the new access would not be detrimental to the safety of vehicle traffic, cyclists and pedestrians.

Y18/1097/FH
19 St Nicholas Road
Hythe



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