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Application No: Y19/0890/FH

Location of Site: 9 Naildown Road, Hythe, Kent, CT21 5SY

Development: Retrospective application for elevated decking area to the rear.

Applicant: Mr Daniel Smee

Agent: N/A

Officer Contact: Katy Claw

SUMMARY

This report considers whether planning permission should be granted for the increase in length (approximately 980mm) and changes to the design (layout of steps and increase in length of supporting framework) of the elevated decking area to the rear of the host property. Elevated decking was approved in July 2014 under planning reference Y14/0651/SH. The report recommends that planning permission should be granted with conditions as it considered that the amenities of the neighbours to the rear would not be significantly compromised over and above the impact that would have resulted from the original consent.

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 Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee by Cllr Jim Martin, a Member of the Planning & Licensing committee.

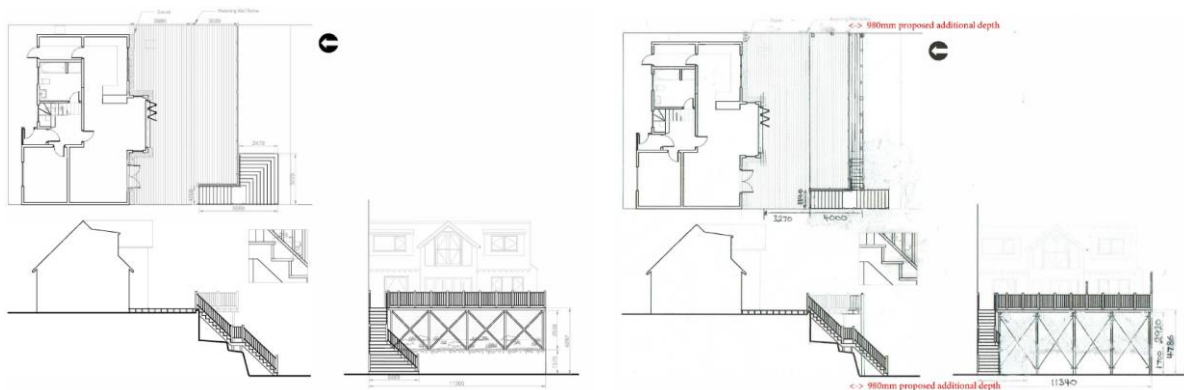
2. SITE AND SURROUNDINGS

2.1 The application site is within the defined settlement boundary and is part of a group of eight semi-detached bungalows positioned at the top of a steep bank, formerly a railway embankment, but now given over to residential development. The site is in an elevated position, with steep slopes up to the properties and down to the rear, giving very steep garden areas. There is established vegetation on the northern slopes fronting Naildown Road and some properties in this group have created domestic garden / decking areas and off-street parking. The site is in an area identified as being of potential land instability.

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

3. PROPOSAL

- 3.1 Planning permission is sought for the installation of an elevated decking area, supports and steps located to the rear of the property. The proposal seeks an enlargement of the decking area from a previously approved scheme (from 3020mm to 4000mm – which is a difference of 980mm) and alterations to the design from that previously approved under Y14/0651/SH.
- 3.2 It is understood that during construction the applicant was not able to place the steel supports in the ground where originally proposed and that the need to move these supports led to an increase in the length of the decking. As a result, the supporting posts were also required to be longer to reach the new ground location due to the differing land levels.



- 3.2 The following report was submitted by the applicant in support of the proposals:

Slope Stability Report produced by KSI Ltd.

- 3.3 The submitted slope stability report concludes that the additional load on existing walls will be relatively small and even then the line loads at foundation level will not greatly exceed, if at all, the line loads on some of the foundations from the existing structure. The imposed loads are almost negligible compared with the weight of the embankment imposed on the natural ground. It concludes that the proposed changes to the structure of the building will have no adverse effect on the stability of the site or surrounding ground.
- 3.4 This application has been subject to an enforcement complaint and works have ceased. During the site visit it was noted that the decking is not yet fully completed.

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows:

Y14/0651/SH	Erection of a side extension incorporating accommodation in the roof space and a rear dormer window, together with first storey extension to the rear and construction of an elevated deck area, also the rear.	Approved with conditions
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5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: No objection

Local Residents Comments

5.2 6 neighbours directly consulted. 6 letters of objection, 0 letters of support received and 2 letters neither supporting nor objecting to the application.

5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- No consideration was given to privacy from the outset
- Objections to the content and findings of the case officer within the original 2014 officer report.
- Any vegetation that existed at the time of the application has long since been removed by the owner.
- Neighbour rights have been disregarded and compromised.
- Structure should be removed or reduced in size.
- New structure has breached the original plan very significantly.
- Structure is unsightly and imposing.
- Steel supports out of keeping.
- Impacts upon property value due to privacy issues.
- Design does not fit in the residential area.
- Neighbouring properties gardens and windows are overlooked.
- Proposed hedges would not be tall enough to grow to the height of the decking.
- Neighbours not notified of original 2014 application.
- Amendments to scheme have resulted in a totally obtrusive structure.

5.4 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)

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- 6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been the subject of public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.
- 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 - Standards expected for new development in terms of layout, design, materials etc.

BE8 - Criteria for considering extensions to dwellings.

BE19 – Land instability

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development

Places and Policies Local Plan Submission Draft (2019)

HB1 – Quality Places through Design

HB8 - Alterations and extensions to residential buildings.

