

Application No: Y16/0724/SH

Location of Site: Ferne Lodge 87 Seabrook Road Hythe Kent

Development: Outline application for the erection of a block of 20 sheltered housing units (Class C3), following the demolition of the building on the site, with the matter of 'Landscaping' reserved for future consideration.

Applicant: Mr G Ferrier
Lucas Design & Construction
11A West Street
Reigate
Surrey
RH2 9BL

Date Valid: 29.07.16

Expiry Date: 28.10.16

Date of Committee: 29.11.16

Officer Contact: Mrs Wendy Simpson

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

- 1.1 This application is submitted in outline form involving the demolition of the existing guest house on the site and the construction of a single block of 20 sheltered housing units. The units are however to be market housing 'sheltered housing' units under a C3 use class (residential).
- 1.2 This application considers matters of Access, Layout, Scale and Appearance with only the matter of 'Landscaping' reserved for future consideration. The proposed building would have a T-shaped footprint with the rear element projecting roughly centrally from the rear of the frontage element. The frontage element of the building would run parallel to Seabrook Road and would be four storeys in height. The rear projecting element would be constructed from a ground level about one storey higher than that of the frontage element and would then be two storeys high.
- 1.3 The proposed building form is a large flat roofed block with the third storey of the frontage element slightly stepped in from the building sides and stepped back from the front elevation to allow the creation of roof-top balconies. Within the frontage element there are both forward and rear facing apartments that are mostly to be served by balconies either in recessed locations, created through steps in the built form, or as projecting, attached balconies. Flats in the rear projection element do not have projecting balconies. To the front of the block is also proposed an

architectural roof-level 'wave' in contrast to the flat roof form of the rest of the block.

- 1.4 The proposed materials palette is not detailed in the submission. The Planning and Design Statement states *'Materials will be submitted at detailed planning stage rather than this outline stage. It is anticipated that walls will comprise two shades of render with windows and door frames to be grey.'*
- 1.5 The internal layout of the block is such that there will be 19 two-bedroomed apartments and 1 one-bedroomed apartment. Each would provide an open plan kitchen/living/dining area with a separate bathroom. The two bed apartments would also feature one en-suite bedroom. At lower ground floor level would be provided a 'communal area' in the entrance hall adjacent to a reception area, a public w.c. and manager's office. A communal 'owners lounge' is to be located at first floor level. There is also a communal garden proposed to the rear of the block.
- 1.6 Vehicle access to the site is proposed via a single, fairly central access point from Seabrook Road. Parking is to be provided with four spaces to the front of the building, then the vehicle access road proceeds to the eastern side of the building to a car park for 18 cars in the eastern half of the rear of the site. (Some excavation of the bank to the rear is required to provide the rear parking area.) Parking is proposed to be on a 'first come first serve' basis for residents.
- 1.7 The Planning and Design Statement details that a buggy store is to be located to the rear of the building, which will also be used for cycle parking, and a bin store will be provided in the front garden.
- 1.8 In respect to the residency restrictions and support provision aspects of the proposed units the applicant details in the Planning and Design Statement that:
 - The age restriction proposed for the development is 60 years old, however purchasers that are over the age of 60 with a partner of over 55 may also take up residence in the units;
 - A property manager will be employed by the management company who will provide assistance to the residents and will ensure safety and security of the block. The property manager will be on call 24/7 but will have a physical presence on the site for a minimum of six hours a day;
 - The property manager will manage the day-to-day running of the property, including management of services, garden maintenance, general building upkeep and the requirements of the residents.
- 1.9 In support of the application has been submitted an Ecology report, Arboriculture Method Statement, Planning Statement and Design and Access Statement. In the Planning and Design Statement. The applicant advises a report addressing the viability of the current use of the guesthouse has been produced but this has not been submitted with the application and when a copy has been requested it has not been forthcoming.

2.0 LOCATION AND DESCRIPTION OF SITE

- 2.1 The site lies within the settlement boundary of Hythe. The site is located on the northern side of Seabrook Road and is currently occupied by what was historically a large dwelling within a large plot, but for many years has operated as a bed and breakfast guest house business, planning permission having been granted for such use in 1982.
- 2.2 The site slopes upwards from the road so that the rear boundary is a few metres above the height of the level of the road. The rear garden of the property is somewhat overgrown with trees and shrubs around the boundaries of the rear garden. The front garden is of mowed lawn with separate ingress and egress points and parking within the front garden area.
- 2.3 To each side of the site are blocks of flats of very different ages but within the wider area are dwellings of generally characterful appearance.
- 2.4 The Local Plan maps show that the site falls within areas designated as an Area of Special Character and an area of known land instability.

3.0 RELEVANT PLANNING HISTORY

There is much planning history in respect to this site the most relevant of which is below:

- Y11/0939/SH Outline application for the erection of two dwellings to rear with garages and access. (Approved) *[This planning permission did not result in the loss of the guesthouse.]*
- Y05/1554/SH Change of use of guest house to residential dwelling (Resubmission of Y04/1359/SH). (Refused) *[Due to loss of tourist accommodation.]*
- Y04/1359/SH Change of use of guest house to a residential dwelling. (Refused) *[Due to loss of tourist accommodation.]*
- Y02/1180/SH Outline application for the erection of 24 apartments with underground parking following demolition of existing guest house. (Refused) *[Due to loss of tourist accommodation and that insufficient evidence has been submitted of the scale of the development to demonstrate that there would be no harm to the character of the area.]*
- Y01/0860/SH Outline application for the erection of residential flats following demolition of existing guest house (Withdrawn)
- 92/0840/SH Change of use from guest house to residential home for the elderly (Refused)

- 90/0734/SH Outline application for the erection of a detached house (Refused)
- 90/0046/SH Change of use from guest house to residential home for the elderly (Refused)
- 82/0093/SH Change of use from dwelling to guest house (Approved)

4.0 CONSULTATION RESPONSES

4.1 Hythe Town Council

Support due to the need for sheltered housing subject to adherence to the existing building line. Members requested that issues of surface water strategy and a review of the quantity of parking spaces be considered. It was felt there were insufficient parking spaces detailed on the outline application.

