

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

11 April 2013

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

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Report of the Head of Planning

Part 2

Applications for which PERMISSION is recommended

2.1 SW/13/0055 (Case 07508)	Minster
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Location : 8 Hillside Road, Minster, Sheerness, Kent, ME12 2RY

Proposal : Erection of detached chalet bungalow, demolition of existing dwelling.

Applicant/Agent : Ferndale LTD, C/O Michael Gittings Associates, 14 Vale Road, Loose, Maidstone, Kent, ME15 0EP

Application Valid : 15 February 2013

8 Week Target : 12 April 2013

Conditions

Time limit

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.

Grounds: 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 approved shall be carried out in accordance with the following approved drawings: 2215/2/A & 2215/1/A and the details of finishing materials as set out in the application form.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Pre-commencement

3. Prior to the commencement of development hereby approved, a programme for the suppression of dust during the demolition of existing buildings and construction of the development shall be submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

4. Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

5. The dwelling hereby approved shall achieve at least a Level 3 rating under The Code for Sustainable Homes or any other specification approved by the Local Planning Authority, and 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 will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development as approved.

Grounds: In the interest of promoting energy efficiency and sustainable development, and in pursuance of policies E1 and U3 of the Swale Borough Local Plan 2008 and the provisions of Planning Policy Statement – Planning and Climate Change – Supplement to Planning Policy Statement 1.

During construction

6. 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.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008 and the provisions of Planning Policy Guidance 24 - Planning and Noise.

Prior to occupation

7. Before the development hereby permitted is first occupied, the proposed rooflights in the northwest and southeast facing roof slopes shall be obscure glazed and shall be incapable of being opened except for a high level fanlight

opening of at least 1.7m above inside finished first floor level and shall subsequently be maintained as such.

Grounds: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

8. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

9. A 1.8 metre high close boarded fence shall be provided and maintained along the southeast boundary of the site prior to the occupation of the development hereby permitted.

Grounds: In the interests of residential amenity and in pursuance of policies E1 of the Swale Borough Local Plan 2008.

10. Flood proofing measures shall be incorporated into the design of the dwelling in accordance with the Environment Agency publication 'Preparing for Flooding' and these measures should be put in place prior to the first occupation of the dwelling hereby approved.

Grounds: As the site lies within flood zone 2 and to ensure that the dwelling is designed to accommodate the risk of flooding in accordance with policy E1 of the Swale Borough Local Plan 2008.

Upon commencement

11. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

12. The garage and parking space as shown on the approved plans shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Grounds: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

Reason for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, particular regard has been had to the following policies: E1, E19, H2 and T3 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was acceptable as submitted and no further assistance was required.

Description of Proposals

This application seeks planning permission for the demolition of an existing chalet bungalow and the erection of a replacement three bedroom bungalow with rooms in the roof. The new bungalow would be sited within the western half of the plot, leaving the eastern half free for future development. The planning department have not received an application for the development of the remaining part of this site but the applicant has indicated that they intend to submit an application shortly and it is likely that this would also be for a residential dwelling(s).

The proposed bungalow would have an integral garage and one parking space to the front of the building. There would also be two small sections of soft landscaping. The building would have a pitched roof with a gable end fronting Hillside Road. Rooflights would be provided within the flank roof slopes and there would be windows to the front and rear at first floor level. The rear garden would be a depth of 11.55m.

Internally, the ground floor would provide a study, garage and open plan kitchen/lounge/dining room. At first floor, three bedrooms would be provided and a family bathroom.

Relevant Site History and Description

This application site lies within the built-up area boundary of Minster, on an unmade road and is surrounded by residential properties of different types and designs. The average plot width along this part of Hillside Road and the wider surrounding area is 9-10 metres. The properties either side of the application site are modest bungalows.

The land within the application site rises to the southeast in parallel with the road. There is approximately a 1m difference between the lower ground level at the northwest boundary and the higher ground level at the southeast boundary. This means that the properties along this part of the road tend to 'step up' as the road continues eastwards towards The Glen public open space.

There is a row of leylandii trees along the rear boundary at an approximate height of 3.5-4m. A 1.8m high close boarded fence exists to the northwest boundary and the southeast boundary. However, as no. 10 Hillside Road is set at a higher ground level than the application site, three of its side facing windows are able to overlook the application site above this fence.

The site lies within flood zone 2.

The existing house on this site had planning permission for an extension and loft conversion in 1982.

Views of Consultees

Minster-on-Sea Parish Council have no objection to the proposal.

The Environment Agency do not object to the proposal and recommend that flood proofing measures are incorporated into the design. This is addressed by condition 10.

Kent Highway Services comment that the proposal would provide one parking space in addition to the garage and that as they do not consider that garages provide long-term parking provision, one additional parking space should be provided to the front of the property.

Other Representations

Six letters of support have been received by local residents. They comment that the existing property is an eyesore and a health hazard that attracts vermin. The development would tidy-up the site and eliminate the vermin and is good for local business. The property would be in keeping with the street scene and is in line with government policy which encourages new building within the built-up area. The new property is of the right proportions and a good size for the plot.

One general observation has been received about the state of the road when building commences. They ask whether a stipulation can be put on the builder to repair the road when building has finished; construction traffic should not block the

road; and why didn't the developer submit an application for the development of the whole site?

Three letters of objection have been received. A summary of these objections is as follows:

- The new dwelling will look cramped once the rest of the site is developed;
- The road is in such a bad state of repair that more heavy plant will destroy it;
- There will be parking problems with the increase in residents at this site and the site to be developed in the future;
- It is an ugly design;
- The development and future development could lead to blocked drains;
- The road has no street lights;
- The surface water drains are inadequate for the future development of the site;
- There could be a gas leak if heavy vehicles use the road and;
- No bonfires should be allowed at the site.

Development Plan Policies

National Planning Policy Framework (NPPF)

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *"that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."*

The 12 month period noted above will be expiring shortly, and before the final date for determination of this application. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited in this report are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

Swale Borough Local Plan 2008:

Policy E1 of the Swale Borough Local Plan 2008 gives general guidance regarding design and amenity, amongst others.

Policy E19 aims to achieve high quality design on all developments in the Borough.

Policy H2 seek to encourage the provision of new dwellings within the built-up area boundary.

Policy T3 deals with traffic, and seeks to minimise the highways impacts of any new development through the provision of adequate parking, sightlines, turning space, etc.

Discussion

I consider the key issue to be the principle of development, the impact on visual amenities, the impact on residential amenities, the adequacy of accommodation and the impact on highway safety/amenity.

Principle

This site lies within the built-up area boundary where the sustainable development is encouraged by National and local planning policies. The residential development of this plot would conform with the presiding land use in this area and allows opportunities for future residential development on the remaining land, subject to full assessment of the issues under a separate planning application. I therefore consider that the proposal is acceptable in principle.

Visual amenities

The design of the dwelling would be consistent with the form of the adjacent dwellings. I also consider that the scale and height would be in-keeping with the other properties along Hillside Road. The finishing materials proposed would complement the adjacent dwellings in my view. The plot width would conform with the average plot width in the immediate and wider surrounding area. This factor combined with the modest scale of the dwelling and the distance from the boundaries leads me to consider that the site would not appear cramped, even if the adjacent land is developed in the future. I therefore consider that the proposed dwelling would have no detrimental impact on the visual amenities of the surrounding area.

Residential amenities

The proposed dwelling would be a sufficient distance from the adjacent property no. 6 Hillside Road to ensure that there is no significant overshadowing or a significant overbearing effect. The dwelling would also be a sufficient distance from no. 10 Hillside Road to ensure that the amenities of this neighbour are not unduly affected in my view.

