

Application No: 20/0569/FH

Location of Site: Tree Tops, Cannongate Road, Hythe, Kent, CT21 5PT.

Development: Approval of reserved matters (scale, appearance, and associated landscaping) relating to outline planning permission Y15/1245/SH.

Applicant: Mrs M. Paterson

Agent: Gary Tidwell Associates, 126 Queens Road, Tankerton, Kent, CT5 2JL.

Officer Contact: Ross McCardle

SUMMARY

This application seeks approval of reserved matters (scale, appearance, and landscaping) in regards planning permission ref. Y15/1245/SH, which granted outline planning permission for the erection of a dwelling on the site. While the town council objects to the height of the building, the submitted amended drawings have reduced the height of the proposed dwelling, and its scale, appearance, and the associated landscaping are now considered to be acceptable. No significant overlooking, loss of privacy, or other amenity impacts for neighbours will arise. I therefore consider the proposed details to be acceptable, and recommend that reserved matters consent should be granted.

RECOMMENDATION:

That planning permission be approved subject to the conditions set out at the end of the report.

1. INTRODUCTION

1.1 The application is presented to Members due to an objection from Hythe Town Council to the height of the proposed building. Their comments are set out in detail at section 5, below.

2. SITE AND SURROUNDINGS

2.1 Tree Tops is a detached house situated within the built up area of Hythe. It occupies a large plot on the escarpment to the north of the town, and is positioned towards the southern end of the site with vehicle access from a private road to the rear. The property is of an arts and crafts style design but the wider area is characterised by detached dwellings of various scales and designs (as larger plots have been subdivided and infilled with modern development).

2.2 The application site comprises roughly the northern half of the rear garden. Land levels slope downwards to the south so much of the land is at a higher

level than the main dwelling. The site is occupied by a small detached garage/workshop building and informal garden planting. Land levels also slope dramatically upwards to the west and east (the site effectively occupies a hollow) and the neighbouring properties (Woodpeckers to the west, and 1 Cannongate Gardens to the east) are set at a much higher level.

- 2.3 Due to land levels there are few public views of the site other than from Princes Parade – which runs along the seafront – but this is at a significant distance.