NE6 – Land stability

Core Strategy Review Submission draft (2019)

SS1 – District Spatial Strategy

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.5 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 NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change
Flood Risk and Coastal Change
Natural Environment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'*.
- N3 - Support rich and varied biodiversity

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Land stability

a) Principle of development and sustainability

7.2 The principle of a supported decking area in this location has already been established by the 2014 permission and this planning permission was lawfully implemented within the three year time period as the other works approved under 2014 have been undertaken. Therefore the consent for the decking as originally permitted remains intact and can be built out.

7.3 As such, the key consideration is whether the additional 980mm would result in a significantly greater detrimental impact on the visual amenity of both the locality and neighbours of the site. These considerations are set out below.

b) Design/layout/visual amenity

7.4 In terms of design, the decking has been constructed of timber with wooden balustrade and steel supporting posts. These materials are as originally set out under the 2014 application and no objections are raised.

7.5 The overall design itself has not differed significantly from the original scheme, the proposal is still for an elevated decking area, constructed of timber, with timber balustrade, steps and supports that run into the bank. The decking area has been constructed from the rear façade of the main dwelling and the layout remains very similar to that previously approved. For this reason, it is considered that the design and layout would be acceptable.

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- 7.6 The decking area is not readily visible from a public place, although glimpses of it can be seen from Seabrook Road, to the south, through the gaps in the houses.
- 7.7 It is accepted that the decking as constructed does exceed the parameters of the earlier planning permission and has now resulted in structural supports that are approximately 4.8m in length, some 2.3m longer than approved. In this regard it is accepted that this has resulted in greater visual impact as the metal supports are now significantly longer than as previously approved. The visual impact is further exacerbated by the material of the supporting posts and the fact that the structure faces south, leading to the supports being more visually apparent due the reflective metal surface. With this in mind Officers recommend that should Members resolve to grant planning permission, a condition be attached stating that the supports should be powder coated in a dark brown or dark green shade with a matt paint finish to help reduce the visual impact from the streetscene and from the neighbouring perspective.

c) Residential amenity

- 7.8 The issues surrounding neighbouring amenity have already been concluded as acceptable in principle by the approval of the 2014 application. The role of the LPA in this case is to assess whether any overlooking from the enlarged decking would allow for views above and beyond those already deemed to be acceptable under the 2014 application. Consideration must also be given as to whether outlook as a result of the increased size would be further unacceptably impacted upon, to neighbours' detriment.
- 7.9 Having visited the site and seen the area from various locations on the (near completed) decking, Officers are of the opinion that the views obtainable from the increased 980mm area of decking do not give rise to increased levels of overlooking, above and beyond those already obtainable from the decking area as approved. As such it is considered that overlooking of neighbouring properties is not significantly worse than under the previous planning approval and it would not be appropriate to refuse the decking on the grounds of increased overlooking. It is accepted that the nearby residents perception of overlooking may have increased but Officers are satisfied that increased levels of overlooking from the enlarged area are no greater than from other areas within the decked area that already has the benefit of planning permission. For these same reasons, the impact on neighbours' outlook would not be much altered above and beyond that of the original permitted scheme.

d) Land stability

- 7.10 The findings contained within the structural soil stability Report, which has been produced by a competent and suitably qualified professional body (KSI Ltd) conclude that the proposal would not result in works that would have an adverse effect on the slip area. Any planning approval would be accompanied by a suitably worded condition that requires the applicant to carry out the works in accordance with the details and recommendations as set out in the soil stability report and that upon completion confirmation from a suitably qualified engineer shall be submitted to and approved by the LPA prior to its first use. As such, this is not considered to be of concern to Officers and meets the aims of saved Policy BE18.

Environmental Impact Assessment

7.11 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.

Human Rights

7.12 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

7.13 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

7.14 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.

8. CONCLUSION

8.1 It is considered that planning permission should be granted subject to conditions to allow the retention of the decking area subject to the steel supports being painted with a dark matt paint and maintained, and that the works are carried out in accordance with the recommendations and conclusions as set out in the accompanying soil stability report. Evidence that these have taken place is to be submitted and approved by the LPA.

9. BACKGROUND DOCUMENTS

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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. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The development hereby permitted shall be retained in accordance with the details shown on drawing numbers 14012/PL01, 14012/PL03 and 14012/PL10 Rev C, received 2nd August 2019.

Reason:

For the avoidance of doubt and in order to ensure that the development is in accordance with the aims of saved local plan policy SD1 of the Shepway District Local Plan Review.

2. Within 3 months of the date of this permission, the metal supports shall be painted dark brown / green using a suitable outdoor matt paint and the finished paintwork shall be retained and maintained accordingly until such times as the structure is removed.

Reason:

In the interest of visual amenity

3. a) The development hereby permitted shall not be carried out except in accordance with the details and recommendations as set out in the soil stability report produced by 'KSI Ltd' dated 2014, received 2nd August 2019.

(b) No works other than those approved shall be carried out unless details of these have first been submitted to and approved by the Local Planning Authority.

(c) All works recommended in the approved ground investigation report shall be carried out as set out in the approved documents and upon completion confirmation from a suitably qualified engineer that the approved works have been carried out in full shall be submitted to the Local Planning Authority prior to the building being occupied.

Reason:

The site lies within, or within the influence of an area identified as being subject to soil instability as detailed on the Ordnance Survey Geological Survey and it is necessary to ensure that appropriate works are carried out in order to ensure the stability of the site and the development and the adjoining land and buildings in accordance with policy BE19 of the Shepway District Local Plan Review and PPG14: Development on Unstable Land.