I have recommended a condition to ensure that the rooflights within the roof slope facing no. 6 Hillside Road and no. 10 Hillside Road are obscure glazed and fixed shut apart from the top hung fanlight. This will avoid any harmful overlooking of the rear garden of these neighbouring properties in my view. There would be no view of the gardens to the properties rear of the proposed dwelling owing to the tall leylandii along the rear boundary of this property.

Adequacy of accommodation

The proposed internal floorspace of the dwelling would be more than adequate to function as a family dwelling in my view. The rear garden would also offer a good quality private area for a family. I have recommended a condition to ensure that a new 1.8m high close boarded fence is provided along the southeast boundary to prevent no. 10 from overlooking the rear garden. Subject to this, I consider that the accommodation proposed would be acceptable.

Highway safety/amenity

The proposed dwelling would be provided with a garage space and there would also be space to the front of the dwelling for two cars to park. Although the plans only indicate that there would be one parking space to the front of the site, there is sufficient room for two cars to park whilst also ensuring that there is some soft landscaping. Despite the comments of Kent Highway Services, I consider that with an appropriate condition (no. 12), the garage will remain available to be used for parking a car and therefore consider that even with only one parking space to the front of the dwelling, there would be sufficient parking space for the three bedroom dwelling proposed.

Other matters

The proposed development is unlikely to overload local foul and surface water drains in my opinion due to its scale and nature. Moreover, such matters will be considered by Southern Water when an application is made to them for connection.

I have given some consideration to how the possible future development of the remaining land may impact on the proposed dwelling and conclude there would be no implications for loss of amenity to future residents of the new dwelling. I also consider that the proposed dwelling would be acceptable in its own right. Any subsequent planning applications for the remaining land will carefully consider the issue of a cramped appearance and the impact on the amenities of the current proposed dwelling and the adjacent property, no. 10.

Any issues in respect of the poor state of the road are not material to the consideration of this proposal. It would not be possible to require the applicant to repair any damage to the road as a consequence of construction vehicles as this falls outside of the application site. However, Members may find some comfort in the fact that the applicant has verbally offered to make repairs where necessary.

Environmental Health legislation can control the use of bonfires at the site and so it is not appropriate for this planning application to duplicate these powers.

Recommendation

Having considered the comments of the parish council, local residents, consultees and the relevant planning policies, I am of the view that the proposal would be acceptable in principle, would have no detrimental impact on visual amenities, would not be significantly harmful to the residential amenities of the adjacent properties, would provide good quality family accommodation and would have no detrimental impact on highway safety/amenity.

I therefore consider that this application should be approved.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background papers

1. Application papers for SW/13/0055.
2. Correspondence relating to SW/12/0055.

- Location :** 2-4 William Street, Sittingbourne, Kent, ME10 1HR
- Proposal :** To convert warehouse into 1 house of multiple occupation with associated external alterations.
- Applicant/Agent :** Mr Brian Wisbey, C/O Mr Les Cullen, 3 Harrow Court, South Street Road, Stockbury, Sittingbourne, Kent, ME9 7UQ
- Application Valid :** 26 February 2013
- 8 Week Target :** 23 April 2013
- SUBJECT TO:** The comments of local residents and Kent Highway Services (deadline for comments 1 April 2013).

Conditions

1. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Grounds: In the interests of visual amenity and in pursuance of policies E1, E19 and E24 of the Swale Borough Local Plan 2008.
2. Prior to the occupation of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.
3. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.
4. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

5. Prior to the occupation of development hereby approved, details shall be 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 as approved.

Grounds: In order to ensure sustainable development pursuant to policies E1, E19 and U3 of the Swale Borough Local Plan 2008.

6. 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 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

7. Prior to the occupation of the development hereby permitted, details shall be submitted to and approved in writing of the bin and bike stores. The development shall proceed in accordance with these approved details.

Grounds: In order to secure appropriate waste storage and to encourage sustainable transport in pursuance of policy E1 of the Swale Borough Local Plan 2008.

8. The development hereby approved shall be carried out in accordance with the following approved drawings entitled: existing elevations, proposed elevations, existing floorplans and proposed floorplans.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant was asked to amend the description of development to reflect the nature of the application. Other than this, the application was considered acceptable as submitted and was reported to planning committee at the first available opportunity.

Reason for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety and convenience. In resolving to grant permission, particular regard has been had to the following policies: SP4, E1, E19, B1, H2, T3, U3 and AAP7 of the Swale Borough Local Plan 2008.

Description of Proposal

This application seeks planning permission to convert a warehouse into 1 house of multiple occupation with associated external alterations at 2-4 William Street, Sittingbourne.

At the time of the case officer's site visit the works were well underway.

The property would have 5 bedrooms upstairs with a further reception/bedroom on the ground floor. The garage has been converted to provide downstairs reception/bedroom. Each of the windows has been replaced with new white upvc windows. The walls would be a mixture of brick and cream painted render to match the existing. A rear paved yard would be provided as amenity space for proposed residents.

The plans indicate a bin store, bike store, access and wall to the front. No on site parking is proposed.

Relevant Site History & Description

The property is a two storey terraced building with a pitched roof. There is a narrow strip of land to the front, which would appear to belong to the property. The property features a single storey rear wing and benefits from a rear paved yard.

The property is located in an area of terraced housing with an increasing commercial element towards West Street. There are double yellow lines to the front of the property and parking bays on the opposite side of the road. William Street itself is narrow and on street parking is a predominant feature of the area.

The application site is located within the built up area boundary as defined by the Proposals Map of the Swale Borough Local Plan 2008. It is also within Area Action Plan 7 Sittingbourne town centre.

The property has an extensive planning history as follows;

- SW/80/618- application under section 53 for use for pump assembly and maintenance- planning permission not required.
- SW/82/1054- change of use of upper floor to storage and wholesale warehouse- approved.
- SW/84/644- change of use to displaying and warehousing of kitchen furniture and appliances- refused.
- SW/84/660- change of use to weight lifting club and health studio- approved.
- SW/87/110- change of use to offices on the first floor and continuation of light industrial use on the ground floor- approved.
- SW/99/22- change of use from officers (A2) to three 2-bed terraced dwellings- approved.

The following applications within William Street are also considered relevant;

55 William Street- SW/11/0293- Demolish existing garage and erection of a 2 storey side extension and 1st floor rear extension to enable the conversion of property to four self-contained residential flats. This scheme involved entirely on street parking provision as in the current application before Members.

The officers recommendation for approval was overturned by Members at planning committee in May 2011 and the application was refused in part because the increased parking on William Street was considered to have an unacceptable impact on the residential amenities of the area by virtue of the inconvenience caused by the reduced availability of on street parking.

The application was, however, allowed on appeal. The appeal Inspector in his decision letter commented specifically on the issue of parking stating that ;

“The site is in a residential area of Sittingbourne which is characterised by single dwellings but also has some flats. The proposal does not provide off-street parking. It would facilitate on-street parking in front of the site of the existing garage but is also likely to introduce three additional households into the area. William Street is one-way street of limited width. Parking is permitted

on one side of the street only. It is reserved for permit holders or for short-stay parking in specified periods of the day.

I do not doubt the Council's assertion that there is a high level of parking demand in the area. It is also referred to by local residents. However, the development would provide additional dwellings in a sustainable, edge of town location, within walking distance of shops, public amenities, services and public transport. In that context, it would not be essential for the occupiers of the flats to own a car, although it is likely that some would do so. The Council does not refer to any particular policy requirement for parking spaces. The appellant observes that Kent County Council's parking standards for an edge of town location do not set a minimum requirement. In the particular circumstances of this site, I do not find the absence of provision for dedicated vehicle parking to be conclusive or to amount to a conflict with policy E1 of the Swale Borough Local Plan, 2008 (LP). While the proposal is likely to have some effect on local residents in terms of ease of access to on-street parking close to their homes, that effect would not be sufficient for the development to be unacceptable."

Views of Consultees

The Head of Service Delivery raises no objection on environmental health grounds subject to the condition above relating to hours of construction.

