

# DCL/21/59

**Application No:** 21/2369/FH

**Location of Site:** Hillboro, Sunnyside Road, Sandgate, Folkestone, CT20 3DR

**Development:** Proposed 4no new dwellings and associated external areas within the curtilage of Hillboro (proposed to be demolished) and accessed from Sunnyside Road via a new private shared drive (re-submission of 20/1356/FH).

**Applicant:** Mr S Pack

**Agent:** Hollaway, The Tramway Stables, Rampart Road, Hythe, CT21 5BG

**Officer Contact:** Ross McCardle

## SUMMARY

This application seeks planning permission for demolition of the existing house and erection of four detached dwellings in its place. The proposals have been revised following the Planning Committee's refusal of a similar scheme last year; the current scheme represents a much-reduced scale and form of development and addresses the single reason for refusal of the previous application. The proposed development is considered to be acceptable in all respects and is therefore recommended for approval.

## RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

## 1. INTRODUCTION

1.1. The application is reported to Committee because of an objection from Sandgate Parish Council, as set out below.

## 2. SITE AND SURROUNDINGS

2.1. Hillboro is a detached house situated within the defined, built up area of Sandgate. The property sits on a flat terrace on the otherwise very steep escarpment, and vehicle access is via a steep and narrow private road off Sunnyside Road. The front garden is very steep and largely given over to informal planting, while to the rear is a near-vertical

# DCL/21/59

rise up to The Corniche. As a result the house is situated towards the rear of an otherwise generous plot, which includes a tennis court towards the western boundary of the site.

- 2.2. The flat terraced area runs east and west to the neighbouring properties, Wellington, Three Bears, and Channel View. Three Bears lies close to the eastern common boundary while there is a gap of approximately 78m between the flank of Hillboro and that of Wellington, to the west.

