

**Application No:** Y18/1064/FH

**Location of Site:** Aspendos, Prospect Road, Hythe, Kent, CT21 5NH

**Development:** Retrospective application for revised external finishes to the existing shop front, including revision to the front parapet wall

**Applicant:** Mr Necati Gunes

**Agent:** Mr Stuart Ingleston  
S.I.Chartered Bldg Surveyors  
8 Jinton Road  
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Kent  
CT20 2RG

**Date Valid:** 21.08.18

**Expiry Date:** 16.10.18

**PEA Date:** N/A

**Date of Committee:** 30.10.18

**Officer Contact:** Isabelle Hills

## **SUMMARY**

This application seeks retrospective planning permission for revised external finishes to the existing shop front, including a revision to the front parapet wall. The changes have already been carried out and there is a separate report regarding enforcement action. The changes to the shopfront are considered out of keeping and detrimental to the character of the streetscene and the visual amenity of the area in terms of both the materials used and the design and the application is recommended for refusal.

**RECOMMENDATION: That planning permission be refused for the reason set out at the end of the report.**

## **1.0 THE PROPOSAL**

- 1.1 The existing parapet wall has been increased in height by approximately 0.4 metres and has a curved feature located across the width of the shopfront. This is a painted feature with a stonework finish upon render. A painted feature of mock stonework has also been installed on the shopfront stallrisers. A raised pilaster in render has been installed to either side of the shopfront and replacement signage stating 'Aspendos' in raised gold lettering has been installed to the front elevation of the shopfront. The signage falls under the Advertisement Regulations and does not form part of this application.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Area of Archaeological Potential
- Adjacent to the Hythe High Street Conservation Area
- Flood Zones 2 & 3 as identified by the Environment Agency

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

3.1 The application site is located within the settlement of Hythe, on Prospect Road which is an area with a mixture of single dwellings, flats, and commercial uses. The application property is a single storey detached business premises operating as a takeaway (Use Class A5), as approved under planning application reference Y09/0083/SH, which fronts Prospect Road.

## **4.0 RELEVANT PLANNING HISTORY**

- 4.1 SH/74/353 Change of use for sale of take away food. Approved with conditions
- 4.2 Y03/0969/SH Change of use from veterinary surgery to storage in connection with the adjacent Chinese takeaway (Class A3). Approved with conditions
- 4.3 Y07/1557/SH Erection of a first floor extension to provide ancillary residential accommodation. Refused
- 4.4 Y08/0631/SH Erection of a first floor extension to provide ancillary residential accommodation (Re-submission of Y07/1557/SH). Refused
- 4.5 Y09/0083/SH Change of use from Veterinary Surgery (Class D1) to hot food take away (Class A5) and retention of replacement shopfront, increased parapet height, increased rear wall height and a flue extraction system. 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 on the grounds that there is a lack of detail particularly with reference to height that the design which is visually prominent from a public space is out of keeping with the street scene. As such, the development would be contrary to saved policies SD1, BE1 and BE8 of the Shepway District Local Plan Review, which seek to preserve the character and design of existing buildings, policy DSD of the Shepway Core Strategy and with the NPPF which seeks to secure high quality design.

## **6.0 PUBLICITY**

6.1 Neighbours notified by letter. Expiry date: 18.09.2018

6.2 Site Notice. Expiry date: N/A

6.3 Press Notice. Expiry date: N/A

## **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 2 letters/emails received objecting on the following grounds

- Council needs to take responsibility for dreadful situation that has taken place without any change of planning consent. If every shop in Hythe was allowed to do this it would be chaos.
- Occupants of Blythe Court suffered from fumes and cooking smells from these premises, particularly during this summer when they need to open windows.
- Encouraging expansion of this food outlet would only increase the problem.
- The front of the Aspendos building has been raised already by 1 metre and raised previously to accommodate unsightly new fascias and signs which block sight out from the first floor corridor windows.
- Extremely large air conditioning / extractor unit added to the rear of the property the continual noise from which detrimentally affects Blythe Court and residents of William Pitt Close to the rear.
- Pipes have been extended out onto the public walkway and work on the roof area have been undertaken recently apparently without consent.
- The alterations are not acceptable to the neighbouring residents of the premises and are not in character with the type and style of development and signage normally permitted in Hythe. Appears to be an overdevelopment in such a visible and central location of the town.
- Works out of keeping with every other building and has detrimental effect on adjacent Conservation Area.

- Premises located at main entry point to Hythe and on main thoroughfare and therefore visible. Isn't sympathetic to surroundings.
- Work appears to be poor quality.
- No planning notice has been posted on site.
- The D&A Statement is incorrect - there are no specifically takeaway restaurants within sight of Aspendos and the statement mentions saved policies SD1 which appears irrelevant and policies S3, S4 and S7 which does not appear to refer to Hythe.

## **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, BE4, BE9
- 8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD
- 8.4 The following policies of the Places and Policies Local Plan Submission Draft apply: HE1, HB1, RL10
- 8.5 The following paragraphs of the National Planning Policy Framework 2018 apply: 127, 130, 192,193

## **9.0 APPRAISAL**

### **Background**

#### **Relevant Material Planning Considerations**

- 9.1 The main issues to be considered are design and visual impact and the impact on the streetscene, neighbouring conservation area and amenities of the neighbouring properties.

