

# DCL/19/42

**Application No:** Y19/1377/FH

**Location of Site:** 10 Vicarage Road, Sandgate, Kent, CT20 3AA.

**Development:** Retrospective application for the erection of a suspended car deck to allow two cars to park on the site.

**Applicant:** Mr & Mrs Feaver.

**Agent:** Mr James Reuther, RDA Consulting Architects.

**Officer Contact:** Ross McCardle

## SUMMARY

The application seeks retrospective planning permission for the erection of a suspended car parking area which projects outwards from the hillside, along with some proposed amendments to the design. Its scale, design, and appearance is considered to be harmful to the character of the area, the character and appearance of the Sandgate conservation area and the designated Area of Special Character, and contrary to local and national planning policy. The application is therefore recommended for refusal.

## RECOMMENDATION:

<b>That planning permission be refused for the reason set out at the end of the report.</b>
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## 1. INTRODUCTION

1.1. The application is reported to committee at the request of Councillor Fuller as he does not consider that the plans detract from the character of the conservation area.

## 2. SITE AND SURROUNDINGS

- 2.1. The application site is a detached house situated on a hillside within the built up area of Sandgate. Vicarage Road is an unmade residential street with several imposing Georgian-style detached houses on the northern side and a number of more modern houses on the southern side, many built into the hillside.
- 2.2. No.10 is a newer property (granted planning permission in 2008) of a contemporary modernist design. It is set into the hillside and as a result its flat roof is the main feature visible from Vicarage Road. Views of No.10 and its neighbours are available from The Riviera at the foot of the hill.
- 2.3. The parking area the subject of this application sits to the west of the house and adjacent to a detached garage for the neighbouring property.

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2.4. The houses immediately to the north (Sea Lady and East Cliff House) are grade II listed. The site lies within the Sandgate High Street Conservation Area (CA), an Area of Special Character, and Landslide Slope Instability Zone E (the highest risk zone).

2.5. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

3.1 This application seeks retrospective planning permission for the erection of the existing car deck. It is a flat and level concrete pad with hoop-top galvanised metal railings on 3 sides, and it projects outwards from the hillside atop supporting metal beams. It provides sufficient space for two cars to park side-by-side.

3.2 The application proposes changes to the design of the deck as constructed to overcome the previous reason for refusal, including:

- Removal of the metal hoop-top railings and installation of glazed balustrades to match those on the house; and
- Cedar hit-and-miss cladding around the supporting beams.

3.3 A structural survey and slope stability report have been submitted as part of the application which concludes that there is no risk to the stability of the hillside as a result of this development.

## 4. RELEVANT PLANNING HISTORY

4.1 Planning permission was granted for erection of the house in 2008 under planning permission Y08/1197, and amendments to its design subsequently agreed in 2011 under Y11/0050/SH.

4.2 Y19/0519 sought retrospective planning permission for erection of the car deck but was refused under delegated powers for the following reason:

1. The proposed car deck, by virtue of its inappropriate siting, projection off the escarpment, significant height and incongruous materials appears as an alien structure in the street scene that bears no relation to the prevailing vernacular or historic character of the area. Its resultant appearance is overly prominent and out of keeping in the Radnor Cliff street scene, resulting in significant visual harm to the Area of Special Character and the setting of the Sandgate Conservation Area. the proposal is therefore contrary to saved policies BE1, BE4 and BE12 of the Shepway District Local Plan Review, emerging policies HB1 and HB8 of the emerging Places and Policies Local Plan Submission Draft and the National Planning Policy Framework.

4.3 The officer's report for that application refers to (amongst others) the impact of the development upon the character or appearance of the conservation area, and the location of the site within the Radnor Cliff Character Area as designated by the Sandgate Village Design Statement (considered in detail below).

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

## **Consultees**

Sandgate Parish Council: No objection.

## **Local Residents Comments**

5.2 2 letters of objection have been received from neighbouring residents, raising the following summarised concerns:

- The deck is unattractive;
- Out of keeping with the area;
- Harmful to the Conservation Area;
- Has it been inspected by a structural engineer;
- Party Wall issues (touches garage building at No.8);
- Rainwater runoff pools underneath the deck.

## **Sandgate Society**

5.3 The Sandgate Society reiterates the officer's comments from the delegated report for Y19/0519, which it asks to be taken into consideration:

- The structure appears as an alien and visually dominant addition to the plot;
- The materials are overly industrial;
- Visual clutter on the escarpment;
- The benefit of the scheme doesn't outweigh the visual harm;
- Contrary to policies of the Local Plan Review;
- Contrary to the Sandgate Design Statement; and
- The site is within a defined Area of Special Character.

## **Ward Member**

5.4 Ward member Cllr Gary Fuller has called this application in to be considered by the Committee.

5.5 Responses are available in full on the planning file on the Council's website:

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

## **6. RELEVANT PLANNING POLICY**

6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013).

