

./Application No: Y18/0339/FH

Location of Site: Land at 31 Castle Road, Hythe

Development: Erection of a 2 storey dwelling

Applicant: Mr & Mrs Jones

Agent: Mr T Parrett,
Rubicon Building Consultancy Ltd,
One Step Beyond, Westfield Lane,
Etchinghill,
CT18 8BT

Date Valid: 24.04.18

Expiry Date: 09.11.18

PEA Date: N/A

Date of Committee: 30.10.18

Officer Contact: Katy Claw

SUMMARY

This application is for the erection of a detached two storey dwelling with detached garage to the front, to be sited in the rear garden of the existing property at 31 Castle Road, with pedestrian and vehicular access via Quarry Road. The design, materials and layout of the proposed dwelling are considered to reflect the neighbouring properties and would be in keeping with the streetscene. The amenities of existing and future occupants are considered safeguarded. There are no highway safety concerns.

RECOMMENDATION: That Members resolve to grant planning permission subject to the conditions set out at the end of the report and that delegated authority be given to the Development Management Manager to issue the decision after the expiry of the 21 day notice period, subject to no new material planning issues being raised; and to agree and finalise the wording of the conditions and add any other conditions that she considers necessary

1.0 THE PROPOSAL

- 1.1 This application is for the erection of one detached dwelling in an undeveloped garden plot located to the rear of 31 Castle Road, a detached, two-storey dwelling that fronts onto and is accessed from Castle Road. The proposal includes off-street parking provision for one car, a detached garage for one car positioned to the front of the property and seeks to form a new vehicular and pedestrian access onto Quarry Road. To enable this dwelling

to be built, the existing trees/shrubs within the garden of 31 Castle Road would need to be removed and the existing land levels would need to be reduced, with the construction of retaining walls within the site.

- 1.2 The dwelling would be set over two floors, with the overall height of the building to the ridge being approximately 8.5 metres. At ground floor the dwelling would provide a living room, kitchen, family room, study and WC, whilst at first floor there would be 4 bedrooms, 1 en-suite and one family bathroom. The design of the dwelling includes front and rear projections which would both be set at a lower ridge height to the main dwelling. The external finishes of the dwelling are proposed to be render with brickwork and features of boarding to the front elevation, a tiled roof and grey uPVC fenestration. The garage would be single storey and approximately 4.85 metres in height to the ridge, and is proposed to be constructed of brick with a pitched, tiled roof.
- 1.3 Amended plans have been received during the course of the application to address officer concerns relating to the overall height of the dwelling. The dwelling has now been reduced from a 3 storey dwelling at 9.3m in height to a 2 storey dwelling at 8.5m in height, a reduction of 0.8m.
- 1.4 The application is accompanied by a design and access statement, a tree removal plan and a topographical survey.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:

- Inside settlement boundary
- Area of Archaeological Potential

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The site forms part of the rear garden of 31 Castle Road which is a large, detached, two-storey residential dwelling. The proposed dwelling would be located to the west of this property, in the rear garden, which comprises an approximately 15 metre by 33 metre lawn area with well-established planting and a low picket fence to the western boundary with the neighbouring property and the southern boundary with Quarry Road, from which the land rises sharply by approximately 3.2 metres from north to south.
- 3.2 The planting in the garden area comprises low undergrowth and large shrubs such as Laurel and Purple Plum, which have incorrectly been identified as trees on the applicant's tree removal plan.
- 3.3 Abutting the application site to the west is another two storey dwelling which forms one half of a semi-detached pair that sit at a lower level than the existing application site. To the north, the application site abuts the rear gardens of properties fronting Castle Avenue. Access to the application site

would be via Quarry Road which is listed as a private road under the Kent Highways gazetteer.

