

**Application No:** Y17/1543/SH

**Location of Site:** Pensand House & Marlborough Court, South Road, Hythe, Kent, CT21 6HH

**Development:** Replacement of existing pitched roof of Pensand House with 6 penthouse apartments arranged over two floors, together with render finish, new windows and balconies to Pensand House and Marlborough Court, and associated hard and soft landscaping

**Applicant:** Mr Sanjay Sharma

**Agent:** Mr Richard Taylor

**Date Valid:** 16.01.18

**Expiry Date:** 13.03.18

**PEA Date:** 03.10.18

**Date of Committee:** 25.09.18

**Officer Contact:** Alexander Kalorkoti

## **SUMMARY**

Planning permission is sought for alterations and extensions to both Marlborough Court and Pensand House, including the creation of six units within a new roof proposed for Pensand House. The report considers that the proposal would constitute an improvement with regard to the appearance of the buildings and the visual amenity of the area, would provide for appropriate residential amenity for future occupants whilst not harming the amenity of surrounding neighbours by reason of overlooking, interlooking, overshadowing, overbearing or loss of outlook, and is acceptable with regard to the flood risk classification of the site. The development is therefore considered sustainable and as required by the provisions

**RECOMMENDATION: That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority given to the Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that**

of the NPPF should be approved, subject to appropriate conditions

## **1.0 THE PROPOSAL**

1.1 The alterations proposed to Pensand House include the replacement of the existing pitched roof with two decks of penthouse apartments, providing a total of six units within the new roof, the rendering of the exterior walls of the building and the installation of new windows and balconies. The proposed works to Pensand House also include an infill extension to the south, between the promenade/sea wall and the main building, which would provide allocated secure storage space in association with the residential units and given the

change of levels from the sea wall/promenade to the main building of Pensand House, the single storey extension would provide an external terrace with link bridges, balconies and planted garden areas above. To the rear/north-facing elevation, the proposal includes the addition of balconies at all levels above ground, which are to be located within the wings of the building which protrude beyond the main central section of the rear elevation.

- 1.2 The proposal also includes the construction of balconies to the first floor with glazed balustrades to the north-facing elevations of Marlborough Court onto South Road and the addition of a render finish to the full extent of the external walls interspersed by new aluminium framed windows, patio doors and new entrance lobbies to both north and south elevations. Throughout Marlborough Court, windows and doors would be replaced with grey powder coated aluminium replacements. The proposed external works also include alterations to the existing hard surfacing and landscaping within the site.
- 1.3 The number of off-street parking spaces within the site would remain unchanged at 66 spaces, However the changes proposed to the width, length and turning areas for the spaces would result in an increase in the number of spaces which are considered to be usable. With regard to the parking requirement of the site, the proposal for six Penthouse apartments would, in accordance with Kent Design Guide: Interim Guidance Note 3, equate to a net increase of 3 parking spaces to serve the proposed residential occupants of Pensand House.
- 1.4 In relation to the boundary treatments included in the proposed external works to the courtyard, a Zaun rigid metal mesh fencing with Russian Vine to the east and west boundaries of the site was initially proposed. Following discussions with the agent, this has been replaced by a 2m high rendered wall with piers with concrete capping features. The rendered wall would be partly finished with rain screen panelling, which is an outer skin to provide additional thermal insulation and prevent water ingress/damage, on the elevations which face in to the site, to match the material to be used to differentiate the ground floor of Pensand House from the rendered residential fenestration above.
- 1.5 In relation to soft landscaping, following discussions with the agent, the proposed Cupressus macrocarpa has been replaced with Pinus mugo, which is suitable for coastal locations such as the application site and is not subject to the build-up of detritus within the crown of the tree.
- 1.6 In relation to hardsurfacing, the proposal includes the use of granite block paving for the access into the site from South Road, the differentiation of parking spaces with concrete block paving and tarmac to the sides of the parking court and Pensand House.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Within settlement boundary of Hythe

- Within flood zones 2 and 3 of Environment Agency flood risk maps
- Hythe, High Street and Vicinity Conservation Area located on the northern side of South Road