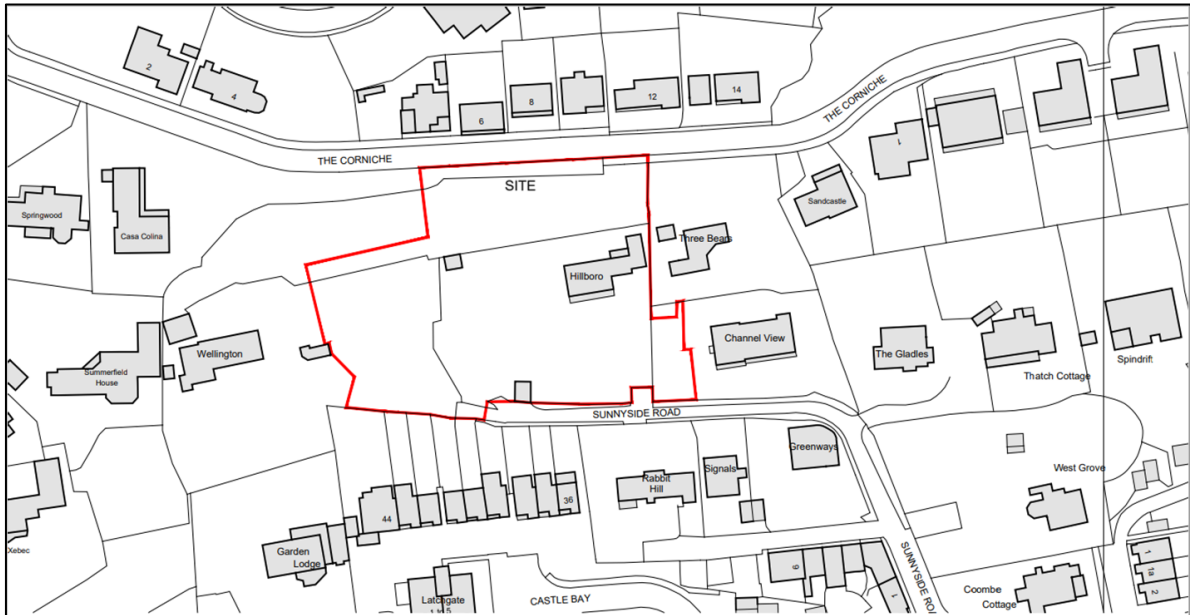


Fig.1 – Location Plan

- 2.3. The site is within land stability zone E, which is the highest risk zone. The property after which the Council's Latchgate land stability condition is named was situated nearby (prior to its collapse).
- 2.4. The site lies outside of the Sandgate Conservation Area (min. of 60m to the designation boundary, beyond several other properties).
- 2.5. Hillboro, Wellington, and a large part of the escarpment to the rear are covered by TPO no.04 of 1975, which covers a group of mixed species trees, mainly classified as group C (low quality) and many of which have limited remaining lifespan. Only three trees – an Ash, Sweet Chestnut, and Turkey Oak – are identified as group B (moderate quality); these trees are identified as being kept as part of the proposed development. There are no group A (high quality) trees within the site.
- 2.6. The site is not within the Stour Operational Catchment.
- 2.7. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 Full planning permission is sought for demolition of the existing house (Hillboro); erection of four detached houses with access from Sunnyside Road; a shared driveway; and associated parking and landscaping.

# DCL/21/59

- 3.2 The proposed dwellings would be arranged in a row and sited on the footprint of the existing dwelling and tennis court. Development would come no closer to Three Bears and Channel View (the properties to the east) than the existing dwelling, and a gap of approximately 18.5m would be retained to the flank of Wellington (the property to the west).
- 3.3 The proposed houses would all be two stories in height, with an area of flat roof to one side and a pitched roof to the other (see drawing extracts below); the pitched roof area allows for an internal mezzanine floor within the living space without adding additional height to the structures. Due to the sloping nature of the site the maximum ridge height of the proposed houses would range between 9m and 10.6m. Each unit would have 4 bedrooms, open-plan living space leading on to a large terrace/balcony, and undercroft parking for 2 vehicles. Additional parking would be available on the driveway for each unit.
- 3.4 Each unit would feature a small private rear garden (in addition to the large terrace / balcony) with access available from The Corniche via a shared stairway – this is a requirement of emergency services for access to the proposed properties.
- 3.5 A private access road would be constructed from the uppermost section of Sunnyside Road to provide vehicle access to the new dwellings, and highway works include widening of a section of Sunnyside Road and the installation of a turning head to provide safe access.
- 3.6 Existing good-quality trees are to be retained. A number of lower-quality (grade C) trees are to be removed, and additional / replacement planting is to be installed throughout the site as part of the development.

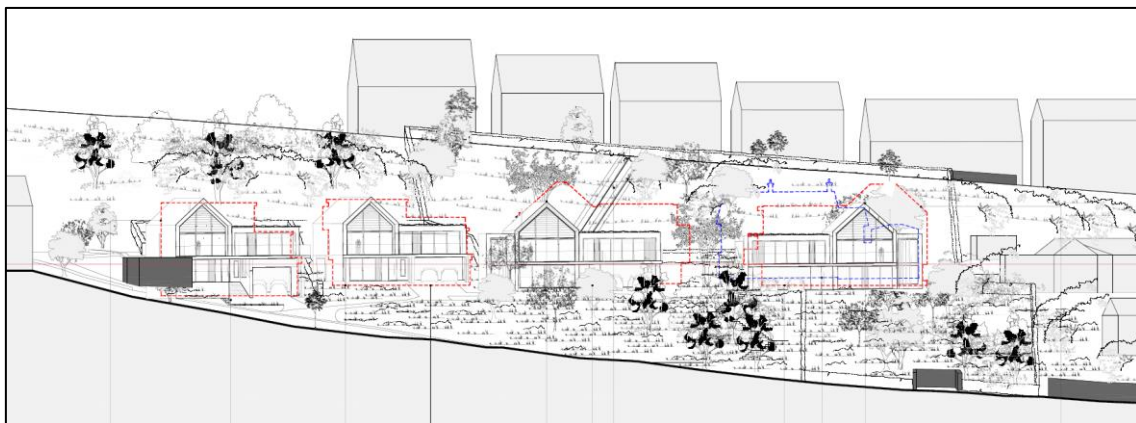


Fig.1: Proposed street scene (existing house in blue, previous scheme in red)