- 3.4 Quarry Road contains a variety of styles and scale of buildings, all using a mix of external materials (including brick, render, horizontal boarding and uPVC fenestration) with no over-riding design pattern although it is noted that six properties at the lower end of the road are more uniform in appearance and form a group. However, in general the predominant built form is that of two storey, detached dwellings that are set back in their plots and finished in a variety of materials. It is also noted that they do also differ in ages, with planning history for dwellings approved in the 1960s to the most recent detached dwelling in Quarry Road being granted planning permission in 2015.
- 3.5 Whilst it is noted that Quarry Road itself is a private road, public footpath number HB29 runs from Castle Road, down Quarry Road where it branches off between 'Conifers' and Barfleur and exits onto Hillcrest Road, located to the south.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The recent planning history refers to a planning application in 2015 for the erection of a detached double garage and the erection of a pitched roof over the existing flat-roofed garage. These garages are located to the front amenity area of the main dwelling at 31 Castle Road (to the east) and are not impacted by the proposal.
- 4.2 A certificate of lawful development was also granted in 2015 for a proposed single storey side extension to the main dwelling.

5.0 CONSULTATION RESPONSES

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

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

Responses are summarised below.

5.2 Hythe Town Council

Object to the amended plans as this development would change the streetscene and the visual amenity of the area. Members considered the development to be over-intensive and were concerned by the lack of height dimensions on the plan. Members felt that there would be considerable construction traffic issues affecting the residents of Quarry Road.

5.3 KCC Archaeology

Confirmed that no archaeological measures are required.

5.4 Arboricultural Manager

No objections to the proposed development.

6.0 PUBLICITY

- 6.1 Neighbours notified by letter. Expiry date 17.05.2018
Amended plans letter. Expiry date 16.08.2018

7.0 REPRESENTATIONS

- 7.1 Representation responses are available in full on the planning file on the Council's website

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

Responses are summarised below.

- 7.2 21 letters/emails received from 12 neighbouring properties objecting on the following grounds:

- Construction / delivery vehicles blocking/using/damaging privately maintained road
- Water run-off from development draining into private road
- Height of development
- Too close to neighbouring property
- Disrupt lives of residents
- Loss of privacy to rear gardens
- Loss of trees/greenery
- Removal of bank could de-stabilise side wall of neighbouring property
- Materials of build are not sympathetic to surroundings
- Dwelling will look out of place in streetscene
- Development will not help local housing supply
- Location of driveway would be a hazard to vehicles and pedestrians
- Foul water drain cuts across the garden of 31 Castle Road

- 7.3 One statement containing four signatures was sent to Hythe Town Council and copied to the Local Planning Authority. .

- Private road owned by six residents who will not allow construction vehicles to use, turn or park
- Inconvenience to residents whilst works are undertaken
- Surface water run-off
- Dwelling will not enhance area

8.0 RELEVANT POLICY GUIDANCE

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

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

SD1, BE1, BE16, HO1, U1, TR11, TR12

- 8.3 The following policies of the Shepway Local Plan Core Strategy apply:
DSD, SS1, SS2, SS3, SS5, CSD1, CSD2, CSD5, CSD7
- 8.4 The following saved policies of the Shepway District Local Plan Review apply:
SD1, HO1, BE1, TR5, TR11, TR12
- 8.5 The following policies of the Places and Policies Local Plan Submission Draft apply:
HB1, HB3, HB10, T2, T3, T5, CC2
- 8.6 The following paragraphs of the National Planning Policy Framework 2018 apply:
11, 12, 38, 47, 48, 127

9.0 APPRAISAL

Relevant Material Planning Considerations

- 9.1 The relevant issues for consideration are the acceptability of the principle of the proposed development, the design of the property and its visual impact on the streetscene, the impact on neighbour amenity, parking and highway considerations and arboricultural constraints.

Principle of development

- 9.2 The principle of new development in this location is supported by saved Local Plan policy HO1, which supports residential infill within existing urban areas; and Core Strategy policy SS3 which states that the principle of development is likely to be acceptable in defined and sustainable settlements. However, this is subject to environmental, highways, and other material planning considerations as identified above.

Design and layout

- 9.3 Policy SD1 requires new development to 'maintain and improve the character and vitality of the built environment, promote a high quality design and ensure that development density is appropriate to its location'. Policy CSD7 relates to new development in Hythe and requires that new residential development should be of high quality and respect the historic grain of the settlement. The NPPF does not rule out the location of new dwellings in existing gardens but requires that such development should be considered on a case by case basis and be refused if the development would cause harm to the local area. The NPPF presumes in favour of sustainable development unless the development conflicts with Local Plan policies or material considerations indicate otherwise.