View from Woodpeckers, to the west, facing east



View from access road to north



Facing north



Facing east along southern flank of existing building



Private access road, facing west across the frontage of Woodpeckers

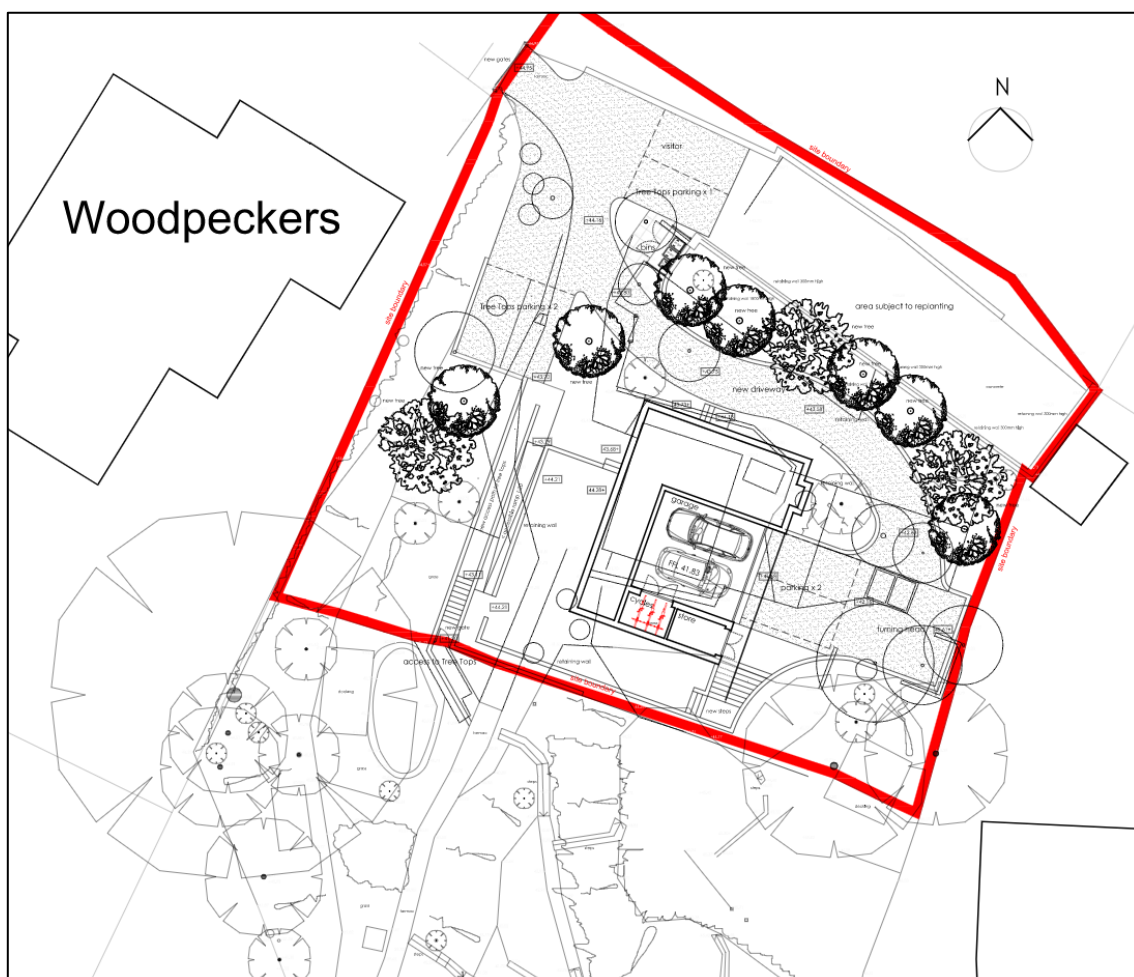


View of existing dwelling (Tree Tops) from Cannongate Road

3. PROPOSAL

- 3.1 This is a reserved matters application for approval of the scale, appearance, and landscaping details. Matters of access and layout have already been determined as part of the outline planning application.
- 3.2 The proposed house would be positioned where the detached garage/workshop currently sits, as approved at outline stage. Vehicle access would be from the existing private road to the rear, with a driveway leading to a parking/turning area to the east of the property, in front of a sunken garage area.

- 3.3 The house would effectively be three stories: the ground floor (comprising garage and storage space) would be set into the hillside and largely only visible from the east with a small section above ground level to the west. The first floor would comprise an open-plan living / kitchen / dining area, “snug,” WC, and utility room. The second floor would be partially set within the roof level due to lowered eaves, and will provide three bedrooms, en-suite, family bathroom, and a balcony area on the SW corner, accessed from the master bedroom. The balcony would have frosted glazing along the western side.
- 3.4 The property would measure a maximum of approximately 10.6m tall (when viewed from the east, with the garage area visible – 8m from the south, 8.3m from the north, and a maximum of 9.3m from the west) x 10m wide x 12m deep. External materials are proposed as artificial slate roofing tiles, composite horizontal cladding, red multi-stock brickwork, and galvanised powder-coated joinery (anthracite grey).
- 3.5 Two parking spaces are provided within the internal garage and further parking on the driveway/turning area.



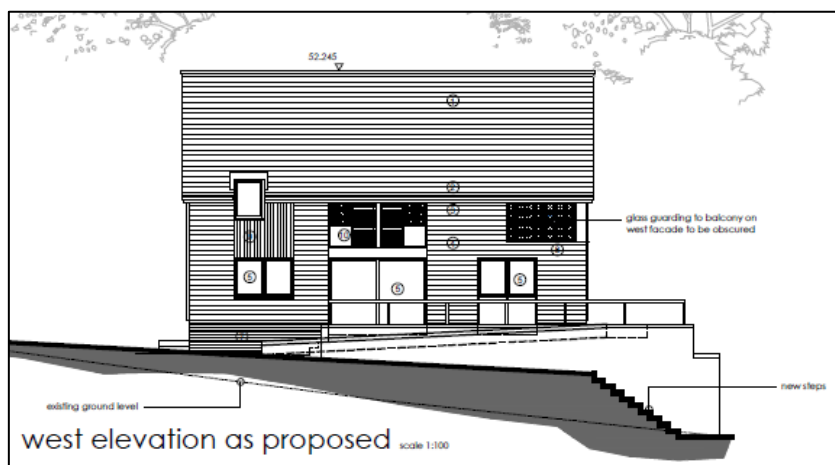
Proposed site layout



Proposed south elevation



Proposed east elevation



Proposed west elevation



Proposed north elevation

4. RELEVANT PLANNING HISTORY

- 4.1 Application ref. Y15/1245/SH granted outline planning permission (with matters of appearance, scale and landscaping reserved) for the erection of a detached dwelling on the site, subject to a number of conditions (including the standard contamination and “latchgate” or land stability conditions).