In terms on street parking, the Council's engineer comments that "William Street forms part of the Sittingbourne Residents Parking Scheme and as such on-street parking is limited to 1-hour for non-permit holders between the hours of 8am and 6pm Monday to Saturday. Properties in William Street are eligible to purchase a maximum of permits per property at a current cost of £40. There are double yellow lines across the entire frontage of the site with parking bays located on the opposite side of the road. Parking capacity is very limited due to the nature of this narrow road lined with terraced properties, and those residents unable to park in the road would need to find alternative parking arrangements such as the Council owned Pay and Display car parks nearby."

I am yet to receive the comments of Kent Highway Services. I will update Members at the meeting should these be received.

Other Representations

One letter of support has been received which is summarised as follows;

- This is a good use of the derelict building. I am in favour of this development.

One letter making general observations has been received which is summarised as follows;

- I am not against updating an effectively dilapidated building in the area.

- The application forms state there is no existing parking, however there was a garage with further parking to the rear of it. This should be kept. I note the garage has already been converted.
- The property is being converted into flats instead of one dwelling. Flats would create more parking demand.

The application is reported to planning committee at the request of Councillors Truelove and Whelan, the ward members, who consider the proposal to be without adequate parking.

Policies

National Planning Policy Framework (NPPF)

The NPPF is relevant in relation to securing sustainable development and housing provision.

Paragraph 14 states;

“14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted.”

Paragraph 49 states “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

Members should note that there is currently a shortfall of between 39%-41% on the Council’s 5 year housing supply.

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above will be expiring shortly, and before the final date for determination of this application. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this

application and as such, these policies can still be afforded significant weight in the decision-making process, with the exception of Local Plan Policy U3 insofar as the NPPF does not require demonstration that there is an overall need for renewable energy. However policy U3 can still be afforded limited weight, and renewable energy is to be encouraged by emerging Core Strategy Policy CP1.

Swale Borough Local Plan 2008

Policy SP4 is an overarching housing policy. Policy E1 gives general guidance regarding design and amenity, amongst others. Policy E19 aims to achieve high quality design on all developments in the Borough. Policy B1 seeks the retention of employment space unless it is inappropriately located, demonstrated by expert advice that it's no longer suitable for employment use, market testing shows insufficient demand to justify its retention, or allocated in the Local Plan for another purpose.

Policy H2 (SBLP) encourages the provision of new housing within the built up areas of the Borough, and in locations with good access. Policy T3 (SBLP) requires parking in accordance with Kent Highway Services standards. Policy U3 (SBLP) encourages renewable energy. AAP7 is a broad policy that seeks to enhance the vitality and viability of Sittingbourne town centre.

The Council also has adopted Supplementary Planning Guidance entitled 'The Conversion of Buildings into Flats & Houses in Multiple Occupation'. Part 2 of the SPG is relevant here in that it says permission will not be granted for buildings with total floor area of less than 110 square metres, the area should have a significant proportion of properties no longer in single family use, that parking should be in accordance with Kent County Council standards, and the property should have access to an outside amenity area.

Kent Highway Services Interim Guidance Note 3 'Residential Parking' is the current adopted parking standard. The parking table shows that a maximum of 1 space per 4 bedroom plus house should be provided in a town centre location. Note 1 applies which says that reduced or even nil parking provision is encouraged in support of demand management and the most efficient use of land. This indicates that no on site parking is acceptable in light of this guidance.

Discussion

I note the support comments and general observations made by local residents. The description of development has been amended to reflect the proposal to convert the property to a house of multiple occupation rather than a single dwelling. Whilst the previous garage and space to the rear would have been a useful parking space, the latest Kent Highway Services parking standards do not count garages towards parking space. Furthermore, the precedent for residential development without on site parking has been set by the approval of SW/99/22. In my view the Council is not in a strong position to resist the conversion of the garage and loss of car parking space to the rear as noted by the local resident.

The site lies within the built up area where the principle of development is generally acceptable, and the approval of SW/99/22 for residential conversion of the site sets the precedent for residential development of the site in my opinion.

Therefore the main issues to be considered in the determination of this application are the loss of employment land, impact on residential amenity and highway safety and convenience.

Loss of employment land

As noted above, the conversion of this property to residential purposes was accepted under SW/99/22 which was approved by Members at planning committee in July 1999. The report to planning committee noted "It would remove a commercial use from a predominantly residential street which has been a source of problems in the past." Whilst usually Policy B1 of the Local Plan requires market testing and a demonstration that the site is no longer suitable for employment use, in this instance the precedent has been set for residential development by the previous approval and I concur with the previous officers view that the site is inappropriately located for business use as this is a predominantly residential street. In my opinion the loss of employment land is acceptable.

Impact on residential amenity

The proposal would remove a business use from a residential street therefore subject to a standard hours of construction condition above, the proposal would have a lesser impact on the residential amenities of the occupiers of adjacent properties than would a business by virtue of the reduced noise, reduced daytime business activity and so on.

In my view the impact on residential amenity is acceptable.

Highway safety and convenience

Although I am yet to receive the comments of Kent Highway Services, the adopted parking standards show that the provision of zero on site parking in such a central sustainable location is acceptable. I note the restricted capacity for on street parking in the area, however, as noted by the Inspector in allowing the appeal at 55 William Street, the likely additional on street parking arising from conversion did not justify the refusal of planning permission. Members should give very careful consideration to this point because the proposal conforms with the adopted parking standards, is in a sustainable central location, and a very similar recent appeal decision supports no requirement for any on site parking provision. A reason for refusal based on lack of on site parking would be extremely difficult to defend at appeal in my opinion, and may leave the Council open to an award of costs.

For these reasons, subject to the comments of Kent Highway Services, I consider the impact on highway safety and convenience acceptable.

Other issues

The proposal itself conforms with the SPG in that the existing floor area far exceeds the minimum 110 square metres required, the area has a number of flat developments such as that permitted at 55 William Street, and the new flats at 1a William Street which is opposite the application site. The rear amenity area is acceptable for a HMO of this size, in my opinion.

The design of the proposal would use matching materials. The garage conversion, porch and windows would be minor changes to the outside of the property and acceptable in design terms in my view. The proposal broadly conforms with the aims of AAP7.

Recommendation

The development of this site is acceptable as a matter of principle. The loss of the employment land is acceptable given the precedent set by a previous approved residential application at the site. The proposal for no on site parking provision accords with Kent Highway Services standards. The external alterations are minimal and considered to be acceptable.

Having regard to all material planning considerations, I recommend, subject to the conditions above, the views of Kent Highway Services and any outstanding representations (deadline for representations 1 April 2013) that planning permission is granted.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Backgrounds Documents

1. Application papers and correspondence for SW/13/0188
2. Application papers and correspondence for SW/80/618, SW/82/1054, SW/84/644, SW/84/660, SW/87/110, SW/99/22 and SW/11/0293 and associated appeal APP/V2255/A/11/2156674.

- Location :** Land opp Stumble Inn, St Pauls Street, Sittingbourne, Kent, ME10 2LG
- Proposal :** Two 2 storey new dwellings
- Applicant/Agent :** Mr Tony Woodmansee, C/O Mr Gary Richardson, Giarti Ltd, Amphenol Business Complex, Thanet Way, Whitstable, Kent, CT5 3JF
- Application Valid :** 20 February 2013, as amended by drawing received 20th March 2013.
- 8 Week Target :** 17 April 2013

Subject to: Any other representations received from local residents, Kent Highway Services, Kent County Council Archaeology and the Environment Agency (deadline for representations 25 March 2013).

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.

Grounds: 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 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 as approved.

Grounds: In the interest of promoting energy efficiency and sustainable development, and in pursuance of policies E1 and U3 of the Swale Borough Local Plan 2008.

3. Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the sloping nature of the site in accordance with Policy E1 of the Swale Borough Local Plan 2008.

