

<b>2.10 REFERENCE NO - 17/504040/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a detached dwelling with associated parking on land adjacent to No. 27 Hilton Close.			
<b>ADDRESS</b> Land Adjacent To 27 Hilton Close Faversham Kent ME13 8NN			
<b>RECOMMENDATION</b> – Grant subject to conditions			
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Town Council objection and local objections			
<b>WARD</b> Watling	<b>PARISH/TOWN COUNCIL</b> Faversham Town	<b>APPLICANT</b> Mr Ian Fuller <b>AGENT</b> Wyndham Jordan Architects	
<b>DECISION DUE DATE</b> 05/10/17		<b>PUBLICITY EXPIRY DATE</b> 06/09/17	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/13/1252	New three-bedroom house	Refused	28/11/2013
	Appeal	Dismissed	
SW/11/1571	New three-bedroom house	Refused	12/04/2012
	Appeal	Dismissed	
SW/11/0569	New three-bedroom house	Withdrawn	05/12/2011

**1.0 DESCRIPTION OF SITE**

- 1.01 This is an application for planning permission for a new two bedroom house adjacent to 27 Hilton Close, Faversham. The present garden area of no. 27 is largely to the side of the house and the application site is the side (northern) part of the garden. This area is currently separated from the highway by a 2m high brick wall set behind tall shrubs.
- 1.02 The site is somewhat unusual, being situated adjacent to a sheer drop of approximately twenty metres to the rear. At the foot of the cliff in the former lime works (quarry) is a new housing development now known as Finch Close. The communal parts of Finch Close including the cliff faces, are controlled by a management company set up following the development of Finch Close. The houses in Hilton Close are a separate development but are designed to be far enough from the cliff edge not to cause any instability.
- 1.03 Most of the properties in Hilton Close were granted permission under planning reference SW/99/1138, (forty nine new houses); those for Finch Close under planning reference SW/03/0055 (seventy eight houses and flats), whilst no. 27 Hilton Close and the seven houses to the south were granted permission under reference SW/03/0064. This proposed eight houses and was approved as such.
- 1.04 In 2011, an application for a three bedroomed property on this particular side garden site was withdrawn (SW/11/0569).

- 1.05 A similar application for a shallow but wide fronted house here was then submitted, and was refused by the Planning Committee (SW/11/1571), and subsequently dismissed at appeal in December 2012 due to the impact of the proposal on the character and appearance of the area.
- 1.06 A third application for a three bedroom house of strong and contrasting style to the rest of Hilton Close was refused via delegated powers under planning reference SW/13/1252 on grounds of a cramped appearance due to the scale of property proposed, loss of existing parking provision, and design and materials issues. The proposal was subsequently dismissed at appeal in July 2014 due to its impact on the character and appearance of the area.
- 1.07 Copies of both appeal decisions are appended to this report.

**2.0 PROPOSAL**

- 2.01 The proposal is to again divide the garden, but on this occasion to construct a two bedroom house which clearly takes its design from the seven nearby houses permitted under planning reference SW/03/0064. To this end it features a narrow front elevation, a bay window and canopy to mirror the style of adjacent houses, and the use of similar facing materials.
- 2.02 The proposed property would be set back at least 3m from the ‘cliff edge’, further than the latest previous application due to its smaller footprint, and would have areas of garden to the rear and side, with a single parking space on the northern side of the property. A new access would also be created leading to the new parking space.

**3.0 SUMMARY INFORMATION**

	Existing	Proposed	Change (+/-)
No. of Residential Units	-	1	+1
No. of Storeys	-	2	+2
Approximate Ridge Height (m)	-	9m	+9m
Approximate Eaves Height (m)	-	4.9m	+4.9m
Approximate Depth (m)	-	8.2m	+8.2m
Approximate Width (m)	-	5.4m	+5.4m
Parking Spaces	-	1	+1

**4.0 PLANNING CONSTRAINTS**

- 4.01 None

**5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.01 The National Planning Policy Framework (NPPF): Paragraphs 14 (Sustainable Development), 60 (Design and Local Distinctiveness), 76 (Local Green Spaces) and 121 (Unstable Land) are of particular relevance.
- 5.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3 (The Swale settlement strategy), CP3 (Delivering a choice of high quality homes); CP4 (Requiring good design); DM7 (Vehicle parking) and DM14 (Development Criteria).