4.2 KCC Highways and Transportation

The proposed parking provision should ensure that vehicles associated with the site do not overspill onto the A259. The existing footway is 2m wide which allows for adequate visibility for vehicles joining the highway.

I can confirm that provided the following requirements are secured by condition then I would raise no objection on behalf of the local highway authority:-

Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Use of a bound surface for the first 5 metres of the access from the edge of the highway.

Provision of measures to prevent the discharge of surface water onto the highway.

Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to occupation of the of the site commencing.

Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.

Closure of the existing accesses prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

INFORMATIVE: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of

highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

4.3 Arboricultural Manager

I can confirm that I have no objections to the outline application for the erection of a block of twenty sheltered housing units.

I would however like clarification as to the root protection area calculations for the retained trees. This information appears to have been omitted from the supporting arboricultural method statement.

All tree protection as specified in the arboricultural method statement will need to be installed (at the correct RPA distances once established) prior to the demolitions contractors site occupation.

4.4 Southern Water

The results of an initial desk top study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework.

Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system. You will be required to provide a topographical site survey and/or a CCTV survey with the connection application showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed foul flow will be no greater than the existing contributing flows.

Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any permission. "Development shall not commence until a drainage strategy detailing the proposed means of foul disposal and a implementation timetable, has been submitted to and approved in writing by, the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable:.

We suggest the following informative: 'The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/development should contact Southern

Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel 0330 303 0119) or www.southernwater.co.uk” in order to progress the required infrastructure.

The Councils Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

We request that should this application receive planning approval, the following condition is attached to the consent. “Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water”.

The detailed design for the proposed basement should take into account the possibility of the surcharging of the public sewers. We request that should this application receive planning approval, the following informative is attached to the consent. “Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding”.

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its conditions, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

4.5 Kent County Council LLFA

Unfortunately no surface water drainage strategy has been provided for the proposed development. We would therefore recommend the application is not determined until a surface water drainage strategy has been provided for consultation.

Our Drainage and Planning Policy Statement sets out how Kent County Council, as Lead Local Flood Authority and statutory consultee, will review drainage strategies and surface water management provisions associated with applications for major development and should be referred to for our submission requirements. This is available to download at www.kent.gov.uk

4.6 Landscape and Urban Design Officer

Ferne Lodge is an attractive detached house set within a large garden. It typifies the historic character of this part of Hythe. Over recent years there has been a trend towards intensifying the use of land on the escarpment with an increase in the number of apartment blocks, which tend to be larger and more dominant.

The application is a further example of this and would increase building densities in the immediate area. This is evident in the elevations within the Design and Access statement that demonstrate how the mass and form of the proposed building form a wall of development along this section of Seabrook Road, creating more of a suburban feel, one that is more associated with larger town rather than that of a modest seaside town.

The recent developments that are illustrated in photographs 12 -15 are set within more open areas, which avoids the sense of enclosure that would arise from this application.

Conclusion

The proposed development is too large and is detrimental to the character of this area of Hythe. Ferne Lodge should be retained as it makes a strong contribution to the overall character of the area.

4.7 Environmental Health

Standard contamination conditions.

4.8 Housing Strategy Manager

Based on the proposed scheme, an affordable housing commuted payment would be the best outcome for us to enable the delivery of the affordable housing on an alternative (based on an overall 30% affordable housing contribution).

4.9 KCC Social Services

No response

5.0 PUBLICITY

5.1 Neighbours notified by letter. Expiry date 29.08.2016

5.2 Site Notice. Expiry date 08.09.2016

5.3 Press Notice. Expiry date 08.09.2016

6.0 REPRESENTATIONS

6.1 11 letters/emails received objecting on the following grounds:

- Frontage planting will not be able to disguise the vastness of the building;
- Building too large for the plot, overwhelming the site;
- Insufficient parking is provided for all staff also and will result in an overflow of car parking onto Seabrook Road;
- There is a 'sufficient quantity' of 'special homes' already along Seabrook Road;
- The report on the loss of the Bed and Breakfast accommodation is missing from the submission pack;
- The loss of the B and B will be to the detriment of Hythe's economy which comes from tourism and visitors;
- Noise and disturbance to neighbours from the cars using the parking to the rear of the building together with the use of the back garden by residents;
- Loss of privacy to properties to the to the rear, including living rooms and bedrooms;
- Overshadowing of gardens to the rear;
- Loss of daylight to properties to the rear;
- Existing drains/sewerage pipes will be affected by the proposal;
- Flooding is an existing problems on the site with the existing drains;
- No drainage strategy has been submitted with the application;
- The existing guest house is an asset to the local economy of Hythe and is well used;
- The proposed flats comes forward of the other flat blocks on the street;
- Will cause loss of light and privacy to occupiers of Horizon as well as causing overshadowing;
- The development is of poor design, ugly and out of scale with its surroundings;
- Increase in the risk of accidents on this busy road;
- The resultant solid line of flats is an ugly entrance to Hythe town;
- Will set a precedent for the loss of other guest houses on the street which have also been refused permission;
- The combined building an car park will grab most of the garden land and reduce the open aspect of the neighbourhood;
- Sheltered housing should be nearer to amenities;
- No evidence for the need of this type of accommodation has been submitted;
- No landscaping proposal has been submitted but soft landscaping will be minimal or possibly no greenery;
- The diversity of architecture makes Hythe a pretty town but the demolition of houses and replacement with flats lack space and land around them;