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

5.2 **Consultees**

Hythe Town Council object “*on the grounds that the junction may be dangerous due to the sight lines, the planning application regarding height has discrepancies and Members were concerned about the stability of the site and felt further information was required.*”

I replied to the Town Council, setting out that the application is for reserved matters approval of the specific issues of scale, appearance, and landscaping, and advising that matters relating to highway safety and land stability have already been considered and approved at outline planning permission stage (a condition regarding land stability is attached to the outline planning permission). I forwarded a copy of the amended drawings, and requested further comments.

The Town Council maintain their objection, commenting that “*members still felt the junction may be dangerous due to sight lines, overlooking of neighbouring property, the additional information regarding height was still not satisfactory and members still had concerns regarding the stability of the site.*”

KCC Highways have no comment save to note this falls below their protocol response threshold.

KCC Archaeology has no objection.

Southern Water has no objections.

5.3 Local Residents Comments

Two letters have been received from the neighbouring residents, raising the following concerns:

- The development may cause land stability or subsidence issues locally;
- No stability report has been submitted;
- Land stability concerns;
- Overlooking and loss of privacy, particularly from windows and balcony on the west elevation;
- The submitted plans do not illustrate the relationship between existing neighbouring dwellings and the proposed house;
- The height of the proposed building is excessive;
- The maximum height of the proposed building should not exceed that of the existing property;
- Loss of light to neighbouring dwellings;
- Impact on wildlife;
- Access to the site is via a private lane that is not owned by the applicant;
- Covenants on the Deeds require shared maintenance of the lane, but this is not being done;
- Increased traffic on the lane;
- The lane may need improvement;
- Poor visibility when exiting the lane onto the public highway; and
- Conditions should be imposed to ensure construction in a tidy and safe manner.

A further letter was submitted by the same neighbour in response to the amended drawings, raising the following additional concerns:

- No heights shown on the drawings so not clear how height has been reduced; and
- Remain concerned regarding overlooking from the balcony.

5.4 Responses are available in full on the planning file on the Council's website: <https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013), and the Places and Policies Local Plan (2020).

6.2 The Places and Policies Local Plan (2020) was formally adopted by the Council in September this year and its policies can therefore be afforded full weight.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation

between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

- 6.4 The relevant development plan policies are as follows:

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development), SS1 (district spatial strategy), SS2 (housing and economy), SS3 (sustainable settlements), and CSD1 (balanced neighbourhoods).

Places and Policies Local Plan (2020)

HB1 (design), HB2 (cohesive design), HB3 (space standards), T2 (parking), NE2 (biodiversity), NE6 (land stability), and CC2 (sustainable design and construction).

Core Strategy Review Submission draft (2019)

SS1 (district spatial strategy), SS2 (housing and economy), SS3 (sustainable settlements), and CSD1 (balanced neighbourhoods).

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

- 6.5 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF).

- 6.7 The NPPF and NPPG generally support new residential development within the built up area boundary, subject to general amenity concerns.

7. APPRAISAL

Principle

- 7.1 The principle of the development, including the layout and access was established by grant of outline planning permission under ref. Y15/1245/SH and is not for consideration under this application. What falls to be considered here, therefore, is solely issues pertaining to the remaining reserved matters of scale, appearance, and landscaping.