- 5.03 In the newly adopted Local Plan 'Bearing Fruits 2031: The Swale Borough Local Plan 2017', the open spaces and heavily treed cliff edges around Finch Close and Hilton Close, and the application site (which is part of a private garden) along with parts of adjacent gardens to the north, are together shown as being a single Local Green Space (see page 367 of the Plan), apparently at the request of Faversham Town Council, apparently without communication or consultation with the owners. It appears that the Town Council thought that the application site was public land owned by KCC and not in private ownership. Policy DM18 of the Local Plan aims to protect such spaces, which have been put forward by local communities because of their recreational value, tranquillity, heritage of biodiversity from any form of development that is not essential to sport, recreation or other open uses that maintain their openness

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Nine letters and emails of objection (two from the same address) have been received from local residents, one being from the Kings Chase management committee for Finch Close. Their contents may be summarised as follows:

- Adverse effect upon the character and appearance of the area
- Loss of greenery and sense of openness
- Filling of valuable green space
- Any building here would look cramped and unsightly
- Existing parking problems would be exacerbated – only one parking space
- No footpath on the adjacent bend
- Concerns over integrity of cliff - *'If approval was given, we would hope that a cliff survey would be part of that approval, before any work was allowed to commence'*
- The original developers would have built here if it were possible
- Blind bends in road – this is a dangerous place to build a house; particular concerns over child safety
- Disruption during construction and possible blocking of highway with construction vehicles
- Site too small for proposal
- Danger from traffic to children using playground opposite
- Difficulty for emergency, refuse and delivery vehicles to access as large vehicles already have difficulty negotiating this bend
- Is there a limit to how many applications can be made on one site?
- Loss of privacy
- A case of garden grabbing
- *'Maybe a covenant could be placed on this bit of land that stops any building now or in the future.'*
- Damage to existing kerbs from vehicles mounting kerbs, *'due to the narrowness of the highway and tortuous road design'*

- 6.02 The Faversham Society comments that the application should be refused because the piece of land is too small for a dwelling house and this has already been demonstrated twice at appeal when the applications have been dismissed.

## 7.0 CONSULTATIONS

- 7.01 Faversham Town Council raises objection to the proposal, noting that;

*'1. All objections to previous applications remain.'*

*2. The land is too small.'*

## **8.0 APPRAISAL**

- 8.01 The main issues to consider in this case are the principle of development, the effect on the character and appearance of the area; environmental issues; highway safety and parking; design and scale of development; disruption during construction; and cliff stability. Finally, I consider that lessons from previous appeal decisions need to be taken into account. For the sake of regularity, I will take each of these issues in turn.
- 8.02 Firstly, it should be noted that, as the site is within the built-up area boundary in a sustainable position, the proposed development is acceptable in principle. Policy ST3 of the newly adopted Local Plan identifies the urban area of Faversham as one of the most sustainable places in the Borough to locate new development. Within an existing housing estate, the erection of a further house should only be unacceptable if site specific matters indicate any objections to the scheme. With reference to environmental issues, a number of objectors note that the site at present provides a 'green gap' between the established development. However, in my view, due to the small scale and narrow frontage of the proposed development, much of that 'green gap' will remain. I also note the site's designation as a Local Green Space but, as noted above, when the Local Plan was being finalised it was erroneously believed to be public land owned by KCC, not a private garden. As such, I am of the opinion that the status of the garden should not be seen as part of any Local Green Space, and that policy DM18 should be given very little weight in this case.
- 8.03 With regard to the proposed design and scale of development, I note that the design is very heavily influenced by the design of the properties immediately south of no.27; as such, the proposed house would blend in well with the character and appearance of the street scene. I also note that the scale of the building, providing two bedrooms rather than three, takes up less space on the ground, drawing the development back from the 'cliff edge' and allowing for a small but acceptable area of private amenity space. As such, I would contend that both the proposed design and its scale are acceptable.
- 8.04 With reference to highway safety and parking issues, I note that a two bedroom property situated in a suburban location requires only one off road parking space under the guidance of Kent Vehicle Parking Standards Interim Guidance Note 3. As such, the parking provision proposed here is acceptable.
- 8.05 I note concerns from objectors regarding highway safety, particularly for pedestrians negotiating the corner on foot. Having both driven along and walked along this stretch of road in both directions, I am of the opinion that clear lines of sight are available when approaching the corner from either direction. This also applies to those concerns regarding the safety of children using the play area. A play area is situated on the opposite side of Hilton Close some twenty metres from the proposed vehicular access point, and it is surrounded on all sides by railings. I do not consider that the addition of one additional small dwelling will add significantly to any existing level of danger in relation to the play area.
- 8.06 With regard to any issues concerning disruption during construction, it necessarily follows that development activity will lead to some temporary erosion of residential amenity, by way of noise, traffic, dust, etc. However, these issues will be of a temporary nature. As such, I do not believe that this is a valid reason to refuse the proposal.

