

DCL/22/34

Application No: 22/0319/FH

Location of Site: Cliff Lodge, Cliff Road, Hythe, CT21 5XW.

Development: Erection of new 4 bed dwelling over 3 levels (with the lower ground level set into the rising ground behind) and associated garden space.

Applicant: Mr & Mrs Doree.

Agent: Robert Palmer Chartered Architect.

Officer Contact: Ross McCardle.

SUMMARY

This application seeks planning permission for the erection of a detached house on land within the settlement area boundary. While local objections are noted the proposed dwelling would be acceptable in all regards including design, amenity, highways, trees and land stability and as such the application is 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 due to an objection from Hythe Town Council.

2. SITE AND SURROUNDINGS

2.1. The application site comprises part of the side garden for Cliff Lodge, which is a large detached property set within a generous plot within the defined settlement boundary to the east of Hythe and north of Seabrook. It is set back from the highway and accessed via a driveway that runs across the southern boundary of the site and also provides access to the neighbouring house to the east, known as The Headland. Cliff Lodge is set to the east of the plot with only a garage in the western half. The application site comprises this western half of the garden as illustrated in **fig.1** below; it is irregularly shaped, the main area measuring approximately 37m deep x 17m wide with a panhandle extending northwards.

2.2. Land levels rise up northwards from Seabrook Road and the site is therefore in an elevated position with clear views across Seabrook and Princes Parade to the sea. Land levels also rise up from the southern site boundary to a relatively level plateau in the centre of the site, and then rise more gently northwards up to a wooded area to the rear of the site.

2.3. Cliff Road is characterised predominantly by detached dwellings of varying scales, designs, types, and plot sizes. The area immediately surrounding Cliff Lodge is predominantly detached houses set centrally within spacious plots

DCL/22/34

- 2.4. The site is within the defined settlement boundary; within land stability zone D (higher risk); and land to the west and the very northern part of the site are covered by blanket TPO no. 09 of 1995 (see **fig. 2**).



Fig.1: Approximate site boundaries



Fig.2: Area covered by TPO no. 09 of 1995

- 2.5. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Full planning permission is sought for the erection of a detached four-bed house.
- 3.2 The proposed house would be set over three levels with the lower level dug into the hillside to provide a garage and study/bedroom 4 at lower ground floor level; a basement store room would be set behind these and would be entirely subterranean. The upper ground floor level would provide a sitting room and open plan kitchen/diner

DCL/22/34

with a conservatory projecting to the east. The first floor would provide three bedrooms and a bathroom.

- 3.3 Due to the building being partly set into the hillside it would stand a maximum of approximately 10.8m tall when viewed from the south and 8.4m when viewed from the north. The building would be set in line with the building line formed by existing dwellings and would have a footprint similar to that of existing neighbouring properties. It would be set approximately 8m from Cliff Lodge and 13.5m from Marine Heights to the west, and the garden would be between 14m and 30m deep (due to the northern projection). Space for parking a minimum of two vehicles (with potential for more) is shown on the frontage, and an integral garage is shown at lower ground floor level.
- 3.4 External architecture would be of a traditional post-war style similar to neighbouring properties, and external materials are proposed as red brick, render, and clay roof tiles. Solar panels are shown on the principal south-facing roof slope