Scale

- 7.2 I was initially concerned about the scale of the proposed dwelling, and in that regard I had sympathy with the comments from neighbouring residents.
- 7.3 The design has been amended, however, with the ridge and eaves dropped to present a much lower structure with a consequently lesser visual impact. I consider that the proposed dwelling would sit comfortably on the site and be relatively in-scale and proportion with the surrounding properties. I note concern from the neighbours with regard to scale, but do not consider the proposed structure to be excessive, as illustrated by the site section at para. 7.8 below which shows the ridge to be set below the main ridge of Woodpeckers. (In this regard I would also note it is also not usual to have measurements on planning drawings, instead working to scale.)
- 7.4 Public views of the dwelling would be limited due to land levels, with the main views being at a considerable distance from the seafront, where the house would be viewed on the escarpment within the context of the surrounding properties. I believe the house would not be prominent or intrusive in these views, and consider it would sit comfortably within the wider street scene.



Level change between site and Woodpeckers

Appearance

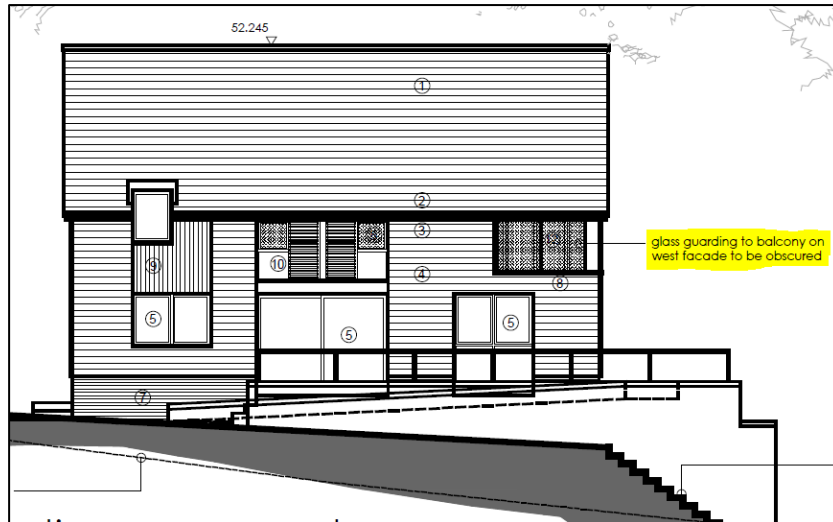
- 7.5 The design of the building is quite contemporary and in that regard I note the presence of other contemporary properties within the area. There is no unifying design characteristic to the neighbourhood, and in that regard the building would not be out of place or incongruous. Nevertheless, I consider it to be of an acceptable design standard that would contribute positively to the area.

Landscaping

- 7.6 The proposed landscaping and tree planting – subject to a condition requiring details of specific species – would contribute positively to the appearance of the site and to local biodiversity. I have no serious concerns in regards this element.

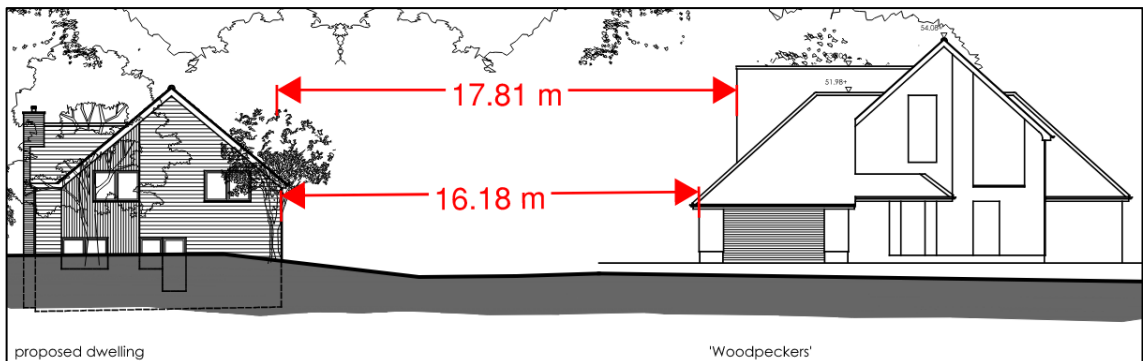
Amenity

- 7.7 I note and understand local concerns in regards the potential for overlooking and loss of privacy. These have largely been overcome through the amended drawings, which reduce the height of the building and introduce privacy screens to the side of the balcony, thereby minimising the potential for views to the side across neighbouring gardens.