- 8.07 I note the concerns with regard to the integrity of the cliff, particularly and understandably from the management company for Finch Close. The previous applications identified that there was no danger of affecting the integrity of the cliff, and it should be further noted that the present application would locate the proposed property further away from the cliff edge than the 2013 proposal, which did not include cliff stability as a reason for refusal.
- 8.08 The 2013 appeal decision related to a small dwelling but set lengthwise across the site, with a wide frontage. This decision accepted the principle of a new dwelling here but found the design awkward in the local context (paragraph 5). The decision went on to see the site as too small and awkwardly shaped for the three bedroom house then proposed without appearing cramped in this small but valuable green space which allows for views of the trees on the cliff edge (para 6). That house would have filled the width of the site leading to loss of all frontage planting harming the character and appearance of the area (paras 7 and 8). On matters of disruption during construction and on cliff stability, the Inspector did not find against the development although she understood that these could be problematic (paras 9 and 10).
- 8.9 In the later 2014 appeal decision for a large and imposing house, the Inspector considered impact on the character and appearance of the area and parking arrangements. He noted that the scheme attempted to overcome previous objections by reducing the width of the developed frontage and retaining more planting to preserve views of trees and the sense of openness at this corner (paragraph 5). However, the scheme included a wide hard surfaced parking area taking up much of the site frontage, which the Inspector found would diminish the quality of the area (para 6) leading to a cramped appearance on such a small irregularly shaped site with a harmful effect on the character and appearance of the area (paras 7 and 8). Loss of existing parking space for no.27 was also ruled unacceptable (para 10).
- 8.10 The current proposal avoids the critical problems which ruled out the two previous schemes. The narrow house with a single parking space leaves room for views and a sense of openness to remain. It sits far more comfortably in the streetscene and learns the lessons arising from the two previous Inspector's decisions. I consider that matters of cliff stability have previously not been found to be overriding, parking has now been more suitably designed, and the house itself better tailored to the very specific issues on this awkwardly shaped site, to maximise retention of views and the important sense of openness on the tightly developed estate. As such it represents a very efficient and effective use of urban land which the Local Plan is seeking to achieve.

## **9.0 CONCLUSION**

- 9.01 The present proposal is a vast improvement on those previously refused, being a more sympathetic design and a smaller scale and, as such, I consider the proposal worthy of support. As such, I am of the opinion that the proposal is acceptable as submitted.

## **10.0 RECOMMENDATION – GRANT** Subject to the following conditions:

### **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) Samples of materials to be used on the exterior of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Works shall be completed using the approved materials.

Reason: In the interest of visual amenity.

- (3) No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority, 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 as approved.

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

- (4) The parking area shown on drawing no. HC1715.02 shall be retained for the use of the occupiers of, and visitors to, these premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

- (5) 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 amenities of the area and encouraging wildlife and biodiversity.

- (6) No development shall take place until details of the piling system to be used in this proposal, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with these approved details.

Reason: In the interest of safety and amenity.

- (7) All trees to be retained within the adjoining land that flanks the rear garden boundary must be protected by barriers and or ground protection, as recommended in Clause 7 and as shown in figure 2 of British Standard 5837: 2012 'Trees in relation to design, demolition and construction – Recommendations' before any equipment, machinery or materials are brought onto the site and before any demolition, construction or stripping of soil commences; and these measures shall be maintained intact until all machinery, equipment and surplus materials have been removed from the site. The

protective fencing is to be positioned at least 3m out from the face of the rear boundary fence. No alterations or variations to the approved works or tree protection measures shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (8) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stem or roots other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. All tree works shall be carried out in accordance with British Standard 3998: 2010 'Tree Works - Recommendations'. If any retained tree is removed, uprooted or destroyed or dies, a replacement tree shall be planted and that tree shall be of such size and species, and shall be planted at such a time and in a position to be agreed with the Local Planning Authority, as may be specified in writing by the Local Planning Authority.

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

- (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 amenities of the area and encouraging wildlife and biodiversity.

- (10) Upon completion of the approved landscaping scheme, any trees or shrubs 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 amenities of the area and encouraging wildlife and biodiversity.

- (11) The dwelling hereby permitted shall not be enlarged, whether permitted by Classes A or B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not, unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) 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 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interest of residential amenity.

**The Council's approach to this application:**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF),

The Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

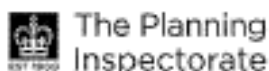
In this instance the application was considered to be acceptable as submitted.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.