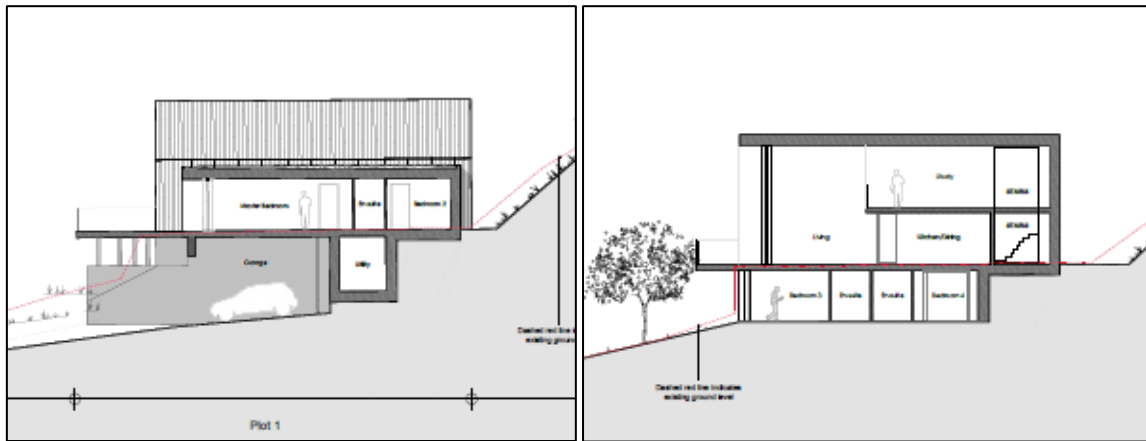


Fig.6: Typical sections

3.7 The following reports were submitted by the applicant in support of the proposals:

### Design & Access Statement

3.8 This provides a broad overview of the site context and development proposals. It sets out that the scheme has been developed with regard to the adopted Sandgate Design Statement, and explains how the scheme has been amended to take account of the previous reason for refusal.

### Planning Statement

3.9 This statement considers the planning and policy context surrounding the application (including matters such as principle, sustainability design, amenity, highways, ecology, and land stability), and considers the merits of the scheme against adopted planning policy and guidance. It concludes that the application is acceptable and in accordance with current regulations.

### Arboricultural Impact Assessment and Method Statement

3.10 This report, prepared by Greenspace Ecological Solutions (GES), examines the impact of the scheme upon protected trees within the site and the surrounding area. It concludes that, through the use of relatively standard construction practices and tree protection measures, there would be no arboricultural constraints on developing the site as proposed. A tree protection plan accompanies the report.

### Preliminary ecological appraisal

3.11 This report examines the potential for protected species within the site, and the possible ecological and biodiversity impacts arising from the proposed development. It notes that no evidence has been found to show that protected species (bats, badgers, reptiles) live on the site, but does note potential for nesting birds. The report concludes that there would be no impacts upon protected species or designated sites as a result of developing the site, but makes recommendations of ways in which to enhance biodiversity within the site.

### Latchgate (land stability) report

3.12 The report concludes that the following works should be undertaken:

# DCL/21/59

- Excavate and form temporary retaining walls in 1.5 metre lengths using suitably designed gabion baskets
- Form piled foundations incorporating permanent concrete retaining walls as required. A piled slab would appear to be the most suitable solution.
- Foul drainage as existing.
- Surface water disposal via positive drainage – no soakaways.

The report concludes that, subject to the above, the proposed works will not have an adverse effect on the site, surrounding land, or neighbouring property.

## Sunlight and daylight report

- 3.13 The report collates a number of images to demonstrate the location of existing and proposed dwellings in proximity to the neighbouring properties. Specialist advice has been sought from Herrington Consulting who have reviewed the planning information and applied the daylight and sunlight rules of thumb to the neighbouring properties. It concludes that there will be no unacceptable impact on neighbouring properties as a result of sunlight, daylight, and shadow.

## 4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows:

20/1356	Demolition of existing house, erection of four detached dwellings and new shared drive.	Refused.
Y16/0450	Erection of a detached house adjacent to Wellington, on the former tennis court area.	Approved but not implemented.
Y18/0308	Erection of two dwellings and a block of seven flats at West Grove, nearby.	Refused and dismissed at appeal.

- 4.2 Members may recall application ref. 20/1356, which was refused by the committee last year for a single reason relating to the increase in built form within the site, and the bulk and scale of the proposed dwellings failing to protect the special character of the Sandgate escarpment Local Landscape Area:

*The proposed development by virtue of the increase in built form within the site, the proposed layout, and the bulk and scale of the dwellings proposed, would fail to protect or enhance the special character of the Sandgate Escarpment Local Landscape Area and would give rise to significant and demonstrable harm to the visual amenities of the area in a manner contrary to Policies HB1, HB2, HB10 and NE3 of the Folkestone and Hythe District Local Plan 2020.*

- 4.3 Members should also note planning permission ref. 21/0739/FH, which granted planning permission for extensions and alterations to Three Bears which would convert it from a bungalow to a two-storey flat-roofed house. The approved street scene is shown below, with Three Bears in the centre and the top of the escarpment behind:



Fig.7: 21/0739/Fh approved street scene (Three Bears in centrewith flat roof)

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Sandgate Parish Council:** Object, commenting that while they welcome the reduction in bulk and scale, they consider the development does not preserve or enhance the character of the area. The Parish Council also suggest conditions in regards restricting access to vehicles larger than 6.6m; control access as suggested within the application submissions; repairs to the road *before* construction of the proposed development; mitigation of water run-off; and consultation with the Parish Council prior to agreement of any construction management plan.