### **3.0 LOCATION AND DESCRIPTION OF SITE**

- 3.1 The main buildings of the application site comprise the twenty flats within the two terraces of Marlborough Court that front onto South Road, and the thirty-six flats within Pensand House, which fronts the promenade. Between Marlborough Court and Pensand House is a parking court, accessed via South Road, with additional undercroft parking accessed from the rear of Pensand House, providing a total of 66 spaces.
- 3.2 Marlborough Court is two storeys with facing brickwork, a pitched roof and front and rear dormers designed in a pastiche Edwardian/Victorian terrace style. Pensand House is a five storey building with a hipped and pitched roof form containing both front and rear dormers, as well as south-facing balconies providing sea views at roof level and inset balconies to the lower floors. Pensand House currently has a slate tiled roof with facing brickwork walls, with soldier courses running horizontally across the building to demark each floor.
- 3.3 Marine Parade in Hythe is typical of many seaside frontages. It is defined by substantial terraces many from the Victorian period and large detached houses and, as in the case of Pensand House, more recent blocks of apartments. The substantial terraces, detached houses and apartment blocks of Marine Parade are generally uniform in their appearance, many with white painted stucco finishes, others finished in brick. Whilst of varying architectural merit and styles these buildings have one thing in common they do not dominate the street scene.
- 3.4 To the east of the site is the Hythe Swimming Pool, a single storey structure with a pitched main roof and flat-roofed extensions, and to the west are the residential terraces fronting on to South Road and Marine Parade.

### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 The most relevant planning history in relation to this application is:

Y16/0725/SH – Construction of new balconies to all floors on southern and northern elevations, erection of a single-storey ground floor extension to the southern elevation, addition of doors to existing car ports to form garages, together with other external alterations, all on Pensand House; Construction of balconies to the first floor on the northern elevations, construction of entrance lobbies to both north and south elevations, together with other external alterations, all on Marlborough Court; Installation of replacement windows and doors to all properties, erection of free-standing porticos and a glazed privacy screen along the southern boundary with the promenade, together with alterations to existing hard surfacing and landscaping within the

site. Approved with conditions. This permission is relevant as a number of the proposed alterations and extensions have been unimplemented and carried through to this proposal.

88/0317/SH - Variation of permission SH/87/1023 to provide an additional two flats (as amended by drawings received 4th May 1988 accompanying letter dated 29th April 1988). Approved with conditions.

87/1023/SH - Erection of three blocks of flats totalling 52 units (as amended by drawing no. MP/H/1 accompanying letter dated 11th November 1987). Approved with conditions.

## **5.0 CONSULTATION RESPONSES**

5.1 Consultation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

### **5.2 Hythe Town Council**

Object to the proposal on the grounds that it would change the street scene and visual amenity of the area, contrary to saved policy BE8.

### **5.3 Environment Agency**

Based on the amended plans submitted, the previous objection on the grounds of the flood risk Exception Test has been withdrawn.

## **6.0 REPRESENTATIONS**

6.1 Representation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below:

6.2 Following the submission of the application and amended plans 11 representations have been received from local residents objecting on the following grounds:

- Additional bulk and mass
- Not in keeping with adjacent Victorian buildings.
- Loss of social/affordable housing
- Increase in height

- Impact on views of the Conservation Area
- Insufficient parking
- Formal notice not received by current tenants

6.3 One representation was received from Hythe Civic Society which did not raise an objection but raised concern about the potential for rust staining of the exterior render arising from inappropriate balcony supports.

## **7.0 RELEVANT POLICY GUIDANCE**

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1 and the policies can be found in full via the following links:

<http://www.shepway.gov.uk/planning/planning-policy/local-plan>

<https://www.shepway.gov.uk/planning/planning-policy/documents-and-guidance>

<https://www.gov.uk/government/collections/planning-practice-guidance>

7.2 The following saved policies of the Shepway District Local Plan Review apply:

SD1, BE1, BE8, BE16, HO1 & TR12

7.3 The following policies of the Shepway Local Plan Core Strategy apply:  
DSD & SS3

7.4 The following paragraphs of the National Planning Policy Framework are of particular relevance to this application:

12 - Achieving Sustainable Development

124 -131 – Achieving well-designed places

155 –161 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

7.5 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Guidance

Kent Design Guide

## **8.0 APPRAISAL**

### **Relevant Material Planning Considerations**

8.1 The main considerations in the determination of this application are design and visual appearance, impact on the amenity of neighbouring occupiers, landscaping, flooding and parking and highway matters.

8.2 The site is within an identified settlement boundary and Hythe is identified as a Strategic Town within the Shepway Core Strategy Local Plan. As such, the principle of new residential development in this location is supported by saved local plan policy HO1, which supports residential infill within existing defined settlements; and Core Strategy policy SS3 which states the principle of developments are likely to be acceptable in defined settlements.