- 9.4 Emerging policy HB10 of the Places and Policies Local Plan says that development proposals involving development of residential gardens within settlement boundaries will be permitted provided that the proposal responds to the character and appearance of the area, as well as layout and pattern of the existing environment, taking into account views from streets, footpaths and wider residential and public environment. The emerging local plan is at an advanced stage of preparation, and policy HB10 has no significant outstanding objections and is consistent with the NPPF, therefore it carries significant weight.
- 9.5 With regard to layout, the application site is considered to provide sufficient room to accommodate the proposed dwelling without the plot appearing cramped, whilst being sympathetic in relation to the scale, layout and spacing of the existing built form. The front façade of the main dwelling would be sited approximately 7.9m back from the highway, thereby reducing the overall visual impact and ensuring that the proposal would not appear incongruous within the context of the immediate streetscene. Bin storage has not been indicated on the proposed plans but there is sufficient space within the application site to provide the required storage, which can reasonably be secured by condition.
- 9.6 It is accepted that the proposed garage would be sited forward of the principle elevation of the main dwelling, approximately 1.2m from the highway and would therefore appear more visually prominent in the streetscene. The ground level of the garage would not be noticeably higher than the existing road and at 4.6m in height to the ridge, it would be less visually prominent than the dwelling to which it relates. Further, being set 'side on' within the plot it would allow the views of the garage upon approach from the east or west along Quarry Road to be of the narrower front or rear elevations, highlighting the pitched roof design, which would slant away from the highway, further reducing the visual impact. Consequently, it is considered that the positioning of the garage would be acceptable.
- 9.7 Turning to design, it is clear that the properties in Quarry Road are of varied architectural forms and are all finished with a mix of materials, including various shades of brick, white render, blue/grey horizontal boarding and some tile hanging. The proposal is considered to be of good design that would sit comfortably within the existing, varied streetscene. The front and rear projections are designed so as to be at a lower ridge height to the main dwelling and this combined with a mix of materials to the front façade would add architectural interest to the property. The materials proposed are considered acceptable, subject to final approval via suitably worded condition, should permission be granted.
- 9.8 The proposal also involves the excavation of the site to allow for a more usable plot, as it currently slopes significantly from the southern frontage, towards the rear of properties in Castle Avenue. Whilst the site would still slope, the land upon which the proposed dwelling is to be sited would be level and reduced by a maximum of approximately 1.8m bringing the proposed ground level upon which the dwelling would be sited down to approximately 0.85m higher than the immediate neighbour to the west.

There are no objections to the excavation works, which would result in the ridge height being approximately 1.4 metres higher than the dwelling to the west, with the resulting building position and the retaining walls to the side and rear considered likely not to be visually obtrusive, or detrimental to the character of the street scene. The site is not located within an area of land instability.

- 9.9 The proposal would involve the loss of established planting that currently fronts Quarry Road with a consequent change to the character of the immediate area. The Council's Arboriculture Manager has confirmed that the trees shown for removal are large shrubs compromising predominately Laurel and Purple Plum that would not be eligible for inclusion in a Tree Preservation Order and could be removed at any time without the need to seek consent from the Council. A suitably worded condition would be placed upon any approval to require a comprehensive landscaping scheme and management plan.
- 9.10 It is noted that the block plan refers to a 2m high close-boarded fence, the full extent of which is not clear from the plans. It would not be appropriate or necessary for such a fence to extend down to the highway. With this in mind, boundary treatments along with hard and soft landscaping can be secured via condition along with an appropriately worded condition to ensure that no subsequent fences above and beyond those agreed via condition would be erected at the site.
- 9.11 Overall, it is considered that the design, layout and materials proposed for the new dwelling, in conjunction with suitably worded conditions, would align with the aims of saved local plan policy BE1 and emerging policy HB10 which seek a high standard of layout, design and choice of materials ; that development should accord with and respond to existing development in the locality, where the site and surrounding development are physically and visually interrelated in respect of building form, mass, height and elevational details.