**KCC Highways and Transportation:** have no comments other than to note the scale of the development falls below their protocol threshold response requirements.

**KCC Ecology:** has no objection subject to the imposition of conditions as set out below.

**Kent Fire & Rescue Service:** have no objection provided that domestic sprinkler systems are installed and gate access is available to emergency crews at all times.

**Natural England:** has no comments.

**Environment Agency:** has no comments.

**Southern Water:** note that a formal application to connect the new properties to the public sewer will be required, and advise the applicant of the need to contact their officers directly to arrange for necessary surveys and consents.

**FHDC Contamination Consultant:** has no objection subject to the imposition of the Council's standard land contamination condition.

# DCL/21/59

**FHDC Arboricultural Manager:** has asked for additional information. I will update Members at the meeting but it is noted that no objections were raised to the previous application.

**FHDC Building Control Manager:** Demolition notice and relevant building regulations will be required.

## Local Residents Comments

5.2 24 neighbours directly consulted. 18 letters of objection and 1 letter neither supporting nor objecting to the application (from 16 addresses) have been received in response.

5.3 I have read all of the letters received. The key issues are summarised below:

### Objections

- Highway safety and amenity;
- Impact on visual amenity;
- Conflicts with adopted policies;
- Sustainable development / environmental impacts of development;
- Fewer dwellings would be preferable;
- Land stability;
- Damage to property / vehicles;
- Planning permission ref. 16/0450 (for a single additional dwelling on the site) has expired and should carry little weight;
- Will not benefit local people;
- Adequacy of drainage;
- Should include a pedestrian link to The Corniche; and
- Inadequate public consultation.

### General Comments

- Access to adjacent properties during construction;
- Maintenance and repair of the road.

5.4 In addition to the above the Sandgate Society object to the application for the following summarised reasons:

- The site is largely covered by a TPO;
- Impact on Area of Special Character;
- Over-development of site;
- Footprint of proposed buildings is too large;
- Scheme should be reduced to three dwellings; and
- Contrary to policy.

5.6 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



# DCL/21/59

- 6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review 2022. (The Folkestone & Hythe District Core Strategy Review was adopted by Council on 30 March 2022. There is a period of six weeks during which any person aggrieved by the adoption may make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. This period will elapse on 11 May 2022.)
- 6.2 The relevant development plan policies are as follows:-

## Places and Policies Local Plan 2020

HB1 – Quality Places through Design  
HB3 – Internal and External Space Standards  
HB10 - Development of Residential Gardens  
T2 \_ Parking Standards  
T5 – Cycle Parking  
NE2 – Biodiversity  
NE3 – Protecting the District’s Landscape and Countryside  
NE7 – Contaminated Land  
CC2 – Sustainable design and construction  
CC3 – Sustainable Drainage Systems  
HE2 – Archaeology

## Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development  
SS1 – District Spatial Strategy  
SS2 – Housing and economy  
SS3 – Sustainable settlements  
CSD2 – District Residential Needs  
CSD5 – Water and Coastal Environmental Management in Shepway

## Core Strategy Review Submission draft (2019)

SS1 – District Spatial Strategy  
SS2 – Housing and the Economy Growth Strategy  
SS3 – Place-Shaping and Sustainable Settlements Strategy  
CSD1 – Balanced Neighbourhoods for Shepway  
CSD2 – District Residential Needs  
CSD5 – Water and Coastal Environmental Management in Shepway

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

## **Supplementary Planning Guidance/Documents**

The adopted Sandgate Design Statement (2013) puts the site within the Escarpment Character Area, characterised by narrow streets winding up the escarpment, with tall

# DCL/21/59

detached properties (of no common architectural theme) set below the crest of the slope. Page 25 sets out some key design characteristics, including a mix of property scales and designs; the use of render on external walls; and green, wooded backdrops to dwellings.