Fig.3 – Proposed site layout



Fig.4 – Proposed south elevation and street scene

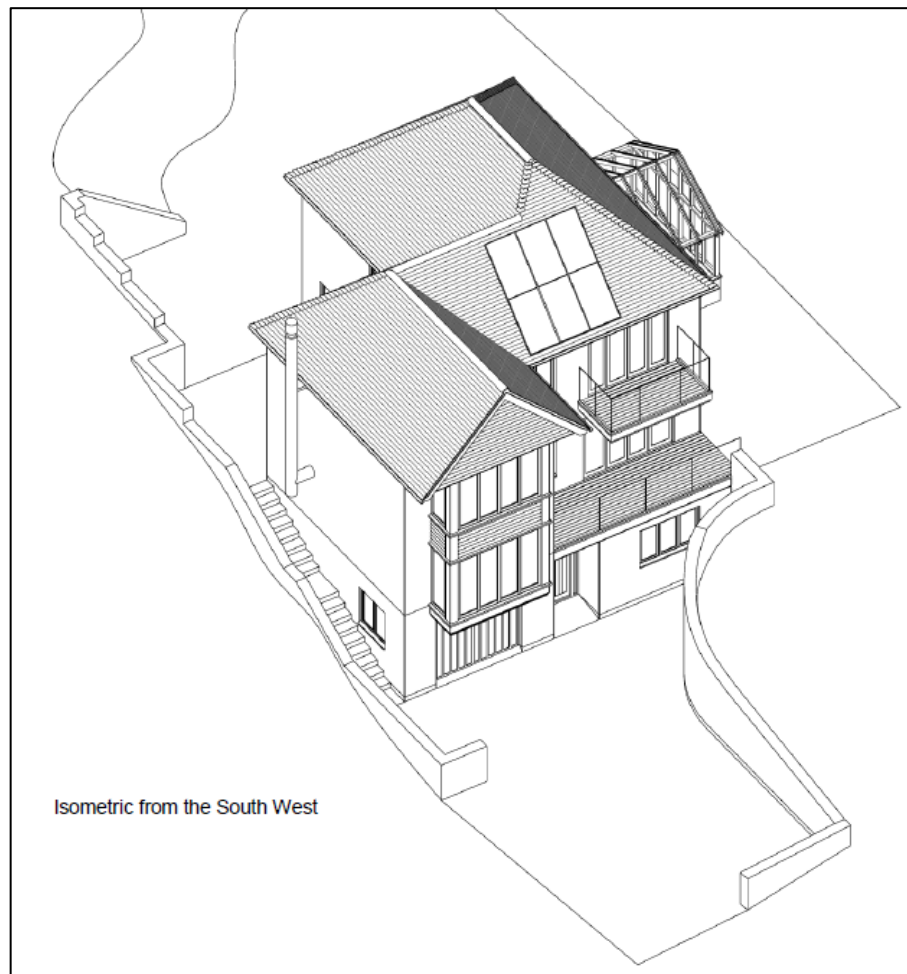


Fig.5 – Proposed axonometric view

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

Design & Access Statement

3.6 This assesses the context of the site and explains how the development has been designed to fit in with the surrounding streetscene and local character. It provides a full description of the proposed development and includes long-range views and photos to illustrate how the dwelling will appear within the landscape.

Slope Stability Report

3.7 This is a technical report prepared by a firm of suitably qualified geotechnical engineers. It examines geology and drainage within the area and concludes that traditional foundations would be suitable and would not give rise to any land slippage.

Arboricultural Report

3.8 This demonstrates that no trees within the adjacent blanket TPO need to be lost as a result of the development.

4. RELEVANT PLANNING HISTORY

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

| | | |
|-------------|--|----------|
| Y18/0741/FH | Erection of two-storey bay window, single-storey side and rear extension, first-floor rear extension, porch, and formation of a first-floor balcony. | Approved |
|-------------|--|----------|

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: object on the grounds that *“this is an over-intensive development of the site and is not in keeping with the street scene. There are issues with access and egress to the site and the density of development.”*

KCC Highways and Transportation: no comments other than to note this falls below their protocol response threshold.

Southern Water: suggest that Building Control be consulted to consider the suitability of soakaways for the disposal of surface water, and suggest the design of the basement areas should consider *“surcharging within the public sewerage system in order to provide adequate protection from the risks of flooding.”*

Affinity Water: no comments.

Arboricultural Manager: no objection subject to a condition requiring notice of when protective tree fencing is to be installed so that a visit can be made to check compliance.

Local Residents Comments

5.2 8 neighbours directly consulted. 2 letters of objection received in response.

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

Objections

- Damage to highway during construction;
- Noise and disturbance during construction;
- Land stability;
- Overlooking and loss of privacy;
- Out of keeping with character and appearance of area;
- Loss of existing garden;
- Density of development;
- Construction traffic / access / parking;
- Historic loss of trees on the site;
- Impact on sewage and drainage; and
- Contrary to Articles 1 and 8 of the Human Rights Act.

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 Places and Policies Local Plan 2020 and the Core Strategy Review 2022.

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1 (design)
HB3 (space standards)
HB8 (alterations and extensions to buildings)
NE2 (biodiversity)
NE6 (land stability)
T2 (parking)
T3 (residential garages)
T5 (cycle parking)
CC2 (sustainable design and construction)

Core Strategy (2022)

SS1 (spatial strategy)
SS3 (sustainable settlements)
CSD1 (balanced neighbourhoods)
CSD5 (water management)
CSD7 (Hythe strategy)

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

Government Advice

National Planning Policy Framework (NPPF) 2021

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.