Proposed western elevation, note obscure glazing to side of balcony

- 7.8 While on site I met the immediate neighbours at Woodpeckers, who were concerned about overlooking of a (floor-to-ceiling) side bathroom window. Nevertheless, the reduced scale of the proposed house and the intervening distance would minimise potential for views into this window such that I do not consider consent for the reserved matters could be refused for this reason. Members should also note that there is no set minimum requirement for flank-to-flank separation distances, and bathrooms do not constitute habitable rooms in terms of being afforded significant protection from overlooking.

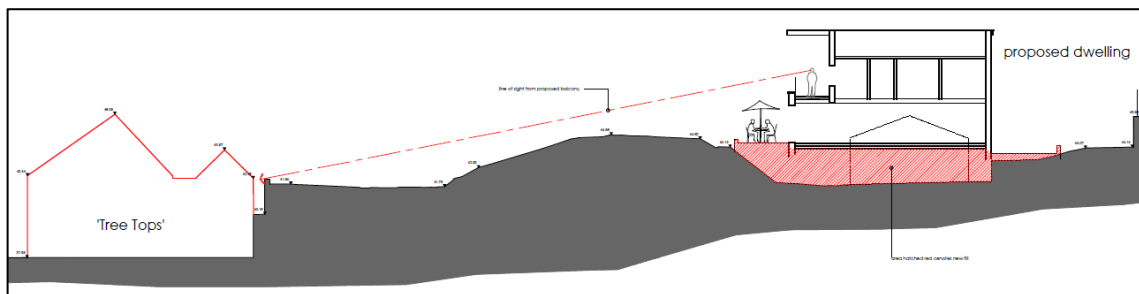


Separation between existing (right, Woodpeckers) and proposed (left)



Side bathroom window at Woodpeckers

- 7.9 There will, by reason of the position of the new house and land levels, be some views afforded across the grounds of the existing house (Tree Tops) and the residents thereof will lose some of the privacy they currently enjoy. However, the garden and patio to the south of Tree Tops will be screened entirely by the existing house and therefore provide a private amenity space not overlooked by this new house. I also have given some regard to the fact that the residents of Tree Tops have applied to build a house in their own garden, and therefore should be aware of the inherent risks of overlooking their property.



Section illustrating level change between Tree Tops and proposed dwelling

- 7.10 Nevertheless I am satisfied that the amenity of neighbouring residents will not be unacceptably impacted.

Other matters

- 7.11 While I note the Town Council's concerns in regards the height of the building I consider that they have been addressed by the amended drawings, as above. They also raise a number of other issues that relate to matters not subject to this reserved matters consent (highway safety, land stability) and which therefore can't be given any weight. The neighbours also raise concerns in regards land stability but, as above, this was addressed at outline stage and the Council's standard latchgate condition – requiring full structural assessment

and details prior to commencement of development – is attached to the outline permission; it does not fall to be considered here.

Environmental Impact Assessment

- 7.12 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.

Local Finance Considerations

- 7.13 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. CIL has been met through the outline planning permission and does need to revisited under this reserved matters application.

Human Rights

- 7.14 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.15 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the Applicant

- 7.16 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 This application seeks reserved matters approval in regards of scale, appearance, and landscaping for a new dwelling on a site within the built up area boundary. The principle of development has already been agreed through grant of outline planning permission ref. Y15/1245/SH. The amended drawings are considered acceptable; the proposed dwelling would be an acceptable scale and design, and would not give rise to any serious amenity concerns for neighbouring residents.

- 8.2 I therefore recommend that planning permission should be approved.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be approved subject to the following conditions:

1. No development shall take place other than in complete accordance with drawings 01.600.15 rev P1, 20 rev P1, 25 rev P1 and 30.

Reason: For the avoidance of doubt.

2. Prior to the first occupation of the dwelling hereby permitted details of the new trees to be planted as part of the landscaping scheme shown on drawing 01.600.10 rev P0 including species (which shall be native and of a type that will encourage wildlife and biodiversity) shall be submitted to the local planning authority and, upon approval, the approved landscaping scheme shall be carried out within the next available planting season. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

3. Before the dwelling hereby permitted is first occupied a privacy screen shall be erected on the western flank of the balcony (as shown on drawing 01.600.20 rev P2). This privacy screen shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and shall be retained as such in perpetuity.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

4. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the west facing first floor wall or roof slope of the dwelling hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.