Amenity

- 9.12 The development would reduce the garden area of 31 Castle Road. The existing garden is substantial in size and a good sized garden would still be retained, so as to afford an acceptable amenity space for the occupants. The proposed dwelling would not adversely impact upon this neighbour with regard to loss of light, overshadowing or overbearing as there is approximately 15m between the two units. As regards privacy, the proposed dwelling would present a side wall to number 31 Castle Road, with a 2 metre high boundary fence between the existing and proposed units. A first floor side window in the proposed dwelling would serve a bathroom and could reasonably be conditioned to ensure that it is non-opening below 1.7m and obscure glazed, whilst current permitted development rights preclude further windows being added to the first floor side elevation, unless they too are fitted with obscure glazing and are non-opening. For the future occupants of the proposed dwelling, the proposed boundary fence, change in levels and

15 metre separation distance to 31 Castle Road would limit opportunities for overlooking, safeguarding the privacy of future occupants.

- 9.13 The neighbour to the immediate west, 'Heidi Ho', is a two storey semi-detached dwelling. Once engineered, the application site would be approximately 0.9m higher than the neighbouring plot, with a separation distance of approximately 5.4 metres between the two dwellings. Furthermore, the proposed dwelling would be approximately 1.4 metres taller than the neighbouring property. As the existing property is south-facing, the rear garden area will already be overshadowed by the property itself and in conjunction with the separation distance it is considered that the proposed dwelling would not significantly detrimentally impact upon the neighbour in terms of loss of light, overshadowing or overbearing presence. A 2 metre high boundary fence would separate the application site from this neighbour.
- 9.14 Turning to privacy, the proposed dwelling would be set further back in its plot than the neighbour and any overlooking to the most private rear elevation of this neighbour would not be possible. Further, the rear garden of the neighbour is already partially overlooked by the other half of the semi-detached pair and the properties to the north in Castle Avenue are also two stories in height with windows that face towards the rear elevations of the application site and the existing neighbour. A degree of inter-overlooking is to be expected in built up, urban areas but it is considered that the most private areas to the immediate rear elevations of these properties (existing and proposed) would not be detrimentally impacted to an unacceptable level.
- 9.15 It is considered that the neighbour opposite the application site to the front, known as 'Cosy Corner' and the neighbours to the rear of the site (in Castle Avenue) would not be adversely affected by the proposal in terms of loss of light, overshadowing or overbearing given the separation distance from the application site. This separation distance would also ensure that overlooking would not be so significant as to be detrimental to either the future occupants of the proposed dwelling or the existing neighbours. There is currently a degree of overlooking to/from these properties already given the built-up situation and the proposal would not significantly exacerbate the current situation. The front elevation of 'Cosy Corner' is not private and can already be seen by other neighbouring properties and from the highway.
- 9.16 Overall, it is considered that the proposed development would accord with paragraph 127 (f) of the NPPF (2018) and saved policy SD1, which seek to ensure that design should achieve a good standard of amenity for all existing and future occupiers, which includes layout and access arrangements and ensure that development contributes towards ensuring a better quality of life for everyone, now and for generations to come.
- 9.17 Comments have been received by local residents with regard to amenity and are summarised above at paragraphs 7.2 and 7.3. They have been addressed in the above paragraphs.