4. Upon completion, no further development, whether permitted by Classes A and B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Grounds: In the interests of the amenities of the area and in pursuance of policies E1 and E24 of the Swale Borough Local Plan 2008.

5. 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 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

6. The commencement of the development shall not take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the District Planning Authority.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

7. The development hereby permitted shall not be occupied until a scheme submitted to and approved by the Local Planning Authority has been completed which includes the following measures:

- i) A comprehensive site survey by a competent person to determine the existence, extent and concentrations of any landfill gas with potential to reach the application site, particularly within footprints of proposed buildings. A copy of the survey, including findings and recommendations, shall be submitted to the District Planning Authority prior to commencement of development.
- ii) The requirements within any recommendations shall be completed by a competent person and a Completion Report submitted detailing all measures taken to contain, manage and/or monitor any landfill gas with a potential to reach the application site, in particular, buildings. The scheme shall be agreed in writing with the District Planning Authority and

implemented prior to commencement of the development or as part of the development process.

Grounds: To ensure any potential landfill gas is adequately dealt with in pursuance of policy E1 of the Swale Borough Local Plan.

8. Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

9. Full details of both hard and soft landscape works, shall be 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

10. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

11. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

12. The area shown on the submitted plan as car parking space 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) Order 1995 (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.

Grounds: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

13. The development hereby approved shall be carried out in accordance with the following approved drawings: 004 REV A and 005 REV C.

Grounds: For the avoidance of doubt and in the interests of proper planning.

14. All windows on the front façade of the buildings facing St Pauls Street shall be non-openable only. Before the development is occupied a scheme of mechanical ventilation to be fitted in the dwellings to draw air from the rear façade to the front rooms shall be submitted to and approved in writing by the Local Planning Authority. The scheme to be approved shall also include details of long term maintenance. The approved system shall be installed prior to the first occupation of the dwellings hereby permitted.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008 and the designated Air Quality Management Area.

Informatives

1. Following consultation with Kent County Council Ecology I would draw the applicant's attention to the fact that birds nest between March to August and therefore if any are nesting on the site, in order to prevent an offence occurring as defined by Part 1. (1) of the Wildlife and Countryside Act 1981, the removal of vegetation should not take place between these months.

2. Southern Water wish to make the applicant aware of the following. No development or new tree planting should be located within 3 metres either side of the centreline of the public sewer and all existing infrastructure should be protected during construction works. No new soakaways should be located within 5 metres of a public sewer. Southern Water requires a formal application for a connection to the public sewer to be made in order to service the development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858 688), or www.southernwater.co.uk

Reasons for approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, particular regard has been had to the following policies: E1, E16, E19, H2, T3 and U3 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant used the pre-application advice process to negotiate a scheme that was acceptable to officers following the refusal of SW/12/0769. Amended drawings were also sought to overcome an issue with the position of the boundary wall part of which had been located on Kent Highways land.

Description of Proposal

This is an application for planning permission for two no. 2 storey new dwellings at land opposite the Stumble Inn, St Pauls Street, Sittingbourne.

The dwellings would be semi-detached and the entire building would measure 13.5 metres wide, 7.5 metres long, 5 metres to eaves and 9m to ridge height. Materials to be used are detailed as yellow stock brickwork, cedar cladding, plain concrete roof tiles, and grey windows and doors.

The dwellings would be located along the northern boundary of the application site, along which a 1.8 metre brick wall would be built. Private gardens to the west and east of each dwelling would be provided along with cycle stores, bin stores, and 4 car parking spaces to the south of the dwellings along the access road to the nearby garage court.

Relevant Site History and Description

This piece of land was essentially left over from the construction of the roundabout and highway network improvements at St Paul's Street, Chalkwell Road and Crown Road. It is oddly shaped as a consequence of this. Kent Highway Services still own some very small pieces of land that adjoin the application site and a separate party owns a small slither of land between the application site and 51 Church Street.

There have been a number of planning applications for the development of this site including its use as a car park for a vehicle hire company (SW/99/651) which was refused and dismissed on appeal, whilst (TN/07/0009) for the installation of a radio base station comprising of a 15m high telecommunications monopole was approved.

An outline application for the erection of 10 no. apartments (SW/08/1276) was submitted but never made valid owing to the incorrect ownership certificate being signed. Subsequently, outline planning permission was granted under SW/09/1019 for the erection of one dwelling.

Planning application SW/12/0769 for the erection of two four bedroom dwellings was refused for 4 reasons, on the grounds that (1) the amount and size of the building in relation to the plot size represented a cramped overdevelopment out of character with the area; (2) the poor design of the two storey rear flat roof projection; (3) the outdoor space was insufficient and poorly located; and (4) the parking provision was poorly located to the dwelling with little natural surveillance and security. However application SW/10/0701 for new detached 6 bedroom dwelling, with 3 associated parking spaces, 1.8 m high brickwall to north boundary to prevent any vehicular access from St Pauls Street, associated gardens, rainwater collection system and cycle store was approved. SW/13/0118 for the renewal of planning permission of SW/10/0701 was approved by Members at the last planning committee.

This site lies within the built-up area boundary of Sittingbourne. It lies opposite the Stumble Inn Public House and between two rows of terraced houses fronting Church Street and Chalkwell Road. The surrounding area is characterised by 2 and 3 storey dwellings.

The area immediately north of the application site was declared an Air Quality Management Area (AQMA) on 28th February 2013.

Views of Consultees

I am yet to receive the comments of Kent Highway Services, Kent County Council Archaeology and the Environment Agency (deadline for representations 25 March 2013 with the exception of the EA which has been extended to 3rd April). I will update Members at the meeting.

The Head of Service Delivery raises no objection subject to conditions 5, 6 and 7 above.

Southern Water requests the above informative.

Other Representations

4 letters of objection have been received including one from the Sittingbourne Society, which are summarised as follows;

- Existing traffic and parking problems will be exacerbated by the proposal, including cars parking on the garage court access road, and traffic entering St Pauls Street will be hazardous.
- I object to the proposal having right of way through the garage court.
- Emergency services would have difficulty accessing the site.
- There are at least 2 cars per house, and commuters park in the area.
- The allocated parking areas shown on the plans is already used by residents. The site is big enough to have a drive/garages of its own.
- Will the applicant get permission for these houses, then apply to convert them to flats? Cycle sheds are normally found in flat developments.
- The drop kerb onto St Pauls Road should be reused instead of access via the garage court.

- There would be problems with lorries delivering materials and workers vehicles during construction which would endanger children.
- It would be nice to have something on this land finally, but object to access from Periwinkle Close. If BP garage can have access onto the road then so should this application.

Policies

National Planning Policy Framework (NPPF)

The NPPF is relevant in relation to securing sustainable development, housing provision, land contamination, air quality, reuse of brownfield land and flood risk.

Paragraph 14 states;

“14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted.”

Paragraph 49 states “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” Members should note that there is currently a shortfall of between 39%-41% on the Council’s 5 year housing supply.

In relation to contaminated land the NPPF states;

“109. The planning system should contribute to and enhance the natural and local environment by:

- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability”.

Paragraph 111 states “Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.”

Paragraph 214-215 of Annex 1: Implementation states “For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.

In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

The 12 month period noted above has now expired therefore I have assessed each of the policies noted within this report against their consistency with the NPPF. Each policy noted below is in accordance with the NPPF except for Local Plan Policy H2 insofar as this restricts development within the countryside, however, as this site is within the built up area this conflict is considered immaterial to this application. Local Plan Policy U3 also conflicts with the NPPF insofar as the NPPF does not require demonstration that there is an overall need for renewable energy. However policy U3 can still be afforded limited weight, and renewable energy is to be encouraged by emerging Core Strategy Policy CP1.

