

- a) **DOV/18/00975 - Removal of condition 4 (non-reflective glazing in the south-east elevation) of planning permission DOV/17/01078 (application under Section 73) - The Tides, 9 St Margaret's Road, St Margaret's Bay, Dover**

Reason for report: Called in by Cllr Scales as the previous application to which condition 4 was attached was determined by planning committee.

- b) **Summary of Recommendation**

Planning Permission be GRANTED.

- c) **Planning Policy and Guidance**

National Planning Policy Framework (NPPF) 2012

- Paragraph 8 sets out 3 dimensions to sustainable development – the economic, social and environmental role which should not be undertaken in isolation.
- Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision – making this means approving plan without delay or
 - Where there are no relevant plan policies, or the policies which are most important for determining the application are out-of-date granting permission unless;
 - The application of policies in this framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed or
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- Paragraph 47 sets out 'planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise;
- Paragraph 127 states 'Planning policies and decisions should ensure that developments:
 - a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) Establish or maintain a strong sense of place, using the arrangements of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime, do not undermine the quality or community cohesion and resilience'
- Paragraph 130 sets out ' Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking account any local design standards or styles in plans or supplementary planning documents'.
- Paragraph 131 states 'in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit within the overall form and layout of their surrounding'.
- Paragraph 192 sets out 'In determining applications, local planning authorities should take account of:
 - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- Paragraph 193 sets out 'when considering the impact of a proposed development on the significance of a designated heritage, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"'.
- Paragraph 194 sets out amongst other things 'Any harm to, or loss of, significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- Paragraph 195 sets out amongst other things 'where a proposal will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial public benefits that outweigh that harm or loss'.
- Paragraph 196 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

Planning (Listed Buildings and Conservation Areas) Act 1990 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the decision maker should pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Dover District Core Strategy (CS)

Policy CP1 states the location and scale of development in the District must comply with the settlement Hierarchy. The Hierarchy should also be used by infrastructure providers to inform decisions about the provision of their services.

Policy DM1 states that development will not be permitted outside the confines unless specifically justified by other plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.

Other Guidance/Relevant Matters

- Kent Design Guide

d) **Relevant Planning History**

DOV/89/01050 – The Tides – proposed extensions to form sun lounge and conservatory.

DOV/02/00251 – Land rear of The Tides – erection of detached dwelling and detached garage.

DOV/04/01162 – The Tides – erection of first floor side extension and lower ground floor extension.

DOV/15/00030 – Site next to The Tides – Erection of a detached bungalow and attached garage – Refused.

DOV/16/00891 – Erection of a single storey side and rear extension and roof extension to garage, insertion of rooflights, erection of decking and balcony with balustrade -Refused

DOV/17/01078 - Erection of a single storey link extension, garage and studio extension with storage and gym above, two storey rear extension and extension to existing terrace (existing conservatory to be demolished) – Granted by committee.

e) **Consultee Responses and Third Party Responses -**

St Margaret's- at- Cliffe Parish Council – Refers to officer.

(f) **1. The Site and the Proposal**

- 1.1 The application site is within the village of St Margaret's and is within the conservation area. The Tides is a two storey dwelling with single storey extensions to the north eastern and south western elevations. The Tides is set back from the back edge of the footpath by off street parking provision. To the south west of The Tides is a single storey garage with a tiled, hipped roof.

- 1.2 The application site falls from the north west from St Margaret's Road to the south east. The site currently falls from the road level, to a retaining wall and then to the driveway to access the garage. The garage is on the flat platform, with a 1.5 metre drop in the land level behind it. The land then continues to fall in a south easterly direction to the rear site boundary. The rear boundary consists of a retaining wall and there is significant hedging dividing the application site and Illawarra to the rear.
- 1.3 Illawarra a two storey detached dwelling set below the garden level of The Tides and there is a significant difference in ground levels between the two sites, with a detached garage to the south west of the dwelling. Access is gained to this site by a drive on the south west boundary of the application site. To the north east is The Shrubbery a two storey detached dwelling with terracing to the rear elevation.
- 1.4 The applicant seeks the removal of condition 4 (non-reflective glazing in the south east elevation) of planning permission DOV/17/01078 (application under section 73).