### **Design and Layout**

- 9.2 Saved policy BE1 of the Shepway District Local Plan Review seeks a high standard of design and choice of materials for all new development with materials being sympathetic to those predominating locally in type, colour and texture. Furthermore, development should accord with 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. Policy BE9 states new or replacement shopfronts will only be permitted if they relate well to the building and take into account the design and materials of neighbouring shopfronts so that they will fit in with the character of the streetscene. Policy BE9 further states that new shopfronts will only be permitted if they take into account the design and

materials of neighbouring shopfronts so that they will fit in with the character of the streetscene. These policies are reflected in HB1 and RL10 of the Places and Policies Local Plan Submission Draft which require a proposal to make a positive contribution to its location and surroundings and that the design, materials and proportions of any altered shopfront relate to the character of the building and its locality.

- 9.3 The building is a single storey, stand-alone take-away unit located to the side of Blythe Court and faces onto Prospect Road. Due to its location on the corner plot of the A259 the premises are visually prominent when viewed from the streetscene. The previous shopfront was rendered and finished in brown paint, with a parapet wall and associated signage above the shop window. While it was not overly attractive it was unobtrusive and did not stand out in the streetscene. It is considered that the increase in height of the existing parapet wall and the curve of this feature fails to relate well to the architectural style of the existing building and fails to reflect the elevational details of surrounding properties. Furthermore, it is considered that the introduction of light coloured unashamedly mock stonework and mock pillars significantly alters the character of the host property, with the materials failing to appear sympathetic to those predominating locally in type, colour and texture. The shopfront appears as not only obviously fake stonework, but also the design is totally alien to the area.
- 9.4 It is considered that the introduction of the curved parapet wall, mock stonework and pillars to the host property fail to reflect the features and materials present within the streetscene. As such, the alterations to the shopfront are considered to constitute an incongruous addition to the streetscene which fail to maintain and improve the character of the built environment.
- 9.5 As such, the works are considered to fail to comply with the requirements as set out within saved policies BE1 and BE9 and policies HB1 and RL10 and, therefore, permission should not be granted.

### **Amenity**

- 9.6 Saved policy SD1 requires all development proposals to safeguard and enhance the amenity of residents. The alterations to the shopfront includes the increase in height of the existing parapet wall by approximately 0.8 metres. As has been noted from an objection received, the increase in height of the building blocks sight out of the first floor corridor windows of Blythe Court. Whilst it is acknowledged that the parapet wall now encroaches somewhat closer towards the side windows of Blythe Court, it is not considered that this increase in height results in a significant impact in terms of overbearing or overshadowing to the occupants. Moreover with regard to outlook, the previous situation saw these side windows overlooking the roof of Aspandos and the existing parapet wall to the front elevation. As such it is considered that the alterations have not resulted in a significant impact on these windows and as such the proposal does not have a significantly adverse impact upon the amenity of neighbouring residents.

- 9.7 Several objections to this application have been received relating to fumes and cooking smells and the addition of a large air conditioning / extractor unit added to the rear of the property. However, this application concerns the alterations to the existing shop front only and it has been confirmed within the submitted Design and Access statement that there have been no changes made to the ventilation system originally installed and approved by the Council.

### **Conservation Area**

- 9.9 The application site falls outside the conservation area but is close to its boundary which runs along the opposite side of the A259. Local and national policies require proposals to respect the setting of conservation areas. Given the intervening 'A' road and the relatively small scale of the proposal it is not considered that it has a significant impact on the setting of the conservation area.

### **Flooding**

- 9.9 It is noted that the application site is located within Flood Zones 2 & 3 as identified by the Environment Agency. However, due to the application being for external alterations to the shopfront only, it is not considered in this instance that the work carried out on site would impact upon flooding.

### **Highway Safety**

- 9.10 The proposed development would not alter the existing parking or access arrangements on site. As such, the proposal is considered to have no impact on parking or highway safety.

### **Other Issues**

- 9.11 A consultation response stated that a site notice was not posted near the application site to notify of this application. However it should be noted that this application did not meet the requirements for a site notice and as such one was not posted near the application site.

### **Local Finance Considerations**

- 9.11 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.

- 9.12 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. However there would be no CIL charge as a result of the application.

### **Human Rights**

- 9.13 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.

- 9.14 This application is reported to Committee as authorisation is being sought to take enforcement action, which is the subject of a separate report.

## **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).

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### **RECOMMENDATION – That planning permission be refused for the following reason:**

1. The external alterations and new parapet wall, by virtue of introducing materials which are out of keeping with those used in the surrounding area and which are obviously fake; and by virtue of the design which is alien to the surrounding built development and draws no reference from it, detrimentally alter the character and appearance of the host building and appear as an incongruous and visually harmful element in the streetscene. As such, the proposal is contrary to saved policies BE1 and BE9 of the Shepway District Local Plan Review 2006 and policies HB1 and RL10 of the Places and Policies Local Plan Submission Draft which require materials to be sympathetic to those predominating locally in type, colour and texture; require development to make a positive contribution to its location and surroundings and the design, materials and proportions of altered shopfronts to relate to the character of the building and locality.



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