Kent Design Guide (2006/2007)

## **Government Advice**

### National Planning Policy Framework (NPPF) 2019

6.4 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). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

### National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

### National Design Guide October 2019

C1 - Understand and relate well to the site, its local and wider context

I2 - Well-designed, high quality and attractive

Paragraph 53 '*Well designed places are visually attractive and aim to delight their occupants and passers-by*'.

N3 - Support rich and varied biodiversity

## **7. APPRAISAL**

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Protected trees

- f) Contamination
- g) Land Stability and Drainage
- h) Archaeology
- i) Highway safety
- j) Other matters

## **a) Principle of development and sustainability**

- 7.2 As noted above, the site was granted planning permission on in 2017 (ref. Y16/0450/SH) for the erection of a detached dwelling (to be located on the footprint of the existing tennis court), a new internal access road, garden space, and associated parking. That permission has not been implemented and has now expired, but it should be noted that permission for an additional dwelling has been granted on the site previously.
- 7.3 The application site is situated within the defined settlement boundary of Sandgate, where adopted and emerging Core Strategy policy SS3 seeks to permit new residential infill development subject to material planning considerations as set out below.
- 7.4 Part of the site is residential garden land, the redevelopment of which is also supported by PPLP Policy HB10, subject to specific criteria which is considered below. While it is acknowledged that the NPPF states that windfall housing sites should not include residential gardens, garden development cannot be resisted in principle unless harm is identified.
- 7.5 Residential development of this site is therefore considered to be acceptable in principle.

## **b) Design, layout, visual amenity**

- 7.6 Redevelopment of the plot as proposed requires demolition of the existing house, which benefits from a generous plot. The existing site is characterised by expanses of trees on the hillside with existing dwellings apparent to a greater or lesser extent against that verdant backdrop.
- 7.7 It is recognised that this part of Sandgate has been significantly redeveloped over time. Larger plots have been infilled over time leading to a very mixed urban grain with dwellings of varying types, scales, and architectural styles, all set on plots of varying sizes. There are also significant level changes within the area and there is no uniform property height as a result. In terms of the impact of this very mixed character and spacing it is considered that the site is comparable in terms of scale, layout and spacing to existing development in the surrounding area, and is of an appropriate size to accommodate 4no. detached dwellings.
- 7.8 In terms of green space, the proposed dwellings have been carefully designed to be set within the context of the green escarpment and to blend with the landscape, rather

# DCL/21/59

than standing proud and announcing themselves visually. While some green space has been lost through the placement of the dwellings themselves a significant amount of green space remains within the site and that existing verdant character would not be lost as a result of this development. A high quality landscaping scheme is also proposed to enhance the existing trees with additional planting, including substantial landscape buffers to the north and south of the site. This would further integrate the dwellings into the surroundings and is secured by planning conditions set out below. The incorporation of sedum roofs further greens the proposal scheme when viewed from public vantage points (The Corniche, for example) and would further retain and enhance the green character of the area in line with the requirements of the Sandgate Village Design SPD.

- 7.9 It is proposed that the new dwellings would respect the linear alignment to the east west of the site adhering to the building line of the established dwellings and maintaining a suitable set back from the highway to the rear of the site, The Corniche.
- 7.10 The proposed design and layout of the site is a result of amendments to the scheme following Members comments on refused application 20/1356/FH. The scale and massing of the buildings has been considerably reduced from that previous submission; the proposed dwellings are now a maximum of two stories and there are more significant areas of escarpment visible between and around the properties which allow the verdant surroundings to be appreciated in long-range views. The dwellings would be of a compact form of development with much lower ridge height than the existing dwelling on site (see figure 1 above), and would therefore nestle into the hillside in an unobtrusive manner without being prominent or causing harm to the character or appearance of the area. It is considered that this addresses the previous reason for refusal.
- 7.11 The dwellings would be of a high-quality contemporary design that would be appropriate within the very mixed character of the local area, and which would contribute positively to the character and appearance of Sandgate, where contemporary and historic design often sit alongside each other. The use of high-quality external materials – including vertical timber cladding, standing seam roofs, ragstone, and recessed glazing will result in an attractive development.
- 7.12 Overall, it is considered that the development represents high-quality bespoke architecture that can be accommodated on the site without appearing cramped or causing harm to the character and appearance of the local area.
- 7.13 A condition is recommended to remove permitted development rights for roof extensions in the interest of preventing the height of the buildings increasing without proper consideration.