2. Main Issues

- 2.1 The main issues in the consideration of this application is the potential impact on the potential impact on the surrounding area.

Assessment

Principle of Development

- 2.2 The principle of the development was established through the grant of previous planning permission. The principle of the development remains acceptable.
- 2.3 The National Planning Policy Guidance states "Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original planning permission, which remains intact and unamended".
- 2.4 A decision notice describing the new permission should be issued, setting out all conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
- 2.5 As a section 73 application cannot be used to vary the time for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation. This application is not subject to a planning obligation.

Potential Impact within the Surrounding Area

- 2.6 Members previously approved a planning application for the erection of a single storey link extension, garage and studio extension with storage and gym above, two storey rear extension and an extension to the existing terrace. The two storey extension to the rear measuring 14 metres x 1.5 metres incorporates two gable ends and four recessed balconies, the vast majority of the rear elevation will be glazed as would the rear elevation of the single storey linkway.

- 2.7 Condition 4 of planning permission DOV/17/01078 reads: 'On first installation or fitting, all glazing in the rear south east facing elevation of the development hereby permitted shall be non-reflective and shall at all times thereafter be retained as such'

Reason : In the interest of visual amenity

- 2.8 The applicant is seeking to remove the condition in respect of the non-reflective glazing to the rear (south east elevation). At the time members approved the permission your officers report set out that: 'it was considered appropriate to condition the use of non – reflective glazing to ensure there would be no glare from the sun, which would reduce the visual impact when viewed from any public vantage points'.
- 2.9 The position of the dwelling is within St Margaret's conservation area, in an effective hillside terrace facing the open land within the AONB and heritage coast and therefore the application site is wholly visible from certain vantage points. To support this application, the applicant has provided a study which demonstrates the relationship between the path of the sun and the glazing to the south eastern elevation. Due to the location of the dwelling and landscape surrounding this particular site the hill tops provides some screening when the sun is low in the sky which could help alleviate any harm to the surrounding area.
- 2.10 The applicant has designed the proposal to incorporate two gable ends and four recessed balconies with the majority of the glass being flush within the rear elevation. Due to the design of the proposal this goes some way to mitigating the potential glare from the sun. The gables and the flush glazing could be cast into the shadow rather than reflecting the sun outside of the application site and could protect the sensitive locations from the significant glare of the sun. The Dover District Council's Principle Heritage Officer has verbally confirmed due to the design the loss of the non-reflective glazing would not impact on the conservation area.
- 2.11 The applicants detailed solar analysis demonstrates the position of the sun in respect of this location during spring, summer, autumn and winter. This analysis indicates the furthest reaching reflection occurs at midday on the 21st June of approximately 9.8 metres to the rear of the proposed extension.

Conclusion

- 2.12 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. It is considered in this instance, given the location, orientation, elevation of the dwelling (and its glazing) and the position of the sun as it travels across the sky and having regard for the detailed analysis which has been provided, the potential glare towards the AONB and heritage coast is limited. It is only on this basis the removal of the condition to remove the requirement of using non-reflective glazing is considered to be acceptable, as it is not considered to materially diminish between permission and completion, as a result of changes being made to the permitted scheme in accordance with the aims and objectives of paragraph 130 of the National Planning Policy Framework. I therefore recommend planning permission be granted.

(g) **Recommendation**

PERMISSION BE GRANTED subject to the following conditions to include:

(1) standard time, (2) approved plans, (3) samples of materials, (4) retention of existing hedge, (5) no further openings on the south west roof slope of the garage/studio, (6) no use of flat roof areas other than emergencies/maintenance, (7) all glazing to the balcony in the south west elevation be non-reflective glazing.

Case Officer

Karen Evans