- Another large building will look overbearing;
- The demolition of Ferne Lodge would harm the existing character of the area;
- Light pollution from the flats and houses will be detrimental to houses behind;
- The existing building is an attractive B and B visually and is reasonable close to the channel tunnel and Dover ferries;
- Loss of light to flank wall windows of 89 Seabrook Road;
- An excessive number of flats is proposed;
- Houses will overlook the proposed site;

7.0 RELEVANT POLICY GUIDANCE

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

7.2 The following policies of the Shepway District Local Plan Review apply: SD1, BE1, BE12, BE16, BE19, HO1, U2, U10, U10a, TR5, TR11, TR12, CO11, TM2

7.3 The following policies of the Shepway Core Strategy apply: DSD, SS1, SS2, SS3, SS5, CSD1, CSD2, CSD3, CSD5, CSD7

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework particularly paragraphs: 7, 9, 14, 17, 32, 50, 56, 57, 58, 109, 120, 121, 203, 204
National Planning Policy Guidance

8.0 APPRAISAL

Background

1.1 There has been a long history of applications on this site, including refusals for the redevelopment of the site. The last of these applications was under reference Y05/1554/SH (Change of use of guest house to residential dwelling - Refused). The reasons for refusal of that application were:

“The proposal to change the use of the existing guesthouse to a private dwelling house would have a harmful effect on the availability and range of holiday accommodation within the district to the detriment of the local economy, contrary to policy TM2 of the Shepway District Local Plan Review and to policy FP11 of the Kent and Medway Structure Plan: Deposit Plan, which are intended to resist the loss of visitor accommodation unless it is no longer practicable to use the premises for that purpose.”

8.2 Following the refusal of that application planning permission was granted for the erection of two dwellings in the rear part of the plot, keeping the existing building in place on the site. That planning permission was granted under reference Y11/0939/SH (Outline application for the erection of two dwellings to rear with garages and access - Approved) but this permission has now expired without being implemented.

Relevant Material Planning Considerations

8.3 The main matters for consideration are:

- Principle;
- Loss of Tourism Accommodation;
- Sustainability;
- Design/Visual Amenity;
- Amenities;
- Highways and Parking;
- Ecology;
- Contamination;
- Flooding/Drainage;
- Land Instability;
- CIL;
- Obligations;
- Affordable Housing;
- Human Rights.

Principle

8.4 The part of the site on which the building is proposed is within the urban boundary on the Local Plan maps.

8.5 Therefore, at a very basic level the site is not excluded from consideration for redevelopment, but the proposal then needs to be considered in detail against other policies and guidance at national and local level in terms of the specifics of the proposal.

Loss of Tourism Accommodation

8.6 Policy CSD3 of the Shepway Core Strategy says that *'Tourist, recreation and rural economic uses will be appropriately protected and new development allowed within defined settlements in the Settlement Network'*

8.7 Saved policy TM2 of the Shepway District Local Plan Review states that:

"Applications for the change of use or redevelopment of hotels/guest houses, self catering units or caravan and camp sites, which would result in a loss of visitor accommodation will only be permitted where it can be shown that it is no longer practicable to use the premises as holiday accommodation by reason of one of the following criteria:-

1. *The standard and type of accommodation that is, or could be provided at reasonable cost, is unsuited to meet visitor demands;*
 2. *In the case of hotels and guest houses, the premises or site are poorly located in relation to the areas of main tourist activity or tourist routes, and uses in the immediate vicinity are predominantly unrelated to tourism or incompatible with continued tourist use of the premises.”*
- 8.9 In the Planning and Design Statement (point 4.17) the applicant advises ‘A separate report by Stiles Harold Williams addresses...the viability of the current use which has struggled for a number of years.’ However a copy of this report has not been submitted with the application and when requested by the case officer it has been advised it will be supplied a number of times but no report has been received.
- 8.10 Therefore, no evidence has been submitted to support the element of the loss of the existing tourist facility and objection to the proposal is raised under policies CSD3 of the Core Strategy and TM2 of the Local Plan.