Swale Borough Local Plan 2008

Policies E1 of the Swale Borough Local Plan 2008 (SBLP) gives general guidance regarding design and amenity, amongst others. Policy E16 (SBLP) requires appropriate archaeological measures. Policy E19 (SBLP) aims to achieve high quality design on all developments in the Borough.

Policy H2 (SBLP) encourages the provision of new housing within the built up areas of the Borough, and in locations with good access. Policy T3 (SBLP) requires parking in accordance with Kent Highway Services standards. Policy U3 (SBLP) encourages renewable energy.

Discussion

I note the concerns of the local residents. I am awaiting for the comments of Kent Highway Services on the implications for parking and highway safety and will update Members at the meeting. The right of way through the garage court is a private legal matter and does not fall to be considered here. Whilst the access via the garage court may be difficult for larger emergency service vehicles, cars can still gain access via this way. Larger vehicles may have to park on Periwinkle Close and gain access on foot. The fire service could get very close to the building via St Pauls Street. The site layout does not allow for vehicle access to the site from Periwinkle Close due to the pinch point whilst vehicle access from St Pauls Street has been historically resisted by Kent Highway Services due to highway safety issues so is not a viable option here due to highway safety concerns. Three of the allocated parking spaces shown on the plans have already been approved under SW/10/0701 so the precedent has been set. If the applicant wanted to use the building as flats planning permission would be required and such an application would be determined on its merits. Cycle sheds are now often found in housing developments as opposed to flats only. Kent Highway Services may require conditions regarding material deliveries and construction workers vehicle parking to address the residents' concerns but I am yet to receive their comments. I consider the risk to children from such vehicle movements to be minimal.

Given concerns expressed under previous applications at the site regarding nesting birds it is considered appropriate to attach the above informative. Although not dealt with under planning legislation, the protection of wildlife is indeed dealt with in part under the Wildlife and Countryside Act 1981 and I have drawn this to the applicants attention in the above informative to help prevent an offence occurring.

Principle

The principle of residential development on the site has already been established by the extant planning permission for residential development of this site.

Visual amenities

The proposed semi-detached dwellings in this location would not be like the vast majority of the other properties within the vicinity. Most properties within the surrounding area are terraced. However, in my view, this should not prohibit the development of semi-detached dwellings in this case. The position of the dwellings would ensure that it would be viewed in relation to the two storey end of terrace dwelling, 51 Church Street. It would also be seen against a backdrop of three storey townhouses. In this context, I consider that it would merely add to the mix of built form in the immediate area. I also consider that its modern design would be appropriate here. The site is very prominent and any new building would have a significant impact on the street scene. The quality of the design proposed is acceptable in my view. The position and design of the fenestration and the materials would also be acceptable. The yellow stock bricks would pick up on finishing materials characteristic to the surrounding area. In my opinion, the design overcomes the second reason for refusal of SW/12/0769 which related to the poor design of the two storey flat roof rear projection because the two storey flat roof element has been removed from the scheme.

The pitched roof would reflect the form of the adjacent dwellings and in this respect, I do not consider that the dwelling would look out of place.

Residential amenities

The proposed dwellings would also be over 28.5 metres from the rear of the properties fronting Periwinkle Close and 42 metres from the properties fronting Chalkwell Road. I therefore consider that this distance will limit the potential for overlooking between properties. 21 metres is the recommended back to back separation distance between properties to avoid overlooking. I therefore consider that this proposal would have no undue overlooking impact. I also consider that the townhouses within Periwinkle Close and the properties within Chalkwell Road would not significantly overlook the private amenity space of the propose dwellings.

The proposed dwellings are shown to be 12m from the rear elevation of no. 51 Church Street. The proposed dwellings would be to the west of this neighbouring property, only potentially affecting the evening sunlight by a small amount. Members should note that the proposed dwellings are at an angle to no. 51 and that the proposed dwellings would not be directly in line with the rear elevation of this property. I consider that the dwellings would therefore be an adequate distance from

this neighbouring property, to ensure that there would be no overshadowing or overbearing effect.

The windows within the elevation facing no. 51 are at an oblique angle to this neighbouring property. There would be no direct line of sight to the area of important private amenity space, immediately to the rear of this property. I therefore consider that the proposed dwellings would not unduly overlook no. 51 Church Street.

Adequacy of Accommodation

Each of the dwellings would have large gardens to the east and west. Although perhaps unconventional in shape, I am of the view that its size will ensure that the quality is of a standard that it would not disadvantage future occupants. Internal sizes of rooms are more than sufficient. The size of the application site has been extended to include a large area to the west which results in this development having a low density and would in my opinion overcome reasons for refusal 1 and 3 of SW/12/0769, which were that the amount and size of the building in relation to the plot size was considered to represent a cramped overdevelopment of the site, out of character with the area, and, that the outdoor space was insufficient and poorly located.

Highway Implications

I am awaiting comments from Kent Highway Services in relation to highway safety and convenience. The provision of 4 parking spaces for 2 three bedroom dwellings would comply with the relevant parking standards. Subject to the comments of Kent Highway Services I consider the impact on highway safety and convenience acceptable. The dwellings have been moved west within the site so that natural surveillance and security has been increased to a degree that is now acceptable and overcomes the fourth reason for refusal of SW/12/0769 which related to these issues. The wider sustainable development benefits of two additional dwellings within the built up area outweigh the slight harm caused by the unconventional parking arrangement in my view.

Other matters

The Council's Head of Service Delivery considers the risk of on site contamination acceptable subject to the conditions above.

KCC Archaeology have yet to comment in this regard. The EA have yet to comment on flood risk issues.

The properties have been designed to have the windows fronting the AQMA sealed shut and clean air drawn from the south side of the property via mechanical ventilation. This is an acceptable design solution to mitigate the impact on and from the AQMA. I recommend the above condition to secure this element of the proposal.

Recommendation

Taking the above into account I recommend that planning permission is granted, subject to the above conditions, and the comments from local residents and other outstanding consultees.

Responsible Officer: Rob Bailey (Area Planning Officer)

Background Papers

1. Application papers and correspondence relating to SW/13/0177
2. Application papers and correspondence relating to applications SW/12/0769, SW/13/0118, SW/12/1434, SW/10/0701, SW/09/1019, SW/08/1276, and TN/07/0009.

- Location :** Building 1, Standard Quay, Abbey Road, Faversham, Kent, ME13 7BS
- Proposal :** Single storey rear extension & internal alterations to grade II listed warehouse building with change of use to restaurant & art gallery/function room (SEE ALSO SW/12/1524 FOR LISTED BUILDING CONSENT)
- Applicant/Agent :** Quayside Properties Ltd, C/O Mr Simon Latham, Design & Build Services , 2 Colkins Cottage, Clockhouse, Boughton Under Blean , Faversham, Kent, ME13 9LU
- Application Valid :** 19 December 2012, and as amended and clarified by drawings and information received on 21 February and 20 March 2013
- 8 Week Target :** 13 February 2013

SUBJECT TO: The views of Kent Highway Services.

Conditions/Grounds

- 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 this consent is granted.

Grounds: 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 approved shall be carried out in accordance with the following drawings submitted with the application: 387/10.1, 387/14A; 387/15B; 387/16D and 387/17B.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Pre-Commencement Conditions

- 3 Samples of the proposed boarding, planed and roughsawn, for the proposed internal cladding of the building shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and works shall be carried out as approved.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 4 Before the development hereby permitted is commenced, detailed drawings showing the position, design, colour and specification of the proposed exposed warm air heating ducts, and the design, materials and specification of proposed new ground floor finishes, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 5 Before the development hereby permitted is commenced, samples of all the proposed finishes, internal and external, including Envirograf Product 42 HW and Envirograf QVFR liquid, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 6 Before the development hereby permitted is commenced, detailed drawings showing the location and design of the proposed disabled access ramp shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved drawings.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 7 Before the development hereby permitted is commenced, detailed drawings of all new external and internal joinery work, together with sections through all members including glazing bars, frames and mouldings and showing the relationship of new window and door frames to the face of the wall both internally and externally, at two scales; 1:20 and 1:1 or 1:2, all keyed to the proposed elevations, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

During Construction Conditions

- 8 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.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

Post Commencement Conditions

- 9 The areas shown on the submitted drawing (387/10.1) as 97 parking spaces shall be reserved for vehicle parking at all times that the restaurant and art gallery/function room is in use, and these areas shall be retained for the use of the visitors to these premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land or in such a position as to preclude vehicular access to these areas.