## **c) Residential amenity**

- 7.14 The proposed dwellings would all feature rooms and internal space well in excess of the minimum national requirements, and all rooms would be well served with natural daylight. Each dwelling would have a generous private rear garden and would therefore benefit from an acceptable level of outdoor amenity space, while also being situated very close to the beach and the outdoor amenities available there.
- 7.15 The proposed dwellings would be set sufficiently far from existing adjacent dwellings to minimise potential for any issues of overshadowing, overlooking, or other loss of

# DCL/21/59

residential amenity for neighbouring residents. The position of windows and balconies, when viewed in the context of the steeply sloping site, greatly restricts any potential for overlooking of neighbouring properties to the front of the site, and those properties on The Corniche are at such an elevated level that they would not experience any unacceptable impacts upon their residential amenity.

## **d) Ecology and biodiversity**

7.16 While local objections are noted, the submitted ecological appraisal could find no evidence of any protected species within the site. The KCC ecologist accepts these findings and has no objections to the proposals (subject to the conditions set out below) and it is therefore considered that the proposal is acceptable in terms of ecological impact. It is also noted that reason for refusal on the previous scheme (which this application seeks to overcome) did not relate to ecology.

## **e) Protected trees**

7.17 As noted above: trees covered by a TPO (no.04 of 1975) are located within the site at Hillboro, Wellington, and a large part of the escarpment to the rear.

7.18 An Arboricultural Impact Assessment and Method Statement have been submitted to support the proposal, the results of which indicate that the trees within the survey area vary considerably in terms of quality and contribution to the public amenity. A total of nine individual trees, one group of trees, part of two further groups of trees, and one hedge will be removed to enable the proposed development. All trees to be removed fall within the less desirable 'C' category as they are small and easily replaced or are in poor health.

7.19 Through the specified construction methodologies and tree protection measures it will be possible to minimise the impact of the proposed development on the retained trees and submitted drawings illustrate that the proposed service runs (gas, water, etc.) won't have any unacceptable impact on existing trees within the site.

7.20 Final comments are awaited from the Council's arboricultural officer (and officers will update Members at the meeting) but it is noted that – in regards the previous application – the arboricultural officer concluded that there are no arboricultural constraints which would prevent the proposed development from going ahead, subject to the protection measures and construction methodologies specified within the submitted report being correctly implemented. Conditions to reflect this previous position have been set out below, and (as above) can be updated to reflect the arboricultural officers comments when received.

7.21 Further to this, an appropriate and sensitive high-quality landscaping scheme is proposed in order to help the dwellings assimilate on site, remain in-keeping with the character of the surrounding area, and to secure replacement planting. This is secured by way of a planning condition set out below. It is also noted that reason for refusal on the previous scheme (which this application seeks to overcome) did not relate to trees or landscaping.

## **f) Contamination**

7.22 Historic residential use of the site is unlikely to have generated any issues of contamination, but it is prudent to apply the Council's standard condition which requires

# DCL/21/59

any contamination encountered during construction to be appropriately remediated. This is set out below.

## **g) Land stability and drainage**

- 7.23 A Land Stability Report prepared by KSI Ltd. accompanies this application, and finds that the proposed construction of four dwellings will have no significant adverse effect on the general stability of the site and surrounding land, extending down to the beach. The report recommends that the development uses piled foundations incorporating permanent concrete retaining walls, and that surface water disposal should be through positive drainage rather than soakaways. If these recommendations are followed, the proposed works are not considered to have an adverse effect on the site, surrounding land or property. This can be secured by way of a planning condition.
- 7.24 The report also states that the proposed use of shallow piled slab foundations would not affect drainage, and the proposed foundations will therefore have a negligible effect on the ground water within the slope and therefore will not cause any concentrations of ground water within the slope which could have an adverse effect on slope stability. Surface water is proposed to be drained to the main sewer.
- 7.25 Local concern regarding land stability is noted, however the submitted report is prepared by a suitably-qualified consulting engineer and comes to the conclusion that the scheme is acceptable. It is also noted that reason for refusal on the previous scheme (which this application seeks to overcome) did not relate to land stability.
- 7.26 The site lies outside of a designated flood risk area, being halfway up the escarpment. Flood risk is not a concern here.

## **h) Archaeology**

- 7.27 The site lies within an Archaeological Notification Area but as the works are limited and located on the site of existing development it is unlikely that there will be a significant archaeological impact. However, it is considered reasonable and necessary to add a condition to any permission granted to secure the implementation of a watching brief to be undertaken by an archaeologist, so that the excavation is observed and items of interest and finds are recorded.