Sustainability

- 8.11 At a national level the National Planning Policy Framework [NPPF] presumes in favour of sustainable development (unless harm will result from the proposal) as does policy DSD of the Shepway Core Strategy and policy SD1 of the Shepway Local Plan Review. The NPPF defines ‘Sustainable development’ as having three dimensions: economic, social and environmental.
- 8.12 Being located on previously developed land, within the urban boundary of Sandgate and close to main bus routes and within a reasonable distance of local amenities, it is considered that the proposal is in a sustainable location.
- 8.13 In term of water sustainability, policy CSD5 of the Shepway Core Strategy in part requires that all developments should incorporate water efficiency measures. The policy states development for new dwellings should include specific design features and demonstrate a maximum level of usage should be of 105 litres per person per day or less. This usage level figure is adjusted to 110 litres per person per day under the guidance of Building Regulations Approved Document G (which came into effect in October 2015). This can be controlled by planning condition and no objection is raised in respect of this element of policy CDS5 of the core strategy.
- 8.14 In terms of Sustainable Drainage Systems (SUDs), from 6 April 2015 the Department for Communities and Local Government (DCLG) required that planning authorities will ensure that SUDS systems are put in place via decisions on all planning applications for major development received after that date. In this case the applicant has indicated on the application form that the surface water will drain to soakaways. However, the Kent County Council, as the Local Lead Flood Authority (LLFA) for the area, advises that no surface water drainage strategy has been provided for the proposed development. (The Sandgate area is known to at times have limited options

for surface water management and the site is within an area of known land instability, as identified on the local plan maps.) This matter is discussed further at the 'Flood/Drainage/Contamination' section of the report.

Visual Amenity/Design

- 8.15 The NPPF and saved local plan policy BE1 require new development to be of 'high quality' housing in terms of the appearance of the development, ensuring that the development density is appropriate for its location, the impact on the street scene and character of the area and also the functionality and layout of the development design. Paragraph 9 of the NPPF seeks positive improvements in the quality of the built environment (in part) by the 'replacing poor design with better design'. Para 56 of the NPPF says that 'good design is a key aspect of sustainable development'. Para 57 and 58 refer to high quality and inclusive design, that is visually attractive as a result of good architecture and appropriate landscaping, that adds to the overall quality of the area and responding to local character and history and reflecting the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.
- 8.16 The application site also falls within an area identified on the local plan as being a designated Area of Special Character [ASC], which is protected under saved policy BE12 of the Shepway District Local Plan Review. Policy BE12 reads '*Planning permission for further development within the following Areas of Special Character as defined on the Proposals Map will not be granted if the development will harm the existing character of that area, by reason of either a loss of existing vegetation, especially in relation to important skylines; or a greater visual impact of buildings...*'
- 8.17 It should be noted that although this application is of an 'outline' form all matters are to be considered and decided now other than the matter of 'Landscaping'. Therefore, whilst the applicant advises in the Planning and Design Statement that '*Materials will be submitted at detailed planning stage rather than this outline stage*' this is incorrect as the detailed assessment of the matter of 'appearance', which includes the palette of materials, takes place now. This matter cannot be conditioned. The applicant has continued stating that '*It is anticipated that walls will comprise two shades of render with windows and door frames to be grey*' and as such the proposal will be assessed on that basis.
- 8.18 In respect to assessing the design of the proposed development the setting of the site should be understood so it can be concluded whether the development meets national guidance requirements and local plan policies of adding to the overall quality of the area and responding to local character and history and reflecting the identity of local surroundings and materials.
- 8.19 Although this part of Seabrook Road is not a conservation area it is considered to have an attractive character. Generally the style in the area is late Victorian, the older houses designed in a mock Tudor style with irregular arrangements of steep tiled roofs with extensive use of painted mock half-timbering, wide overhanging eaves, barge boards, jettied gables

and other vernacular features, and in one case, an octagonal feature. These houses set the character of the area – they are substantial, commodious buildings with real architectural quality. The attractive character of the area is further enhanced with mature garden plantings, hedgerows and trees, although the formerly less dense layout has been intensified by extensions to many of the houses, some of which are now converted to nursing homes. The housing up on the hillside behind the Seabrook Road properties is somewhat more exclusive with larger, traditionally designed and detached houses set on generously wooded plots all accessed from the private roadway Cliff Road.

- 8.20 Generally the traditional Victorian/Edwardian style houses are arranged in a loose line set well back from the road with hedged front yards and shrubberies. To the east, past 'Evelyn Court', the character of the area changes and is more urban with attached buildings set close to the front of their sites and for this reason it would seem this area is excluded from the Area of Special Character. This is not considered to be the context within which the application site is seen.
- 8.21 In contrast however to the dominant, wider character of the area in which the application site is located are two obvious exceptions, which are to either side of the application site. Evelyn Court is to the east and Horizon is to the west. These buildings are considered to be exceptions in terms of their scale, setting within their respective plots and design. Evelyn Court being 1960s flat roofed modernist and Horizon being a type of modern/post-modern vernacular. It is not considered that the existence of either of these buildings should be the persuading factor for future design of the whole area.
- 8.22 In terms of the existing property on the application site, the guesthouse has a wide frontage facing the road with an additional small wing extension up to the rear. Fern Lodge has an attractive character. Its vernacular Surrey style gives it an attractive composition with large and small gables, etc, but it is more recent than the Victorian and Edwardian houses in the area. It is, however, typical of the sort of good quality houses found in affluent interwar suburbs throughout the south of England. The garden landscaping is also traditional with ragstone retaining walls, gravel driveways and shrubberies, although the gardens are neglected and overgrown, especially at the rear where there has been some clearance. Tree and shrub growth screens the two more modern houses at the rear and gives the impression of a wooded hillside which forms a backdrop to the Sandgate Road houses. The existing development on the site is considered to compliment the pleasant, informal, spacious character of the wider character of the area in which the site is located.
- 8.23 The proposal is to demolish Fern Lodge and replace it with a large four storey block of flats. The block would be set forward in the plot, slightly proud to the two blocks either side, and with a two storey rear wing set at a higher ground level extending back deep into the plot beyond the line of 'The Coach House' to the west of it. Access would be from the centre of the plot with a driveway and visitor parking in front of the building and an

access driveway up the right hand side (east) to a parking area at the rear excavated out of the hillside with a large retaining wall. The style is modern with an exposed frame and balconies and a penthouse suite set back slightly from the façade with a wavy profiled roof.