Grounds: In the interest of highway safety and amenity, and in pursuance of Policies E1 and T3 of the Swale Borough Local Plan 2008.

- 10 The kitchen extract duct shall be no larger than that indicated on the approved plans and shall be painted black where visible from outside.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 11 Details of any mechanical ventilation system that will be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner which prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Grounds: In the Interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

- 12 The premises shall be used for the purpose of a restaurant and art gallery/function room only and for no other purpose whatsoever.

Grounds: In the Interests of residential amenity, encouraging an appropriate and sustainable visitor attraction use for the building in this key waterside location and preserving the special architectural and historic interest of the listed building and in pursuance of policies E1, E14, E15 and E19 of the Swale Borough Local Plan 2008.

- 13 The use of the premises hereby permitted shall be restricted to the hours of 10 am to 11 pm on weekdays and Saturdays, and 10 am to 4 pm on Sundays or Bank Holidays.

Grounds: In the Interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

- 14 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.

Grounds: In the interests of residential amenity and in pursuance of Policy E1 of the Swale Borough Local Plan 2008.

Reason for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, the Council has sought to balance the possible harm to the building and the character of the area with the potential benefits of the proposed use in terms of attracting visitors and activity to the creekside and safeguarding the potential for historic vessel to be moored and maintained at Standard Quay; particular regard has been had to the following policies: AAP2, E1, E14, E15, E19, B2, H2 and T3 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales. In this case the application was approved following lengthy discussions with the applicant concerning the impact of the proposals on the historic fabric of the listed building, and the receipt of amended drawings, as a way of ensuring the preservation and active visitor based use for this important creekside building.

SW/12/1524

Conditions

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

Grounds: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby approved shall be carried out in accordance with the following drawings submitted with the application: 387/10.1, 387/14A; 387/15B; 387/16D and 387/17B.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Pre-Commencement Conditions

- 3 Samples of the proposed boarding, planed and roughsawn, for the proposed internal cladding of the building shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and works shall be carried out as approved.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 4 Before the development hereby permitted is commenced, detailed drawings showing the position, design, colour and specification of the proposed exposed warm air heating ducts, and the design, materials and specification of proposed new ground floor finishes, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 5 Before the development hereby permitted is commenced, samples of all the proposed finishes, internal and external, including Envirograf Product 42 HW and Envirograf QVFR liquid, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 6 Before the development hereby permitted is commenced, detailed drawings showing the location and design of the proposed disabled access ramp shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved drawings.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 7 Before the development hereby permitted is commenced, detailed drawings of all new external and internal joinery work, together with sections through all members including glazing bars, frames and mouldings and showing the relationship of new window and door frames to the face of the wall both internally and externally, at two scales; 1:20 and 1:1 or 1:2, all keyed to the proposed elevations, shall be submitted to and approved in writing by the Local Planning Authority. The work shall then be carried out in strict accordance with these approved details.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 8 The kitchen extract duct shall be no larger than that indicated on the approved plans and shall be painted black where visible from outside.

Grounds: In order to safeguard the special architectural and historic interest of the listed building and in pursuance of policies E1, E14 and E19 of the Swale Borough Local Plan 2008.

- 9 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications.

Grounds: In the interests of residential amenity and in pursuance of Policy E1 of the Swale Borough Local Plan 2008.

Reason for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant consent, the Council has sought to balance the possible harm to the building and the character of the area with the potential benefits of the proposed use in terms of attracting visitors and activity to the creekside and safeguarding the potential for historic vessel to be moored and maintained at Standard Quay; particular regard has been had to the following policies: E14, E15 and E19 of the Swale Borough Local Plan 2008.

Description of Proposal

These applications are for a change of use of a listed quayside building to form a restaurant and art gallery, with associated internal and external changes and a small extension to the building. The proposed extension would be single storey, and would be of a lean-to design within the angle of the existing building, providing lavatories, storage area, etc. for the restaurant.

The applications are accompanied by a Planning Statement which explains that the intention is to create a signature restaurant at ground floor level and an art gallery /function room at first floor level. The applications are also accompanied by a Heritage Statement, a Design and Access Statement (now amended), a Flood Risk Assessment and a Report on Structural Appraisal.

According to the applicant's Planning Statement the main alterations to the building involve a new staircase and an extension for toilet facilities. Amended drawings now show the creation of a number of far smaller new openings for windows and doors, many actually in positions where former openings appear to have previously existed. Fourteen full time and 2 to 3 part time jobs are envisaged. The proposal is said to be part of the applicant's well known plans and aspirations for the whole Standard Quay area.

The Flood Risk Assessment relates to large areas of the creekside and, in relation to this proposal, notes that even though the site is liable to tidal flooding, this would only be for short periods and "less vulnerable" uses are proposed. It also suggests that the proposals will have no impact on flood storage and flows, and that they will not have an impact on flooding elsewhere.

Site Description & Relevant History

The building in question is a two-storey black weatherboarded building, dating from roughly the middle of the 19thC, when commercial activity at the quay was probably at its height. I understand that it was constructed as a grain store, and appears to have been used as such for most of its existence. Within the last decade, parts of the building have been leased for maritime related activities such as boat building and restoration, particularly referring to the restoration of the sailing barge 'Cambria', which can often be found moored alongside the quay. The majority of the buildings within the site are Grade II Listed, the Old Granary to the south east being listed grade II*.

The site is also within a particularly sensitive part of the Faversham conservation area, adjoining Faversham Creek. Many of the buildings on site have been put to commercial use, including an antique/collectors 'market', a small garden centre, a small café and an upholsterer's workshop.

The site falls within the boundaries of the ongoing proposed Faversham Creek Neighbourhood Plan.

Following a fire some decades ago, much of the original fabric of the roof of the building has been replaced and, save for the internal staircases and the floor at first floor level, the building at present constitutes an empty shell.

The recent relevant planning history for this building relates to planning references SW/12/0871 & 2, applications for external staircases, approved under my delegated powers in 2012.

However, there are a number of much older applications which are pertinent to this application. In 1993, applications for a gallery and studio, leaving the interior floor spaces open were approved under references SW/93/991 & 992. This scheme was never implemented.

In 1994, applications for the same gallery downstairs and a sail loft upstairs were approved under references SW/94/349 & 350. These proposals would again have left the floors open and were again never implemented.

In 1996, applications for a brand new building near to Building 1 were approved under references SW/96/272 & 273. The structure was to be used for boat building and repairs. Again, this proposal was never implemented.

In 1998, applications to internally divide up the building into small units were refused under references SW/98/219 & 220, due to the harmful nature of the proposed works.

It should be noted that the first three cases noted above, though approved were never implemented.