6.2 The new Places and Policies Local Plan (PPLP) Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.

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6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.4 The relevant development plan policies are as follows:-

## Shepway District Local Plan Review (2013)

SD1 - sustainable development  
BE1 – design  
BE4 - conservation areas  
BE8 - alterations and extensions  
BE12 - Areas of Special Character  
BE16 - retaining landscape features  
BE19 - land stability  
TR12 - car parking

## Shepway Local Plan Core Strategy (2013)

DSD - Delivering Sustainable Development

## Places and Policies Local Plan Submission Draft (February 2018)

HB1- quality places through design  
B8 - alterations and extensions  
T2 - parking standards  
NE6 - land stability  
HE1 - heritage assets.

## Core Strategy Review Submission draft (2019)

None relevant.

6.5 The following are also material considerations to the determination of this application.

## **Supplementary Planning Guidance/Documents**

### Sandgate Village Design Statement

- SDS1: *“All applications for new development in Sandgate parish should include a statement demonstrating how they have complied with the Principles of the Sandgate Design Statement.”*
- SDS2: Development should be consistent with the NPPF and the Local Plan, and should *“acknowledge, preserve and enhance the built and natural heritage of the parish of Sandgate.”*

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- SDS4: All development should preserve or enhance the CA, and application should demonstrate how they have considered the CA appraisals by way of a Heritage Statement.
- SDS5: Development should respect the designation of Character Areas.

## Government Advice

### National Planning Policy Framework (NPPF) 2019

6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The following paragraphs of the NPPF are relevant to this application:-

- Para. 11 sets out the presumption in favour of sustainable development, part of which means determining applications in accordance with up-to-date policies.
- Para. 47 sets out that applications should be determined in accordance with the development plan, with weight being given to emerging policies in accordance with their stage of preparation.
- Para. 127 requires developments to be sympathetic to local character, be visually attractive, and add to the overall quality of the area.
- Para. 170 aims to protect and enhance valued landscapes.

### National Design Guide October 2019

The National Design Guide was published on 1<sup>st</sup> October 2019 and illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the government's collection of planning practice guidance. The following extracts are relevant:

- Section C1 sets out that *"well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary."* It continues to state that various elements can contribute to local context, including existing built form, local heritage, local landform and topography, and views *"inwards and outwards"* (amongst others).
- Section I1 requires developments to respond to existing local character and identity by respecting the pattern of development and special features of the area that contribute to its distinctive character and context, including *"the composition of street scenes, individual buildings and their elements"* and *"views, vistas and landmarks."*
- Paragraph 67 states that the built form of well-designed places relates well to the site and its context.

### Town and Country Planning Act

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special regard to the desirability of preserving or enhancing the character or appearance of conservation areas.

## 7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development.
- b) Scale, design, and visual amenity.
- c) Residential amenity.
- d) Highways and parking.
- e) Slope stability.
- f) Other matters.

### **a) Principle of development.**

7.2 The site lies within the built up area and the principle of development is therefore acceptable, but subject to consideration of detailed matters as set out below.

### **b) Scale, design, and visual amenity.**

7.3 The Sandgate Conservation Area appraisal specifically refers to Radnor Cliff and the application site, stating that the views from and relationship with the beach and seafront below are especially important, as is *“the land form and planting to the foreground and backdrop.”* The area is also specifically referred to as a key view: *“upwards from the beach towards Radnor Cliff and its steep backdrop of greenery.”* These aspects are also referred to within the Sandgate Village Design Statement.

7.4 The application seeks to regularise an elevated car deck on the hillside of Radnor Cliff, facing outwards to the sea, and to amend the external materials in the aim of softening its visual impact. The deck stands approximately 5m high and is constructed of concrete with steel supporting columns, and it is proposed to surround those columns with timber cladding. The deck is easily visible from public vantage points along The Riviera and the beach due to its siting on the brow of the escarpment and projection outwards from the hillside. Due to this position and the materials used – and also those proposed – it is and will be a prominent and incongruous structure within the context of the otherwise largely green and verdant hillside, and consequently harms the character and appearance of the area. Cladding the supporting beams will, in officers’ opinion, further draw the eye to the structure and cause additional harm. A reliance on planting to soften the impact of the development does not mitigate this concern, as there would be a significant reliance on upkeep and maintenance of such planting in perpetuity; such a substantial reliance on planting indicates that the development is in itself unacceptable.

7.5 The adopted Sandgate Conservation Area Appraisal, at para. 45, lists views *“upwards from the beach towards Radnor Cliff and its steep backdrop of greenery”* and *“views in both east and west directions along Radnor Cliff and the Riviera”* as key views within the conservation area. Para. 71 also notes that *“a vital component of the Radnor Cliff area’s character for example is its dramatic hillside setting and planting. Views into or out of this area and gaps between houses are important to its setting.”* As above: the

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scale, position, and design of the car deck means that it intrudes into these specifically protected views in a manner that intrudes upon the green and unspoiled character of the hillside. It is therefore considered that the development negatively affects the character and appearance of the conservation area, and it is therefore to be unacceptable.