- 8.24 Overall the proposed building is considered to be of a considerable mass and bulk and of limited architectural merit, with an expanse of flat roof.
- 8.25 It is acknowledged that Horizon is a large and broad building but, whilst not considered to be completely successful, the pitched roofs and gables hiding the top floor help to ameliorate the bulk. Horizon is also however set forward in its plot, well forward of the general building line. It has a symmetrical architectural style and although slightly more traditional, it could be argued that the design is not considered to necessarily relate well to its more traditional neighbours. The general design and use of slate on that building generally jars with the locality and more widely used traditional palette of materials. The other adjacent block, Evelyn Court, is a building of its time and not considered to be of good architectural design or merit. Both of the adjacent blocks have areas of forecourt driveways/parking that are excessive and are considered to detract from the character of Sandgate Road. The rear parking courts of both adjacent buildings are harsh and hard, that behind Horizon particular so, with parking right up to the boundary retaining wall and no space for planting at all. These buildings are not considered to create a precedent for future development of this area, which is characterised by spacious plot sizes.
- 8.26 Notwithstanding the adjacent apartment blocks therefore, the design of the proposed development for replacement of Ferne Lodge is considered to be overly large and prominent, even when compared with the neighbouring flats. The proposal is set forward of the line of both the neighbouring blocks and the rear wing extends deep into the site, well beyond the generality of development along Sandgate Road. The site layout is poor with most of the frontage given over to a driveway, parking and bin storage. Parking at the rear cuts deeply into the hillside, destroying the wooded character of the hillside behind the house.
- 8.27 The architectural style is unremarkable, even by comparison to its neighbours, resulting in a very stripped back block with exposed structure and which does not create an attractive character. The wavy topped penthouse roof appears on this building to be somewhat of a gimmicky addition and not part of a holistic design approach. The side elevation is blank and plain and overall the bulk and mass of the building would appear out of character to the area, notwithstanding the flat blocks on either side. Likewise the materials are not sourced from the local area but would contrast generally with the more widely used traditional palette of materials.
- 8.28 It is considered that the proposed building would detract from the character of the area. Furthermore, the rear block, involving significant excavations and also to provide the parking area, would destroy the wooded character of the site.

- 8.29 (It has been noted recently by an inspector at a recent appeal that the BE12 policy does not make reference to the pattern of garden layouts being a significant factor in the environmental quality of Areas of Special Character in the local plan. In the same assessment the inspector also noted that *'the policy does not...seek to prevent any additional visual impact or loss of vegetation but only where that would result in a detrimental or harmful effect to the existing character of that [ASC] area.'*) In this case the scale and mass of the proposed building and the loss of the trees to the rear of the site are considered to harm the existing character of the Area of Special Character in which the site is located.
- 8.30 Overall the proposal is not considered to represent 'high quality' housing in term of the scale of development, its appearance and the layout of the development. The scale of the development and the amount of rearwards projection into the site, including the provision of a car park in the rear part of the plot, far past the development limits of other sites, is not considered to be appropriate in this location. The building also would project forward of the buildings in the area and provides little opportunity for significant frontage landscaping, whilst also removing shrubs and tree planting within the rear of the site that is currently apparent between the buildings. This, together with the resultant appearance of the building in terms of architectural design, detailing and materials, is considered to have a harmful impact on this part of the street scene and the general pleasant, green and spacious character of the area. The proposal fails to provide positive improvements in the quality of the built environment as it does not replace 'poor design with better design'. The proposal overall is not visually attractive as a result of good architecture and appropriate landscaping and does not add to the overall quality of the area or respond to local character and history and reflect the identity of local surroundings and materials.
- 8.31 Objection is therefore raised to the appearance, scale and layout of the proposal under national guidance and local plan policies.
- 8.32 An assessment of the value of the existing building as a 'undesigned heritage asset' has been carried out in line with paragraph 135 of the NPPF. The conclusion of this assessment, having also researched the historic use of the site, is that whilst Ferne Lodge has an attractive character and composition the building is not of such an exceptional quality or age to warrant protection as an undesignated heritage asset.

Neighbouring Amenity

- 8.33 Policy SD1 of the Shepway Local Plan Review and paragraph 17 of the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and future occupiers of a development.

Amenities of Future Occupiers

- 8.34 In this case the size of the units is considered to be acceptable for the proposed number of occupants for those units. Future occupiers will receive adequate daylight to their rooms and benefit from acceptable levels of

outlook. Flank wall kitchen windows, in the western flank of the front block, can be fitted with fixed, obscure glazing to prevent a loss of privacy window-to-window with flats in Evelyn Court. This can be controlled by planning condition.