## **i) Highway safety and amenity**

- 7.28 The proposed dwellings would be accessed from the highest point of Sunnyside Road to mitigate the impact on existing trees and topography of the site. The access will take the form of a shared tarmaced bellmouth which leads to a new internal access road providing access to each property. Suitable visibility splays are achieved at the bellmouth.
- 7.29 The number of additional vehicle movements generated as a result of the proposed dwelling would not be a significant increase to the extent that it could be considered harmful to highway safety or justify a refusal on such grounds. The proposed ground floor site plan (drawing 18.070 106 rev P3) includes localised road widening that enables the provision of passing spaces on this upper section of Sunnyside Road and the provision of a turning head, which will help alleviate residents' concerns about access.

# DCL/21/59

- 7.30 Whilst outside the remit of the planning application, the applicant has also stated they will repair and upgrade Sunnyside Road after completion of construction. This is also shown on drawing 18.070 106 rev. P3.
- 7.31 The proposed layouts illustrates three parking spaces per dwelling. It is appreciated, however, that some of these spaces are proposed within integral garages and KCC Highways and Transportation no longer recognise garages as car parking spaces. However, the dwellings would also each benefit from generous forecourt areas within their curtilage, which would allow for additional parking provision. As such the proposed parking provision is in accordance with the requirements of the Kent Vehicle Parking Standards.
- 7.32 A separate pedestrian staircase access is proposed from Sunnyside Road to link to the new internal access road for ease of movement.
- 7.33 Cycle storage can be incorporated on plot according to the needs of each property, and it is not considered a condition is necessary in this regard.
- 7.34 A refuse collection point is located close to the entrance of the site and (while local objections in regards to access are noted and understood) tracking drawings have been submitted that demonstrate the safe access and egress of refuse and fire vehicles. Any deliveries on a regular basis would be undertaken by delivery van with the refuse collection taking place as per present arrangements to serve the existing dwellings in the vicinity.
- 7.35 Drawings 45456/5501/009 and 18.070 106 rev. P3 illustrate Fire Service access via The Corniche. The layout accords with their specific requirements and, as above, the Fire Service has no objection to the scheme on the basis of these drawings (and subject to conditions as set out below).
- 7.36 Temporary construction access for materials deliveries will be managed by the site contractor, taking account of existing access constraints. The bend in the road (approximately halfway along Sunnyside Road) has a centre line radii of c.10m which accords with design guidance for residential estate roads set out in Kent Design Guide (Step 3, page 143), therefore this is not considered to be a constraint.
- 7.37 It is also noted that planning permission has previously been granted for an additional dwelling on the site on the footprint of the existing tennis court (ref. Y16/1450/SH – now lapsed). Therefore matters relating to highways access and construction traffic have already previously been considered and found to be acceptable in the context of development of the site, albeit that was for one additional dwelling as opposed to four.
- 7.38 Overall, it is concluded that the proposal would not give rise to unacceptable impacts in highway safety and amenity terms. It is also noted that reason for refusal on the previous scheme (which this application seeks to overcome) does not relate to highway safety and amenity.

## **j) Other matters**

- 7.39 Development of this scale is not required to provide affordable housing or s.106 contributions. However: the site is within an area subject to CIL at a rate of £117.73 per sqm – the relevant form has been provided and CIL contributions would be used to fund local services and facilities.

# DCL/21/59

7.40 The Fire Service recommend that domestic sprinklers be fitted throughout the development. This is a matter dealt with under Building Control, but an informative is set out below so that the developer is aware of the need to consider this at building regulations stage.

## **Environmental Impact Assessment**

7.41 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**

7.42 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.

7.43 In accordance with policy SS5 of the 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 £117.73 per square metre for new residential floor space.

## **Human Rights**

7.44 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**

7.45 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.



# DCL/21/59

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

## Working with the applicant

7.46 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 planning permission for demolition of the existing dwelling and erection of four detached houses. The site lies within the defined settlement boundary and the principle of development is therefore acceptable. The scale, design, and layout of the proposed houses responds to and overcomes the reason for refusal on previous application ref. 20/1356; and while local objections are noted and understood, officers consider the scheme to be acceptable in all respects. The application is therefore recommended for approval subject to conditions as set out at the end of the report.