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) Space standards
- d) Residential amenity

- e) Protected trees
- f) Land stability
- g) Highway safety and amenity
- h) Other matters

a) Principle of development and sustainability

7.2 The application site lies within a sustainable urban location within the defined settlement boundary and relatively close to local shops, services, and amenities. Core Strategy policies SS1 and SS3 direct new residential development to such locations as a matter of principle, and Local Plan policy HB10 allows development of residential gardens provided criteria in relation to layout, design, access, etc. are met; these are considered in detail below.

7.3 The development is therefore acceptable in principle.

b) Design / layout / visual amenity

7.4 Officers note that both the Town Council and a local resident have objected on the grounds that the resulting density of development would be contrary to the character of the area, but respectfully disagree. The map extract below (fig.6) shows Cliff Lodge to have a notably larger curtilage than the surrounding properties, being an exception to the otherwise relatively close-knit form of development within the area. The proposed dwelling would sit comfortably within the existing streetscene without appearing cramped in terms of either the plot or the wider area.

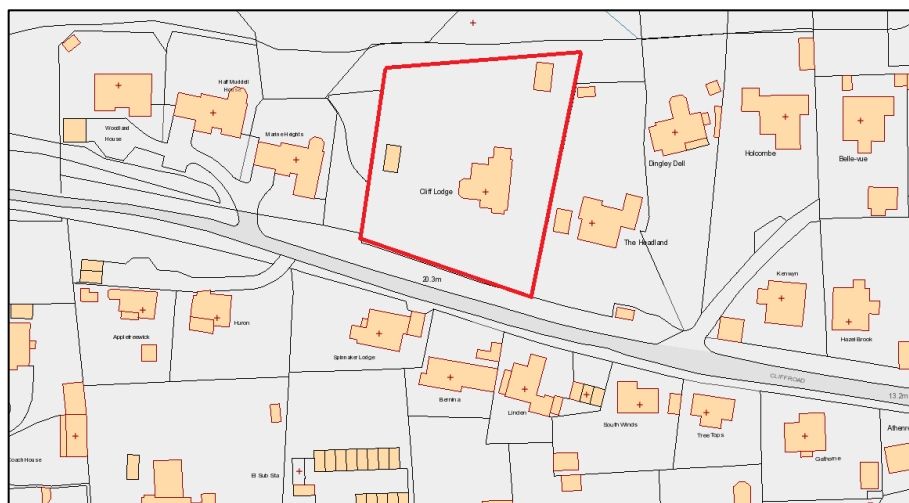


Fig.6: Context of local area

7.5 The current density of the area shown within fig. 6 is approximately 7.2 dwellings per hectare (dph); as a result of the current proposal this would be 7.6dph. Both figures are significantly below the 30dph minimum usually applied to new developments, and an increase of 0.4dph (in itself) is not sufficient to justify a reason for refusal.

DCL/22/34

- 7.6 The site has sufficient space to accommodate an acceptable layout, as illustrated by the fact that the proposed development includes parking and amenity space in accordance with adopted standards while also maintaining substantial separation distances to neighbouring dwellings. The resultant plot would be of a comparable size (17m wide) to existing nearby properties on Cliff Road (which range from 12m to 37m wide) and the proposed dwelling would not appear cramped either on its plot or within the context of the very mixed streetscene.
- 7.7 The street scene along Cliff Road is very varied, with no single dominant architectural style or design. The proposed dwelling would be of a similar post-war style to the existing dwelling (e.g. similar gable frontage and full height bay) but with contemporary design touches; this is considered acceptable, and the drawings show an attractive property that would contribute positively to the character and appearance of the area. It is noted that the building would be three stories when viewed from the front compared to the predominantly two-storey existing neighbouring dwellings; this in itself is not unacceptable and it is noted that the ridge height would not be taller than the existing neighbouring properties due to the lower floor being cut into the hillside.
- 7.8 Overall officers consider the scheme to be acceptable in terms of visual amenity.

c) Space standards

- 7.9 The proposed dwelling would provide a good standard of amenity for future occupants, and both internal space and garden area meet current requirements.