Views of Consultees

Faversham Town Council recommends refusal of the proposal, noting that:

- *The proposed interior linings will harm the character of the interior of the listed building and detract from its significance as a former small storage building*
- *The number of proposed new windows will have a harmful effect on the external appearance of this former storage building*
- *The need to comply with Building Regulations is likely to have an adverse effect particularly because of the need to provide fire protection to the exposed metal structure*
- *Environmental Health considerations are likely to require alterations damaging the character of the interior of the building*
- *The effects of the need to comply with Building Regulations and environmental considerations have not been fully incorporated into the application documentation*
- *This application for a significant change of use is premature given the status of the proposed neighbourhood plan*

Kent County Council's Public Rights of Way Officer recommends that the parking bays shown on the submitted drawings are not marked out on the ground and are not allowed to impinge on the public right of way passing alongside the building. He

also suggests that the application be used as a vehicle to achieve public access to the creekside by requiring a diversion of the footpath or the creation of anew footpath. I am surprised by these comments as the Officer is normally extremely keen to point out that planning permission cannot be used to divert footpaths, a matter which is subject to separate legal procedures. In any case, I do consider that such conditions would be unreasonable for a simple change of use application, and I cannot recommend such a condition, however welcome the aims might be.

English Heritage raises no objection.

The Head of Service Delivery raises no objection, subject to certain conditions. I have not included his condition referring to pile driving, as there will be none.

I await comments from Kent Highways Services, and will report these at the meeting.

No response has been received from Natural England or the Environment Agency.

Other Representations

The Campaign for the Protection of Rural England (CPRE) writing on behalf of the Historic Buildings Committee and the Council for British Archaeology, and themselves, raises objection, stating that the proposal is contrary to the provisions of the Swale Borough Local Plan 2008; that it does not promote a maritime use or business; and that it is contrary to chapter 12 of the National Planning Policy Framework (NPPF). They also say that the proposals will adversely affect the character, not only of this building, but of the group of listed buildings on the quay which form the heart of the conservation area. Further, they argue that this would irreversibly block the option of using the building for modular units related to the creek's maritime heritage, including training in boat-related skills and other small retail or business uses that would enhance the tourism offer of the vicinity in a flexible way. Finally, the CPRE suggest that the requirements of insulation, fire protection, strengthening, multiple windows, flues, vents etc will seriously damage the heritage value of this lightly constructed timber building and would not adequately reflect its former use.

The Faversham Society raises objection, commenting that '*We accept that there are no planning grounds on which to object to this application. However, the majority of the members of the Faversham Society planning committee object strongly to the loss of maritime usage of these dockside buildings.*'

Sixty letters and emails of objection and concern have been received, some from the same address, and a number of duplicate letters objecting separately to the granting of planning permission and listed building consent. The comments contained therein may be summarised as follows:

- The application is premature, as the Creek Neighbourhood Plan is still being developed
- Contrary to Policy AAP2 of the Swale Borough Local Plan 2008
- One supporter is a business associate of the applicant
- Will compromise maritime activities

- Will destroy architectural and historic integrity
- Will set a precedent
- Traffic issues in Abbey Street
- The buildings are *'a great treasure...regionally and indeed nationally'*
- Inserting windows will destroy the building. It is a warehouse
- A fire risk
- Delicate timber framed building – unsuitable for use as a restaurant
- Maritime use has been of great local and tourist interest
- *'Proposal to develop a museum...is effectively erecting a gravestone to the industry which has been destroyed by the development'*
- Faversham does not need another restaurant
- The accompanying statement has whitewashed barge building and maritime repairs which have taken place in recent years
- If approved, Heritage groups will call for judicial review
- Loss of maritime employment
- There is already a café in the adjacent Granary building, ditto The Anchor PH
- *'Creeping gentrification'*
- Interest shown in 'Cambria' illustrates the public's interest in maritime heritage
- Within a flood risk area
- Access is inadequate
- *'The applicant has removed by aggressive legal means all the highly successful maritime related activity on the quay'*
- Will lead to a loss of tourists
- Standard Quay should not be regenerated as a kind of *'Disneyland attraction'*
- Site is of prime historic importance
- Contrary to specific policies which promote access and facilities for boat owners and builders
- Faversham *'will become known as 'Faversham. Used to be famous for its maritime history.'*
- Increased rents have deterred maritime use
- Applicant is only interested in *'personal gain'*
- A Compulsory Purchase Order should be imposed to deter *'developer's greed'*
- No safeguard to ensure that a 'chain' restaurant does not occupy the building
- Faversham will become another anonymous town
- Building used for boat repair for centuries
- *'Faversham has a lot of restaurants, but only one Standard Quay'*

Ten letters & emails of support have also been received. The comments contained therein can be summarised as follows:

- Will add to the interest of the quay
- The previous occupants left the building in a poor state
- Would be a good tourist destination
- Will bring building alive
- Proposal will preserve the building
- There are still other workshops available
- The alternative is to leave the building to decay
- Will bring new jobs
- Restaurant & art gallery use is ideal

- Apart from the past decade, the building has never had a maritime use; it was built for and used as a grain store, and had no connection with barge or boat building
- If a boat builder had wished to establish a business on the creek, he or she would have done so
- *'At last, somebody has a plan and a project for the building which will keep its integrity. The restaurant will ensure the future of this historic building. Bravo.'*
- The area has been getting rundown.
- The proposal will bring work to the area and be an asset to the community
- The building was in complete disrepair until taken over by the current owner
- Residents were initially worried about the nearby 'Posilipo' restaurant, and that has proved to be a success
- An excellent and imaginative project

Relevant Planning Policies

The following saved policies of the Swale Borough Local Plan 2008 are relevant to this development;

The NPPF was released in March 2012 with immediate effect, however, para 214 states *"that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."*

The 12 month period noted above will have expired by the date of the meeting. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

Swale Borough Local Plan 2008

Area Action Plan 2 (AAP2) – Faversham Creekside makes direct reference to Faversham Creekside. The policy reads as follows:

'An Area Action Plan is designated for Faversham Creekside, as shown on the Proposals Map. Within this area the Borough Council will seek to ensure that it continues to function as a place of special interest and activity with strong associations with the water, and will specifically encourage the regeneration of the creek basin for commercial and tourism purposes, including use of the basin and its wharfage for historic craft. Planning permission will not be granted for proposals that would result in the loss of land or buildings suitable for employment uses or, on appropriate sites, would not involve active use or management of the creek itself. All development proposals will:

- 1 *maintain or enhance a mix of uses and activity that respect the maritime, industrial and residential character, as appropriate to the varied parts of the AAP area;*

- 2 *maintain or enhance an environment appropriate to enable traditional waterside activities to flourish, including, where appropriate, financially contributing toward improving and maintaining the navigability of the creek channel and its infrastructure, including providing wharfage and moorings;*
- 3 *preserve or enhance the area's special archaeological, architectural and historic character, including its open spaces; and*
- 4 *avoid any significant adverse environmental impacts and where possible enhance the biodiversity interest of neighbouring internationally designated sites for nature conservation.*

The Borough Council will expect development to:

- *preserve or enhance landmark and other important buildings, waterside structures and details;*
- *preserve and create access to the waterside, including wharfage and moorings, and where appropriate provide for a creekside walk;*
- *by use of its grain, scale, form and theme of materials, be creekside in character;*
- *retain existing greenspace and, where appropriate provide new areas; and*
- *retain or enhance existing townscapes, including those in the views of higher ground.*

Policy FAV1 (Faversham & Rest of Swale Planning Area) – Setting scales of development to fit local needs

Policy E1 (General Development Control Criteria) – Standards which the Council expects from all development proposals

Policy E14 (Listed Buildings) – The building in question is part of a group of Listed Buildings

Policy E15 (Conservation Areas) – The site is within the Faversham conservation area

Policy E19 (Design Criteria) – Seeks high quality of design

Policy B2 (New Employment) – Providing new employment opportunities

Policy B5 (Tourism) – Providing and maintaining tourist attractions and facilities

Policy T3 (Parking) – Parking provision must be in accordance with KCC parking standards

National Planning Policy Framework (NPPF) is also relevant to this proposal.