## **Design and Layout**

8.3 Although the proposal will materially alter the appearance of Marlborough Court through the introduction of a render finish in place of the existing facing brickwork, it is considered that this approach with a single finish will maintain the uniformity of the existing arrangement. It is considered that the new entrance lobbies and balconies provide additional articulation to the elevations. In addition, it is noted that the South Road street frontage presents terraces with a variety of external treatments and as such the replacement of facing brickwork with a render finish is considered to be acceptable in design terms.

8.4 In relation to materials, it is considered that the proposed replacement of white uPVC windows and doors with grey coated aluminium is positive, with this material and colour matching the aluminium balconies proposed at first floor level. As a result, the proposal in relation to Marlborough Court is considered to be acceptable in design terms and accords with the high standard of design and choice of materials sought by saved policy BE1 of the Shepway District Local Plan Review.

8.5 Turning to Pensand House, it is considered that this is an uninspiring building finished in brick with a slate tiled roof. Although the building is currently bland, it is noted that it is unobtrusive in relation to its scale, bulk and massing, which is in keeping with the context of the street scene. It is noteworthy that the building is more visible from the rear facing north and the historic core of Hythe. The building is not within the Conservation Area but is immediately adjacent to it, with the opposite/north side of South Road within the Conservation Area. Similar to Marlborough Court, the proposal includes the addition of a full-height render finish to all elevations. As with the proposal for Marlborough Court, the proposed single rendered finish would maintain the uniformity of the existing facing brickwork, with the exception of the ground floor of the rear/north and side elevations which would demark the undercroft parking entrances and storage area at the base of the building from the fenestration of the residential units above.

8.6 The proposed alterations to Pensand House are considered to be more visually intrusive than in the case of Marlborough Court due to the additional scale of the building, its visual prominence as noted above, the replacement of the pitched and hipped roof with two decks of penthouse apartments, and to a lesser extent the infill extension to the south to provide storage topped by garden areas and terraces. In terms of the rendered finish, given the current weathered and tired appearance of the brickwork, it is considered that the introduction of render is acceptable in this case and will serve to enliven the appearance of the substantial building.

- 8.7 The proposed changes to the roof provide a new character for the building, which is picked up in the windows and balconies. The unification of windows on the stairwells provides additional interest and is an improvement on the current fenestration. As demonstrated on the submitted plans, the maximum height of the building would not be substantially increased as a result of the proposal. However, the form and bulk of the roof space would be significantly altered by the replacement of the simple pitched and hipped tiled roof with two decks of penthouse apartments.
- 8.8 The aims and objectives of saved policy BE8 (c) and (d), which seek to avoid flat-roofed extensions which are visible from the public realm and alterations/extensions in the roof space of existing buildings which would present a top-heavy and flat-roofed appearance, are noted. It is considered that the proposed new roof and elevation treatments to Pensand House would, however, create a new contemporary appearance for the substantial building, which would deliver an improvement compared with the bland and tired existing appearance, and would not create conflict with the aims of saved policy BE8 to deliver the principles of good design. Furthermore, it is noted that examples of contemporary architecture exist along Marine Parade and West Parade in Hythe, and a high degree of variation exists in the built form of the frontage.
- 8.9 Following discussions with the applicant, the submitted plans have been amended to introduce dark grey Marley Eternit Equitone Tectiva (rainscreen) panelling to differentiate the ground floor garages and access doors from the rendered elevations of Pensand House on the north, east and west elevations. This is considered to be a positive change which would anchor the building in its setting.
- 8.10 The design and relative location of the single storey extension to the south of Pensand House would ensure that it is unobtrusive with regard to visual impact as it would not be generally visible from the public realm of the promenade or the streetscene of South Road. As a result, the single storey extension across the south elevation is considered to be acceptable with regard to design and visual appearance. To the front/south-facing elevation, the proposal includes the addition of new balconies at all levels above ground floor. However unlike the rear elevation the balconies are located both throughout the building's wing and in groupings across the central element of the front elevation. Crucially, the regimented symmetry of the proposed elevations of Pensand House echo that of the existing building and, with the choice of materials mirroring those proposed for Marlborough Court, it is considered to be acceptable in design terms.
- 8.11 In light of the above, it is considered that the proposed additions and alterations to the form and appearance of both Marlborough Court and Pensand House would not result in any discernible detrimental visual impact on the character and appearance of the application site, the streetscene, or views from and to the nearby Conservation Area. As such, the application is considered to be acceptable with regard to design and visual appearance and

in accordance with the aims and objectives of saved policies SD1, BE1 and BE8 and NPPF Paragraphs 124-131.