## APPENDIX 1




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## Appeal Decision

Site visit made on 12 December 2012

**by Penelope Metcalfe BA(Hons) MSc DipUp DipDBE MRTPI IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 January 2013

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**Appeal Ref: APP/V2255/A/12/2181892**

**27 Hilton Close, Faversham, Kent, ME13 8NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Roger Moore against the decision of Swale Borough Council.
  - The application Ref SW/11/1571, validated by the Council on 23 December 2011, was refused by notice dated 12 April 2012.
  - The development proposed is 3 bedroom detached dwelling to existing side garden - front Hilton Close, together with single garage and parking spaces.
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### Decision

1. The appeal is dismissed.

### Main issue

2. The main issue concerns the effect of the proposal on the character and appearance of the area and on the living conditions of local residents by reason of noise and disturbance.

### Reasons

3. The appeal site is part of the side garden of 27 Hilton Close on a bend in the road at the end of a row of modern two storey brick built houses sited almost directly on the edge of the road. The rear garden boundaries of these houses are on the edge of a sheer cliff which is part of a former lime works and quarry, now redeveloped for housing.
  4. Policies E1 and E19 of the Swale Borough Local Plan 2008 (the local plan) require development, among other things, to respond to the positive characteristics of the site and the locality and to achieve a high quality of design appropriate to the local context. The National Planning Policy Framework (the Framework) encourages sustainable development, including new housing in built up areas, but balances against this the need to create a high quality built environment.
  5. The principle of residential development is acceptable in terms of local and national planning policy. I consider that the proposed design reflects that of many of the houses in the area, although the asymmetrical side element appears somewhat awkward in the local context.
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**APPENDIX 1**

Appeal Decision APP/V2255/A/12/2181892

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be sufficient to warrant dismissing the appeal. However, it adds weight to my finding on the other main issue.

12. In determining this appeal I have given careful consideration to all matters raised and all representations made and none of them outweigh my findings on the impact of the proposal on the character and appearance of the area. For the reasons given above, I conclude that the appeal should not succeed.

*PAG Metcalfe*

INSPECTOR

## APPENDIX 1



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## Appeal Decision

Site visit made on 30 June 2014

by **K R Saward Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2014

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**Appeal Ref: APP/V2255/A/14/2216634**  
**27 Hilton Close, Faversham, Kent ME13 8NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Roger Moore against the decision of Swale Borough Council.
  - The application Ref SW/13/1252, dated, 1 October 2013 was refused by notice dated 28 November 2013.
  - The development proposed is erection of a detached dwelling with associated parking on land adjacent to No 27 Hilton Close.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. To gain a full appreciation of the site, I undertook an unaccompanied visit of the site with the occupier's consent.

### Main Issues

3. The main issues raised are:
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - the effect of the proposed parking arrangements at No 27 Hilton Close on highway safety in Hilton Close.

### Reasons

#### *Character and appearance*

4. Hilton Close forms part of a pleasant modern residential estate. The road is characterised mainly by modest detached houses on relatively small plots. No 27 is located beside a long row of link detached houses. All of these houses are built very close to the road with no footway. Their rear boundaries are adjacent to a cliff edge with a sheer drop created by excavations at the former lime works on which all the properties are built. Whereas the other properties in the row are of uniform appearance, No 27 notably differs in style and its 'L' shape form has its flank wall facing the road. The proposal is to sever part of the side garden from No 27, which is on a bend in the road, and to construct a three bedroom detached dwelling.

**APPENDIX 1**

Appeal Decision APP/V2255/A/14/2216634

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dwelling in addition to any garage would not be achieved. The figures are not expressed to be a maximum, but provide a guide.

11. However, without the recommended number of spaces there is potential for residents who, for convenience, would wish to park in proximity to No 27 where there is very limited availability for on-street parking due to the narrowness and bends in the road. This would restrict access and present inconvenience to other road users. It could also pose a highway safety risk if parked vehicles impede visibility near the children's play area opposite or if vehicles were to park outside No 27 near to the bend in the road.
12. Whilst the appellant has indicated a willingness to extend, alter or demolish the garage, this is not part of the proposal before me. As there is insufficient space for two parking spaces, I do not consider that the appellant's suggestion of a condition to require the provision of such spaces prior to the commencement of development would be reasonable.
13. Consequently, I cannot be satisfied that the proposed parking arrangements at No 27 would be acceptable and that no significant adverse effect would be caused to highway safety in Hilton Close. As such, the proposal would conflict with LP Policy T3.

**Conclusion**

14. Although I have found in favour of the appeal in relation to the design and materials of the proposed dwelling, this does not outweigh the harm that I have identified with regard to the prominent parking area, the cramped nature of the proposed development and the effect on highway safety.
15. For the reasons given above and, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*KR Seward*

INSPECTOR