- 7.6 The delegated report for Y19/0519 raised concern in respect of the materials used. The proposed amendments would resolve this issue and the car deck would appear more homogenous with the dwelling. However the changed materials/design do not resolve the prominence or visual impact arising from the uncompromising siting and scale of the car deck. There is little that could be done to resolve this in officers' opinion, and a reliance on tree planting or other soft landscaping would be masking the issuing rather than effectively resolving the arising harms.
- 7.7 The site also falls within an Area of Special Character designated for its special environmental quality, including important skylines and detached houses in large gardens with mature vegetation, which contribute significantly to the attractive appearance and character of their surroundings. Local Plan Review policy BE12 (noted in the policy section above) sets out that development within Areas of Special Character *"will not be granted if [it] will harm the existing character of that area by reason of ... greater visual impact of buildings."* For the reasons set out in the previous paragraphs it is considered that the car deck will result in a great visual impact of built structure.
- 7.8 It is considered that the car deck, by reason of its scale, siting, and projection within a specifically protected hillside landscape, is visually intrusive in the hillside and harmful to the street scene views, the character and appearance of the conservation area and the area of special character.

## **c) Residential amenity**

- 7.9 The car deck is unlikely to give rise to any particular concerns in respect of the amenity of neighbouring residents. It is set away from neighbouring dwellings and would be unlikely to give rise to any serious issues of overlooking, overshadowing, or loss of light.

## **d) Highways and parking**

- 7.10 It is accepted that the deck is useful in providing off-street parking and turning facilities for No.10. Vicarage Road is quite narrow and officers can see how it is a benefit to the applicants to have space for two cars off the highway in respect of manoeuvrability and access. However, Vicarage Road is a private road and there is no KCC Highway requirement for the off street parking spaces, it is solely for the convenience of the applicants. There is on-street parking available for the applicants, both on Vicarage Road and other neighbouring streets, and while it's noted that people are generally not keen on parking remotely from their house (or where access might be tight) this is not in sufficient justification to override the visual amenity concerns of what is considered to be unacceptable development.

## **e) Slope stability**

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7.11 The site lies within an area identified as being very at risk of land slippage, and this has also been highlighted by one of the objectors. Full structural calculations (carried out by AJ Locke Consulting Engineers, who have been operating for over a decade) and construction method statement relating to the works as carried out have been provided and officers have no reason to doubt their validity. They conclude that the works are structurally sound and will have no significant impact upon slope stability. There is no reason to dispute these findings

## **f) Other matters**

7.12 The objection in regard to the car deck being hard against No.8's garage is noted and appreciated, but this is a private legal matter under the Party Wall Act and not a material planning consideration.

7.13 The application is retrospective but Members should note that this is not a material planning consideration, nor in itself a justifiable reason for refusing planning permission.

7.14 If Members resolve to refuse planning permission the Council will need to consider removal of the deck through formal planning enforcement action. Enforcement action is considered expedient here due to the unacceptable impact the car deck causes to the character or appearance of the Sandgate Conservation Area, the Area of Special Character, and the wider visual amenity in views of the street scene. The Chief Planning Officer has delegated authority to take enforcement action in relation to minor development and where planning permission has already been refused. Both criteria apply in this case.

## **Environmental Impact Assessment**

7.15 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**

7.16 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. There is no CIL requirement for this development.

## **Human Rights**

7.17 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



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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**

7.18 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.

## **Working with the Applicant**

7.19 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner. However this application is retrospective, and the concerns noted above can't be resolved by anything other than removal of the development in its entirety. Officers therefore consider that there are no amendments that would resolve the matter.

## **8. CONCLUSION**

8.1 This application seeks retrospective planning permission for the erection of a raised parking area which projects from the hillside at Vicarage Road, Sandgate. The development is considered to be harmful to the conservation area, streetscene and Area of Special Character, and contrary to local and national policy.

8.2 It is therefore recommended that planning permission should be refused.

## **9. BACKGROUND DOCUMENTS**

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

## **10. RECOMMENDATION**

**That planning permission be refused for the following reason(s):**

1. The car deck, by reason of its siting, projection off the hillside, significant height, and external materials is a prominent and intrusive structure within the conservation area and wider streetscene as well as the designated Area of Special Character. It is out of keeping with the prevailing vernacular and historic character of the conservation area and results in significant visual harm to both the conservation area and the Area

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of Special Character. As such the development is contrary to saved policies BE1, BE4 and BE12 of the Shepway District Local Plan Review 2006; policies HB1, HB8, and HE1 of the emerging Places and Policies Local Plan (2018 Submission Draft); policies SDS2, SDS4 and SDS5 of the Sandgate Village Design Statement; paragraphs 127 and 170 of the National Planning Policy Framework; and the advice of sections C1, I1, and paragraph 67 of the National Design Guide.