## **Amenity**

- 8.12 With regard to overlooking, the proposal would be of principal concern to the occupiers of the nearest neighbouring properties in South Road and Marine Parade. In relation to Marlborough Court, additional instances of overlooking would be available from the new first floor balconies to the north elevation. However it is considered that this new elevated vantage point would overlook the public realm of South Road and would not cause undue loss of privacy for occupiers of neighbouring properties, and has previously been permitted under planning permission Y16/0725/SH.
- 8.13 In relation to Pensand House, the proposal includes the addition of balconies which protrude beyond the principal elevations in locations where existing inset balconies are located, as well as the provision of additional balconies to both wings of the building to the south and north elevations of the building, as per permission Y16/0725/SH. Although the vantage point and dwell time (i.e. time spent in a position to overlook neighbouring land) of the overlooking available from the balconies will be materially different to that currently available, slatted privacy screens would be provided to the sides of the balconies which would prevent direct overlooking towards the neighbouring gardens of properties in South Road. As a result, it is considered that additional instances of overlooking from these locations would not bear a significant or detrimental impact on the amenity of neighbouring occupiers subject to a condition to secure the installation and retention of the aforementioned privacy screens.
- 8.14 It is considered that the proposed balconies within the two decks of the new roof would be of principal concern to neighbouring occupiers, particularly given that the top floor deck would have a balcony area which would extend across the side elevation of the building. Although this element of the proposal would provide additional vantage points, it is considered that given the separation distance of over 23 metres to the nearest private rear garden which could be affected, and when the vertical separation is taken into account, that although the balconies would result in additional instances of overlooking this would not be direct or in close proximity such that the relative locations of the new balconies would not result in unacceptable loss of privacy for neighbouring occupiers.
- 8.15 Given the scale and relative location of the proposed alterations to Marlborough Court and Pensand House, with the new roof exceeding the ridge of the existing building by a maximum of 0.7m, and the separation distances to neighbouring properties, it is considered that the proposal would not result in any unacceptable overshadowing impact or overbearing/enclosing presence to the detriment of neighbouring amenity.
- 8.16 In light of the above, the proposal is considered to be acceptable with regard to impact on neighbouring amenity.



## **Landscaping**

- 8.17 With regard to the proposed landscaping scheme, the parking court between Pensand House and Marlborough Court is currently dominated by tarmac and does not contribute positively to the setting of the buildings or the surrounding area. The introduction of a range of new, high quality materials such as granite block paving at the entrance from South Road, natural stone paving, concrete block paving to parking bays, and contrasting block paving to divide the spaces, as well as retaining existing planting and augmenting it with new trees, would contribute to a positive hard and soft landscaping scheme that would enhance the buildings and the area, as well as improve legibility within the parking court.
- 8.18 In relation to the side boundaries of the application site, which can be viewed from South Road and the sea wall promenade, following negotiation, a 2 metre high rendered wall with piers, concrete capping and partly finished with rain screen cladding to match that used on the ground floor of Pensand House has been proposed. It is considered that the wall would provide a high quality boundary treatment in keeping with the architectural aesthetic and detailing of the development proposal, which is not considered incongruous within the surrounding street scene.
- 8.19 On the basis of the above, the proposal is considered to be in accordance with the aims of saved policy BE16 in relation to the retention of existing landscape features and appropriate provision for new planting, and is therefore acceptable with regard to landscaping.

## **Flood Risk**

- 8.20 The site is located in Flood Zones 2 and 3. The NPPF states that a sequential approach should be used in areas known to be at risk from any form of flooding, with the Sequential Test applied with the aim to steer new development to areas with the lowest risk of flooding (para. 158). The NPPF further states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding with the strategic flood risk assessment (SFRA) providing the basis for applying this test. According to the Shepway District Council SFRA, at predicted sea-levels in 2115, accounting for climate change, the site falls outside of the flood risk zone. However, due to its location within Flood Zones 2 and 3, it is still necessary to undertake a sequential test.
- 8.21 The Government Planning Practice Guidance advises that a pragmatic approach on the availability of alternatives should be taken when assessing individual planning applications, as for proposals to extend existing premises, it would be impractical to suggest that there are more suitable alternative locations elsewhere. For this proposal, as it is an existing block of flats with the additional units located on top of the building, it is considered that, adopting the pragmatic approach, that sequentially, the site is acceptable. As such, the future occupants would be safe in the event of a flooding event.