## 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 granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans;

- 18.070 101 rev P1
- 18.070 102 rev P1
- 18.070 103 rev P1
- 18.070 104 rev P1
- 18.070 105 rev P1
- 18.070 106 rev P1
- 18.070 107 rev P1
- 18.070 108 rev P1
- 18.070 109 rev P1

# DCL/21/59

- 18.070 110 rev P1
- 18.070 111 rev P1
- 18.070 112 rev P1
- 18.070 113 rev P1
- 18.070 114 rev P1
- 18.070 115 rev P1
- 18.070 116 rev P1
- 18.070119 rev P3
- 18.070 120 rev P2
- 45456/5501/007
- 45456/5501/008
- 45456/5501/009
- J20612\_Arb\_TCP

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Local Plan.

3. Prior to the commencement of the development hereby approved, details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the details of materials as approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate appearance of the completed development and in the interests of visual amenity.

4. All ground protection measures including all protective fencing measures shall be installed in accordance with the tree protection plan prior to the construction contractor's site occupation. All protective measures must be installed under the supervision of the project arboriculturalist with photos taken and sent to the LPA's arboricultural manager and planning case officer as proof of compliance with the condition. All protective measures shall be retained intact and in place until completion of the project and will not be removed until a post-development site meeting is held with the LPA's Arboricultural Manager and the project arboriculturalist.

Reason: To ensure the long term health and retention of the TPO trees within the site.

5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the District Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

# DCL/21/59

Reason: In the interests of the amenities of the area and highway safety and convenience.

6. From commencement of works (including site clearance) precautionary mitigation measures for reptiles shall be carried out in accordance with the details in section 5.2.2.3 of Preliminary Ecological Appraisal (Greenspace Ecological Solutions September 2020).

Reason: In the interest of minimising potential for harm to protected species.

7. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification, which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

8. The development hereby approved shall use piled foundations incorporating permanent concrete retaining walls, and surface water disposal should be through positive drainage rather than soakaways as set out within the hereby approved Land Stability report by KSI Consulting.

Reason: In the interest of land stability.

9. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0800 – 1800 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

10. Within six months of development commencing on site details of how the development will enhance biodiversity will be submitted to the local planning authority. This will include recommendations in section 7 of the Preliminary Ecological Appraisal (Greenspace Ecological Solutions September 2020). On written approval the agreed details shall be implemented on site and thereafter retained in perpetuity.

Reason: In the interest of minimising potential for harm to protected species.

11. Construction shall not commence until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving the new dwellinghouses will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator.

# DCL/21/59

Reason: In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify Shepway as a water scarcity area and require all new dwellings to incorporate water efficiency measures.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-water-efficiency-calculator-for-new-dwellings>.

12. No construction work above foundation level shall take place until full details of both hard and soft landscape works, including sedum roofs, have been submitted to the local planning authority including planting, an implementation programme and a maintenance schedule. No building shall be occupied until an approved landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In order to protect and enhance the appearance of the site, streetscene and wider area.

13. No construction work above foundation level shall take place until full details of the screening provided to the terraces of each dwelling have been submitted to the local planning authority. No building shall be occupied until the approved screening has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The approved screening shall be thereafter maintained in accordance with the agreed details.

Reason: In order to protect the amenities of neighbouring occupiers.

14. Three domestic parking spaces per dwelling hereby approved shall be kept available for domestic parking purposes in connection with each dwelling hereby permitted at all times, with no obstruction thereto.

Reason: To ensure the permanent retention of the space for parking purposes within the curtilage of the site in order to avoid obstruction of the highway and safeguard the amenities of adjacent properties in accordance with the Development Plan.

15. The bin stores and refuse collection point as shown on the hereby approved plans shall be fully implemented prior to the first occupation of each dwelling hereby permitted and shall thereafter be retained and maintained.

Reason: To ensure adequate means of refuse collection in the interests of the amenities of residents in accordance with the Development Plan.

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and

# DCL/21/59

approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within Classes A, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority on Plot 1 nor Plot 2.

Reason: To enable the Local Planning Authority to retain control over future development.

## Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

3. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations.

# DCL/21/59

Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively another building control body may be able to assist.

4. Please note that Kent Fire and Rescue recommend the use of domestic sprinkler systems throughout the dwellings hereby permitted as a part of the Building Regulations submission. It is recommended that the developer discuss the matter with the fire service direct.
5. Please view the Considerate Constructors Scheme at <http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-veryconsiderate/company-code-of-considerate-practice>.
6. Any surface or fly-tipped waste materials should be removed to suitable permitted sites as part of any site clearance/preparation works.