Neighbouring Amenity

- 8.35 It should be noted that Horizon to the west has no habitable windows in its eastern flank, facing the site. In Evelyn Court there appear to be sole habitable room windows on all floors in the western flank facing the application site. It is noted however that the ground floor level window currently faces dense shrub hedging within the application site and therefore currently has a much diminished level of outlook or daylight.
- 8.36 Due to the proximity of the proposed building to the western flank wall windows of Evelyn Court, the proposal fails the basic British Research Establishment [BRE] test for the impact of daylight on the rooms with windows in the flank. No daylight/sunlight report has been submitted with the application (such as one based on BRE best practice) to demonstrate the impact on daylight of the rooms in Evelyn Court is of an acceptable level. Without such evidence it is not possible to be able to fully assess this aspect of the impact on neighbours' amenities. However, it is noted that the ground floor level window currently faces dense shrub hedging within the application site and therefore it currently has a much diminished level of outlook or daylight. It is also taken into account that the top floor level of the frontage building steps back slightly from the flank and the matter of the impact of daylight is likely to be closely balanced. (Officers have not requested the submission of a daylight/sunlight report as this is not the single point of concern in respect to the proposal.)
- 8.37 In respect of loss of privacy from flank wall windows between the proposed building and Evelyn Court the kitchen windows in the eastern elevation of the front block of the proposed building can be fitted with fixed, obscure glazing to mitigate against a loss of privacy. This could be controlled by planning condition.
- 8.38 In respect of the rear projecting element, this may result in overlooking of surrounding sites from windows in the rear projection but not at such close proximity that would warrant the refusal of the application. Neither would the extent or duration of the overshadowing from the proposal warrant the refusal of the application.
- 8.39 In terms of outlook from the habitable room windows in the western elevation of Evelyn Court, the proposed gap between the buildings would be about 12m. At this distance it is considered that occupiers of the lower units of Evelyn Court may feel dominated by the presence of the proposed four storey building to its west. It is however taken into account that currently the ground floor flat, with a window in the western elevation of Evelyn Court, faces onto dense shrub hedging at a close proximity and currently has only a very limited outlook. The matter of the impact of the proposal on the outlook

from flats with windows in the western elevation of Evelyn Court is also finely balanced.

- 8.40 The proposal is also seeking to introduce a large car park to the rear of the site with the access road running past the habitable room windows of Evelyn Court at a distance of about 5m from the windows. The amount of vehicle movements associated with the access road to the car park would cause a material level of noise/disturbance to the living conditions of occupiers of those flats in the western part of Evelyn Court.
- 8.41 In respect of surrounding properties other than Evelyn Court the layout of the proposal and the layout of adjacent sites is such that no material harm will occur to those neighbours' amenities in terms of loss of outlook, privacy, daylight or overshadowing.
- 8.42 Overall objection to the proposal is raised in respect to harm to the living conditions of the occupiers of Evelyn Court by way of loss of noise and disturbance under both national and local policies and guidance. It is also noted that no daylight assessment has been provided to demonstrate the impact on the rooms served by flank wall windows in Evelyn Court.

Parking/Highways

- 8.43 Policy TR12 of the Shepway Local Plan Review relates to car parking levels to serve new development and currently the Council uses the Kent County Council Interim Parking Note 3 as its standards under this policy. Policy TR11 relates to the impact of new development on the highway network. Policy TR5 relates to the provision of cycle parking. Paragraph 32 of the National Planning Policy Framework states that *'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'*
- 8.44 This proposal allows for the provision of 22 car parking spaces for 20 residential units and their visitors. (It is noted that the Planning and Design Statement refers to the provision of 23 parking spaces but the proposed site layout plan PL002 only shows 22 parking spaces.)
- 8.45 Cycle parking and buggy parking is proposed in an external store to the rear of the building adjacent to the rear car park. The building is about 3m by 2.5m size that may be the buggy/cycle store. However no elevations have been provided and a building of this size would not be able to store 20 cycles in addition to buggies. (This application is for consideration of all matters other 'Landscaping' and as such these details should have been submitted with the application.) The applicant has not been asked to provide revised/additional details as this is not the single item of concern in respect to this proposal.
- 8.46 Currently the site has separate ingress and egress points from Seabrook Road but the current proposal has a single ingress/egress point located fairly centrally within the front boundary length.

- 8.47 Some residents have raised concern with respect to the impact of the additional traffic generated from the development on the existing road network. In addition they perceive overflow parking will occur on Seabrook Road.
- 8.48 However the Kent County Council Highway and Transportation Officer does not consider that the proposal will result in severe cumulative traffic impacts to the road network and does not raise any objection with respect to the parking and highways aspects of the proposal. They advise that *“The proposed parking provision should ensure that vehicles associated with the site do not overspill onto the A259. The existing footway is 2m wide which allows for adequate visibility for vehicles joining the highway.”* They therefore do not object to the proposal, subject to planning conditions that would prevent the flow of surface water onto the highway, provide wheel washing facilities during construction, provide adequately for construction related vehicles, secure the retention of the 22 parking spaces for residents and their visitors, suitably surface and drain the vehicle areas; provide and maintain 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level; provide and retain cycle parking facilities and ensure closure of the existing accesses prior to the use of the site commencing.
- 8.49 Therefore, there is no objection under saved policies TR11 or TR12 to the car parking levels proposed or proposed vehicle access subject to suitably worded planning conditions, no objection is raised to the provision of cycle parking under saved policy TR5 of the Shepway District Local Plan Review.