Highway Safety

- 9.18 In terms of parking the application form states that three spaces would be available. However, this includes the garage space, which the KCC Interim Guidance Note 3 does not count toward parking provision. Further, when applying the minimum size requirements for vehicle parking spaces, the space would allow for one vehicle on the hard-standing area. Whilst this would fall below the KCC Interim Guidance Note 3 requirement of '2 independently accessible parking spaces per unit', the site is located within an area where there are no on-street parking restrictions and parking on the surrounding roads is not at capacity. Consequently, the proposed level of parking is considered accepted.
- 9.19 The proposed access would be onto a private road (Quarry Road) and consequently is not within the jurisdiction of Kent Highways and Transportation. Quarry Road is a private 'no-through-road' where vehicle speeds and volume of traffic are likely to be lower than other roads. The agent has confirmed that the proposed 2m high boundary fence would run as far as the back of the garage and then reduce in height to 1.2m on the right hand side and 900mm on the left hand side, at the entrance with the highway, so adequate sight lines would be provided. Given the particulars set out above and that the new access will serve only one additional dwelling it is considered that the proposed access would not result in any increase in dangers to other highway users. There are a number of other private driveways that exit onto Quarry Road and the new access will not be any worse than these.
- 9.20 Overall, the new access and parking provision for the proposed development is considered to be acceptable with regard to saved policies TR11 and TR12 which seek to ensure new accesses are not detrimental to highway safety and that parking provision would have no adverse effect upon road safety or traffic management.

Environmental Impact Assessment

- 9.21 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Other Issues

- 9.22 The application form indicates that the new dwelling would be attached to the mains drainage. This is considered to be acceptable and no further details are required to be submitted to the local planning authority.
- 9.23 It has been brought to the LPA's attention by a local resident that there may be a foul water drain that cuts across the garden of 31 Castle Road. No evidence has been supplied to confirm this. Re-routing of foul drainage is not a material planning consideration as it will be dealt with under other legislation and would be addressed outside of the planning process.

- 9.24 Concern has been raised by local residents with regards to surface water and that there is currently an issue with surface water which runs from the higher parts of Quarry Road to the lower parts and to soakaways which become blocked and need to be maintained by the residents of the road. The site is too small to be considered for a Sustainable Urban Drainage scheme but the agent has confirmed that all hard-standing areas can be laid with a porous material to prevent surface water from running onto the highway. This can be dealt with via condition for a hard and soft landscaping scheme to be submitted and approved.
- 8.25 Further, Building Regulations control surface water drainage from a building and do not permit surface water to drain onto a highway. Taking the above into consideration it would not be appropriate to withhold planning permission as mitigation measures can be put into place to avoid surface water discharging onto the highway.
- 9.26 It is noted that a number of local residents are concerned about damage to the private highway and inconvenience to the existing residents. Whilst this is noted, it is not a material planning consideration. Any consents needed to access the plot of land from the private highway and any costs for any damage incurred or general use would be a civil issue and not one that the LPA can become involved with.
- 9.27 The section of Quarry Lane that provides access to the application site is not public highway and is not under the ownership of the applicant. As required by legislation, the applicant has served notice on the landowners and a decision on the application cannot be issued until at least 21 days after the serving of this notice. Therefore, delegated authority is sought for the Development Management Manager to grant planning permission following the expiry of the 21 day period.

Local Finance Considerations

- 9.28 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 9.29 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £109.40 per square metre for new residential floor space.
- 9.30 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district for a four year period.

The New Homes Bonus funding regime is currently under review and is anticipated to end. In this case, an estimated value of the New Homes Bonus as a result of the proposed development would be £X for one year and £X for 4 years when calculated on the basis of the notional council tax Band D on which NHB is based. If an authority records an overall increase in new homes in any one year, but this increase is below the 0.4% threshold, the authority will not receive any New Homes Bonus funding relating to that particular year. New Homes Bonus payments are not a material consideration in the determination of this application.

Human Rights

9.31 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.

9.32 This application is reported to Committee due to the objection from Hythe Town Council.

10.0 BACKGROUND DOCUMENTS

10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That Members resolve to grant planning permission subject to the following conditions and that delegated authority be given to the Development Management Manager to issue the decision after the expiry of the 21 day notice period subject to no new material planning issues being raised; and to agree and finalise the wording of the conditions and add any other conditions that she considers necessary:

1. Standard time condition
2. Approved plans
3. Water efficiency
4. Materials to be submitted and approved
5. Removal of permitted development rights for fences/walls/gates
6. Refuse/recycling details to be submitted
7. Parking/cycle parking to be provided and retained
8. First floor window in eastern elevation obscure glazed and non-opening
9. Hard and soft landscaping details
10. Boundary treatments

DCL/18/23

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