d) Residential amenity

- 7.10 Side windows are kept to a minimum and there would be good separation distances to the existing dwellings to either side (min. 8m to Cliff Lodge and 13.5m to Marine Heights) and the 45 degree rule would not be breached; consequently the development would not be overbearing and there would be no unacceptable loss of amenity for those existing residents. The conditions below secure obscure glazing where required.
- 7.11 Officers note objections in regards potential overlooking of gardens to the south; this would be at a distance in excess of 26m and with intervening soft landscaping to partially screen views. There are no minimum front-to-front separation distances set out within adopted guidance, but rear-to-rear distances in excess of 21m are considered acceptable and in that regard officers do not consider there would be any unacceptable loss of amenity as a result of this development. In this regard officers also do not consider there would be any unacceptable degree of overlooking or loss of privacy from the front balconies.
- 7.12 Noise and disturbance during construction is generally accepted as part of development, and conditions (as below) can be employed to minimise the potential for unacceptable impacts. This is not a reason for refusal. There is also space within the site to accommodate contractor's vehicles, materials, etc. without impacting neighbouring residents.
- 7.13 Officers consider issues of residential amenity to be acceptable.

e) Protected trees

DCL/22/34

7.14 The land to the west and north of the application site is covered by a blanket TPO (no.9 of 1995). The application does not suggest removal of any trees within the site and the submitted arb. report confirms that no TPO trees will be affected. The condition below secures protection measures and notice of when they are to be installed so that the Council's arb. officer can visit the site to check the works. Subject to this condition officers have no objections in regards trees.

f) Land stability

7.15 As set out above: the application is accompanied by a land stability survey (carried out by a suitably-qualified engineer) which concludes there is little risk, and traditional foundations can be used for the development. On this basis officers have no objections.

g) Highway safety and amenity

7.16 The development would utilise the existing site access and driveway. It would not generate additional vehicle movements to such a degree as to pose a threat to highway safety, or in excess of network capacity. There is also considered be ample parking on site to serve the development, and an existing rear garage and parking area serving the existing dwelling would be unaffected

7.17 Cliff Road is a private, unmade road. Any damage to the road during construction would therefore be a private legal matter to be resolved between the relevant parties.

h) Other matters

7.18 Sewage and drainage would be considered under the Building Regulations stage, but it is noted that Southern Water do not object.

Environmental Impact Assessment

7.19 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

7.20 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. There is no CIL requirement for this development.

7.21 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

7.22 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

7.23 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

7.24 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. In this instance the application was acceptable as submitted.

8. CONCLUSION

8.1 This application seeks planning permission for the erection of a detached house on land currently part of the side garden of an existing dwelling. The proposed dwelling would represent sustainable development within the defined settlement boundary, and would be of an acceptable scale and design without giving rise to any unacceptable amenity impacts. While local objections are noted they are not considered to amount to a reason for refusal.

8.2 The application is therefore recommended for approval.

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

DCL/22/34

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. No development shall take place other than in accordance with the following drawing numbers (and materials details thereon) and reports:

- 2102/100
- 2102/200
- 2102/201
- 2102/202
- 2102/203
- 2102/204
- 2102/205
- 2102/206
- 2102/207
- 2102/208
- 2102/209
- 2102/210
- KSI Ltd. slope stability report (January 2022)

3. 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 Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors.
- loading and unloading of plant and materials.
- storage of plant and materials used in constructing the development.
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- wheel washing facilities.
- 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.

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

4. No development shall take place until the pre-development protection measures set out within the submitted arboricultural report have been carried out on site.

DCL/22/34

A minimum of five working days' notice shall be given to the Council prior to installation of protective tree fencing on site.

Reason: In the interest of retaining protected trees.

5. No development beyond the construction of foundations shall take place until details to demonstrate that the dwelling hereby permitted shall use no more than 110 litres of water per person per day have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

6. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted (including finishing materials to be used on retaining walls) have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

7. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

8. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

DCL/22/34

10. 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 Local Planning Authority, and within whatever planting season is agreed.

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

11. 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 Local Planning Authority.

Reason: In the interests of residential amenity.

12. Prior to the first occupation of the dwelling hereby permitted, a minimum of one electric vehicle charging point shall be provided to serve the dwelling, in accordance with specifications and in location(s) that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of sustainable development and reducing carbon emissions.

13. The garage and parking area shown on the submitted plan shall be provided and made available prior to the first occupation of the any of the dwelling hereby approved, shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: In the interests of highway safety and convenience.

14. Before the development hereby permitted is first used, the first floor window in the western flank elevation shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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