Ecology

- 8.50 The matter of ecology falls under the ‘environmental’ aspect of sustainable development and the NPPF seeks to minimise impacts on biodiversity and provide net gains in biodiversity where possible. Saved policy CO11 of the Shepway Local Plan Review states that permission will not be given for development which would endanger plant or animal life protected under law or if it causes the loss or damage to habitat and landscape features of importance to nature conservation. This is unless the need for the development outweighs the nature conservation considerations and mitigation measures are undertaken to fully compensate for remaining adverse effects.
- 8.51 In this case an Ecology report has been submitted with the application which recommends that a bat survey is required. However no bat survey has been submitted with the application. The Ecology Report also identifies that there is habitat on site suitable for reptiles, amphibians and birds. Although the Ecology report does not then recommend surveys for these species Natural England standing advice advises surveys for reptiles and amphibians should be undertaken if suitable habitat is identified for these on the site. In terms of the impact on birds it is noted that the submitted Ecology Report has not interrogated local records for protected species, which might have informed the likelihood of protected bird species in or around the site and therefore if a

further survey is required. The Ecology Report is not considered to be sufficient in respect of its basic research, content or conclusions.

8.52 The Ecology Report records that no notable flora species were found on the site.

8.53 In conclusion the Ecology Report is insufficient in its assessment of the need or otherwise for species surveys and where the need for surveys has been identified, or the need for such is identified using the Natural England standing advice, such surveys have not been supplied with the application. As such there is insufficient evidence to demonstrate that the proposal will not endanger animal life protected under law or cause the loss of or damage to habitat and landscape features of importance to nature conservation. Objection to the proposal is raised under the relevant national and local policy and guidance.

Contamination

8.54 Saved Policy U10a of the Shepway Local Plan Review addresses contamination risks in respect to new development. NPPF paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

8.55 In this case no Contamination Desk Top Study has been submitted with the application to inform the drainage scheme but the site has been in a residential/guest house use for considerable time (and the current building replaced a previously existing house), is not within a ground water protection zone and the proposal is for flats. As such it is considered acceptable in this case that a desktop study and any mitigation scheme be secured by planning condition. (However, it should be noted that a desktop study will be required to inform a drainage strategy, the absence of which has led to a holding objection from the Local Lead Flood Authority.)

8.56 Notwithstanding the objection by the Local Lead Flood Authority, subject to a suitably worded planning condition(s) no objection is raised in respect to contamination risk under local or national planning policy and guidance.

Flooding/Drainage

8.57 Policy U2 of the Shepway Local Plan Review requires new development of 5 dwellings or more be connected to the main drains system or an alternative method of waste disposal is agreed. Policy CSD5 of the Shepway Core Strategy also requires the wastewater systems be used that do not allow a peak rate and surface water runoff from the site that is not above that of the existing surface water runoff rate. Sustainable Drainage Systems are also required to be used.

8.58 In this case the application form indicates that surface water is to discharge to the ground via soakaways and foul water to the mains drainage system.

8.59 County Council officers, as the Lead Local Flood Authority, have placed a holding objection to the proposal given that no drainage strategy has been submitted for the site. They clarify further *“Unfortunately no information has been provided by the application for this site’s drainage. Soakaways will almost certainly not work in this location and this would leave the likely outfall as the public combined sewer. Southern Water’s response highlights that there are capacity constraints in this area so we would therefore recommend that a basic strategy is provided prior to determination to ensure that appropriate arrangements can be put into place for the management of surface water.”*

8.60 Southern Water have advised that:

“The results of an initial desk top study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework.

Alternatively, the developer can discharge foul flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the sewerage system. You will be required to provide a topographical site survey and/or a CCTV survey with the connection application showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed foul flow will be no greater than the existing contributing flow.”

8.61 This response has been available for view on the Council’s web page but officers have not invited the applicant to provide the additional information required as this is not the single issue of objection to the current application.

8.62 Therefore it is considered that insufficient evidence has been provided to ensure that the proposal will not result in flooding in the wider area as there is insufficient drainage infrastructure in this area to cope with the increased scale of the proposed development. Objection is therefore raised to the proposal under both national and local policy and guidance.

Land Instability

8.63 Saved policy BE19 of the Shepway Local Plan Review requires that development in areas of land instability will not be granted unless investigation and analysis has been undertaken which clearly demonstrates that the site can be safely developed and the proposed development will not have an adverse effect on the slip area as a whole.

8.64 In this case the applicant has not submitted initial reports in relation to land instability. It is noted however that the Council's Building Control Officer considers this matter can be the subject of a planning condition, which indicates that they are confident there will be an engineering solution to any land instability under this proposal. Any such condition would need to be extended to also cover the excavation of the rear bank to allow for the rear car park area and the retaining of the bank. The use of a planning condition is considered therefore to be acceptable for the final details with respect to matters of land stability works and foundation design (both needing to account for drainage infrastructure) and therefore, subject to the use of a suitably worded planning condition(s) no objection is raised to the matter of land instability under saved policy BE19 of the Shepway Local Plan Review and paragraphs 109, 120 and 121 of the NPPF and NPPG 'Land Stability'.

Local Finance Consideration

8.65 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.

8.66 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes for the first six years through the New Homes Bonus. The Government has consulted Councils earlier in the year seeking to reform the New Homes Bonus to be paid over 4 years instead of 6 years, with a possible transition to 5 years. As such only a 4 year value for the New Homes Bonus has been calculated. In this case, the minimum value of the New Homes Bonus as a result of the proposed development is estimated to be approximately £18,739 per annum for 4 years. New Homes Bonus payments are not considered to be a material consideration in the determination of this application.