8.22 Consequently, as the proposal includes 'more vulnerable' development, it is necessary to apply the exception test. The exception test states that in order to grant planning permission or allocate a site;

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment;
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

8.23 As regards sustainability benefits, the site is within the Hythe settlement boundary, a Strategic Town for Shepway (now Folkestone & Hythe) that can accommodate significant development in order to help maintain the viability of local transport hubs, the town centre and tourism, employment and public services. The additional units would contribute to these aims.

8.24 With regard to the second criterion, although the introduction of the landscaped garden area and raised external terraces would have created a pathway for floodwater arising from wave overtopping to reach the lowest-level residential properties at the site, subsequent changes to create a separation between the garden area and the terraces of the residential properties and showing the link bridges to be constructed from an aluminium slatted surface, would eliminate these pathways and allow floodwater to drain through, as was previously the case.

8.25 The Environment Agency raise no objection to the amended plans, with a recommendation that a condition relating to implementing flood resilience measures, where appropriate, in relation to basement car park and storage areas is considered. Consequently the proposal is considered to be acceptable with regard to flood risk in accordance with Core Strategy Policy SS3 and NPPF Paragraphs 155-161.

### **Parking and Highways**

8.26 In respect of the existing parking provision within the site, Kent Highways and Transportation (KHAT) note that of the existing 66 spaces, only 46 spaces meet current requirements in terms of width, length and turning provision, so as to be considered usable. The proposed alterations would result in 56 useable spaces to be provided within the site to current acceptable standards as part of the current proposal, there would be an increase in the number of usable spaces by 10, which has led KHAT to recommend that the increased parking requirements have been adequately provided for, without leading to any additional parking on the highway.

8.27 Consequently, the proposal is considered to be acceptable with regard to parking and would not lead to any significant or detrimental issues of highway safety in accordance with the Kent Design Guide: Interim Guidance Note 3.

## **Other Issues**

8.28 Throughout the consultation period for this application, concern was raised regarding the loss of social/affordable housing units, and the displacement of existing tenants. Following a review of the planning history for the site, it has been confirmed that the existing rent levels for the residential units has not been delivered or secured via a planning legal agreement, rather the owners have opted to let out the residential units on this basis and the tenancy typology is not subject to any restrictions. As such, the potential change in tenure of the flats could be carried out without the grant of this planning permission and as such is not a material planning consideration and has no weight in the determination of this application.

## **Local Finance Considerations**

8.29 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.

8.30 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. The New Homes Bonus funding regime is currently under review and is anticipated to end. Under the scheme the Government matches the council tax raised from new homes. This is for a period covering the first four years. In this case, an estimated value of the New Homes Bonus as a result of the proposed development would be £7,635.54 when calculated on the basis of council tax Band D average dwellings. If an authority records an overall increase in new homes in any one year, but this increase is below the 0.4% threshold, the authority will not receive any New Homes Bonus funding relating to that particular year. New Homes Bonus payments are not a material consideration in the determination of this application.

8.31 In accordance with policy SS5 of the Shepway Core Strategy Local Plan, the Council has introduced a CIL scheme that in part replaces planning obligations for infrastructure improvements in the area. The site is located in charging zone C and the CIL levy in the application area is charged at £109.40 per square metre for new dwellings. The net additional gross internal floorspace following development would be 874 sq m, which would equate to a CIL levy of £95,615.60.

## **Human Rights**

8.32 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.

8.33 This application is reported to Committee due to the objection of Hythe Town Council and the officer recommendation for approval.

## **9.0 BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 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 granted subject to the following conditions and that delegated authority given to the Development Management Manager to agree and finalise the wording of the conditions and add any other conditions that she considers necessary.**

1. Standard 3 year permission
  2. Materials as specified in application (inclusive of windows)
  3. Approved plan numbers
  4. Landscape maintenance scheme
  5. Flood resilience measures (parking and storage areas)
  6. Retention of parking and turning areas as shown on plans
  7. Storage details for refuse and recycling
  8. Installation and retention of privacy screens
-

Y17/1543/SH  
Pensand House and Marlborough Court  
South Road  
Hythe