8.67 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £100 per square metre for new dwellings. (There is no exemption for the provision of Affordable Housing in this case as it would only be if an Affordable Housing provision was to be on site that those units would be exempt CIL liability.)

Obligations - Affordable housing

8.68 Planning obligations are used to mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations are enshrined within the NPPF and are also the subject of policies DSD and SS5 of the Shepway Core Strategy. Planning obligations should meet the tests that they are necessary to make the development acceptable in planning

terms, directly related to the development, and fairly and reasonably related in scale and kind.

- 8.69 Policy CSD1 of the Shepway Core Strategy requires that new housing developments of 15 or more units should provide 30% affordable dwellings on-site or through a financial contribution of broadly equivalent value off-site, subject to viability.
- 8.70 The National Planning Policy Framework states that the burden of planning obligations should be understood in the context of local economic conditions and market realities. The NPPF goes on to say that this should not undermine ambition for high quality design and wider social and environmental benefit but such ambition should be tested against the realistic likelihood of delivery. The NPPF continues that where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.
- 8.71 In this case the applicant has proposed 19 two-bed and 1 one-bed market units, with a restricted residency (as outlined in the 'Proposal' section of this report). There is requirement therefore for 30% of the units to be delivered as affordable housing units – which equates to 6 units. However, in appropriate cases policy does allow for the fulfilment of an affordable housing obligation through a financial contribution of broadly equivalent value off-site, subject to viability.
- 8.72 In this case the Council's Housing Strategy Manager advises that “ *Based on the proposed scheme, an affordable housing commuted payment would be the best outcome for us to enable the delivery of the affordable housing on an alternative (based on an overall 30% affordable housing contribution).*”
- 8.73 Therefore a 'broadly equivalent value' for the 6 required affordable housing units, based in the on-site end value of the proposed units, has been calculated by the Housing Strategy team, basing the figure on an average of recent, similar, new build development in the area, as £555,359. (This sum is based on an average value of a unit sold at full market price as being £237,333. Then to calculate the affordable housing contribution the calculation assumes that a housing association would only pay a developer 61% of a full market price value - and as such the remaining 39% of this value is the value of the off-site payment for the affordable housing contribution. So in this case the 39% of £237,333 would be £92,559 and six times £92,559 would be a figure of £555,359.)
- 8.74 This obligation request has been advised to the applicant and the applicant has agreed to the payment of this obligation contribution in lieu of the provision of affordable housing within the development.

Human Rights

- 8.75 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.

- 8.76 This application is reported to Committee due to support by Hythe Parish Council.

9.0 SUMMARY

- 9.1 At this time therefore officers have concerns on many levels in respect to the proposal. Whilst the proposal is to provide older-age housing on an open market basis, the proposal has been ill-thought through and the required level of evidence that is required to inform the design and layout of the development appears not to have been undertaken.
- 9.2 As such the proposal lacks evidence to justify the proposal in respect to the loss of existing tourism asset, flood risk (by inadequate drainage), daylight and ecology.
- 9.3 The proposal is also found be contrary to policy in terms of matters of scale, massing, appearance, layout, impact on the Area of Special Character, neighbours' amenities and cycle parking.

10.0 BACKGROUND DOCUMENTS

- 10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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

1. The proposed building by virtue of the bulk, scale, massing, design, use of materials, location both forward of adjacent blocks and the projection significantly past the rear of surrounding development, would appear as a dominant, ill conceived block, out of character to the area in which it is located. The proposal fails to respond to the local surroundings, materials or character of the area and is of inferior design quality to the existing building. The very large scale of the building and development to the rear of the site, resulting in the loss of existing tree planting, would be detrimental to the special character of the area in which the site is located. The proposal is contrary to saved policies SD1, BE1 and BE12 of the Shepway District Local Plan Review, policies DSD and SS3 of the Shepway Core Strategy and paragraphs 9, 17, 56, 57, 58 and 64 of the National Planning Policy Framework.

2. No evidence has been submitted to enable assessment of the loss of the existing guesthouse without which the proposal is contrary to saved policy TM2 of the Shepway District Council Local Plan Review, policy DSD and CSD3 of the Shepway Core Strategy, the core principles and the 'economic' aspect of sustainable development within the National Planning Policy Framework, paragraphs 7 and 17 which seek to support business uses.
3. The location of the access road will result in unacceptable increase in noise and disturbance to the quiet residential amenity of occupiers of flats in the western side of Evelyn Court. The proposal is therefore contrary to saved policy SD1 of the Shepway District Council Local Plan Review, policy DSD of the Shepway Core Strategy and paragraph 17 of the National Planning Policy Framework.
4. Insufficient evidence has been submitted in respect of ecological matters to demonstrate that no harm will occur to protected species or their habitat or that any harm realised can be suitable mitigated against. The proposal is contrary to saved policy CO11 of the Shepway District Council Local Plan Review, policy DSD of the Shepway Core Strategy and paragraphs 7, 17 and 109 of the National Planning Policy Framework.
5. No drainage strategy or drainage design has been supplied to demonstrate that the proposal will not result in flooding in the wider area without which the proposal is contrary to saved policy U4 of the Shepway District Council Local Plan Review, policy DSD and CSD5 of the Shepway Core Strategy and paragraph 103 of the National Planning Policy Framework.

Y16/00724/SH
Ferne Lodge
87 Seabrook Road
Hythe