The Swale Borough Draft Core Strategy

The Swale Borough Draft Core Strategy was out for consultation from 26 March until Friday 18 May 2012. It contained a policy on the Faversham Creek Neighbourhood Plan (Policy NP 1) that sets out a broad strategy for the area. It states that specific site allocations and proposals will be made through the Faversham Creek

Neighbourhood Plan. The Policy states that “priority will be given to the regeneration of Faversham Creek by retaining maritime activities (including the retention and improvement of wharfs and moorings for large craft repair) with complementary redevelopment opportunities for workshops/business uses, residential, small scale retail and restaurant uses.” This application appears to be in-line with the main thrust of this emerging policy.

Faversham Creek Neighbourhood Plan

The Faversham Creek DPD grew out of the Swale Borough Local Plan 2008 Policy AAP2 and subsequently became an emerging Neighbourhood Plan through the Government Vanguard initiative. Faversham Town Council is now leading production on the plan, with consultant assistance. The Neighbourhood Plan Steering Group will be publishing their draft Neighbourhood Plan during this year. It will then be subject to an Examination, then a public referendum and if it passes all of these stages it will be adopted during 2014.

The Faversham Creek Neighbourhood Plan Steering Group have met with key landowners to discuss their proposals, commissioned and consulted on a Streetscape Strategy and started to formulate their ideas for the development sites around the creek.

Tony Fullwood’s report *‘Developing proposals and future planning policy to deliver regeneration of the Faversham creek area’* was published in November 2010 for consultation and comments on its contents were received by the Council.

In this report the Standard Quay site is described as a development opportunity. It states that sites at Standard Quay could “provide employment opportunities and could add to the tourism offer of the town as advocated in Faversham Area Tourism Development, 2005. The provision of mooring posts for major boat repairs together with workshop space for boat repair and apprentices is essential to protect the maritime activities which are an important part of the historic character of this part of the conservation area. The cluster of listed buildings at the centre of Standard Quay should be retained and restored. Given the location of these buildings within the functional floodplain, and the historic association of this area with the Creek, it is proposed that the ground floor should comprise workshop space including boat related activity. In addition, small scale retail and restaurant uses would be acceptable in helping to improve the tourist offer. The limitations of adapting the listed buildings and the need to protect the amenity of residents from the impacts of the ground floor industrial uses means that it is unlikely that residential development would be suitable above ground floor level. All proposals would be subject to a Flood Risk Assessment.” This application is partly in-line with these policy aspirations as it is improving the tourism and leisure offer and it is providing employment, and it still leaves open the opportunity for the rest of the site to be used for boat repair workshops.

Neighbourhood Plan Draft Options for Faversham Creek

The Neighbourhood Plan Steering Group held an exhibition on Saturday 5 May 2012 to consult the public on a variety of options for the creek. The exhibition stated that

“Standard Quay (Site 8) comprises a number of weather boarded buildings traditionally associated with waterside activities. It is proposed that the buildings be retained in employment uses (workshops associated with marine related uses and other tourist-related uses such as restaurant and museum). Residential uses would not be permitted at Standard Quay.”

The Steering Group held a workshop in November 2012 and found that at Standard Quay *“any practical uses that preserve the exteriors of buildings can take place in the black sheds and white building. Uses were intended to draw in tourism and support other small businesses in the area that suffered a lack of footfall.”* The current application appears to be in-line with this approach.

Discussion

This proposal has attracted a lot of interest, with public opinion on both sides of the argument being very strong. The main issues involved appear to be the balance between preserving the historic fabric of the building, the historic interest of the entire quay and bringing employment and an acceptable method of ensuring the future of this building.

In policy terms, National Planning Policy Framework (NPPF) states in one of its core planning principles that the NPPF *‘proactively drive(s) and support(s) sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places that the country needs.’*

Paragraph 131 of NPPF states that, when determining planning applications, LPAs should take account of:

- *‘the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *The desirability of new development making a positive contribution to local character and distinctiveness’.*

It should be borne in mind that the applicant has recently provided further moorings along the quay, thus improving the wharfage, and that the proposal will *‘enhance an environment appropriate to enable traditional waterside activities to flourish...including providing wharfage and moorings.’* As such, I consider the proposal to be broadly in accordance with AAP2.

The employment created by the proposal is supported by policies B1 and B2 of the SBLP2008.

With regard to policies E14 (Listed Buildings) and E15 (Conservation Areas), the restaurant/art gallery use proposed is not necessarily the best fit for this functional/industrial listed building; it might be better placed in the new build development which is being promoted to the south-west of Standard Quay. There are inevitable compromises in all historic building conversions and this is no exception. The insertion of insulation and impervious vapour barriers into the timber

frame can have unfortunate consequences. The fire proof and kitchen finishes will detract from the building to a greater or lesser extent and there is likely to be pressure in the future for consequential changes such as signage. But character and significance extend far beyond these physical changes and it is the loss of the working character of the place and the industrial paraphernalia which must also be considered.

The Council has a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting, and any features of special architectural or historic interest which it possesses and to preserving or enhancing the character or appearance of the conservation area. Policy in this regard is contained in the NPPF which requires that in considering proposed development “great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting”. Where, as in this case, the development 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 securing its optimum viable use”.

I consider the optimum use for this group of listed buildings might be industrial/creekside and employment type uses which respect the gritty working history of the building and of the area. The applicant suggests that these are not “viable” and this may be the case. However, many other uses tend to result in gentrification of the building and its surroundings which are looking more sterile today than ever before.

Against these changes in character one has to balance the benefits. There are clearly benefits to the building of securing a sustainable use into the future and the applicant makes the case that the benefits in establishing the restaurant use, and the employment and regenerative effect on the whole of Standard Quay, will be considerable. I can see benefits to the economy and to the viability of the various other “low rent” uses but the loss of potential maritime related uses and the risk of incompatibility between commercial boat related activity and proposed use is somewhat unfortunate.

However, when considering the heritage of this particular building, a number of important facts must be remembered. Firstly, it is only during the last decade that the building has been used for maritime related and boat repair services. The original use of the building was as a granary, not a boathouse. Had it been constructed and used as a boathouse, it is more than likely that there would be a slipway from the building into the creek; this is not the case. When remembering the historic use of the creek, it is worth bearing in mind that a quay’s purpose is for the loading and unloading of goods, and their storage and onward transport by either water or road. The Oxford English Dictionary defines a quay as being ‘*a stone or metal platform lying alongside or projecting into water for loading and unloading ships*’. Therefore, the primary purpose of the quay was the meeting point of water and road for the transportation of goods. In the present times, that use is no longer needed, and if the buildings on the quay are to be preserved and remain as viable, useful buildings, an alternative use is necessary.

As noted above, I do not consider the proposed restaurant use of the building to be the best use, but it might be the most viable way of providing the future use and preservation of the building. Changes to both the interior and exterior of the building will be necessary, but the following points should be remembered when assessing the effect on the historic fabric of the building:

- The historic fabric of the building is all preserved intact. The alterations mainly constitute additions, new finishes or restoration of original openings
- A fire some years ago has already removed a goodly amount of the original timbers of the roof of the building. The current proposal involves the reinstatement of the original king-post roof structure
- The amended drawings would place most of the new window openings where evidence shows that original openings were once situated
- The proposal would result in the survival of the building, by ensuring its preservation and continued maintenance

In terms of residential amenity, domestic properties are found nearby along Abbey Street and its offshoot roads on one side of the creek, and Belvedere Road and its offshoot roads on the other side. However, I consider that the distance between these properties and the building in question will minimise any possible erosion of residential amenity. It must be remembered that adequate parking is shown as part of the proposal, and the relatively modest size of the building would constrain the number of visitors possible, so that I consider that there will not be an issue of excessive vehicle movements along Abbey Street.

Finally, many objectors have stated that the application is premature, as the Creekside Neighbourhood Plan is yet to be finalised and published. A publication version of the Plan will be ready towards the end of this year, followed by a public referendum in early 2014. However, as the Plan is yet to reach the publication stage, the application needs to be considered against the adopted development plan; the Swale Borough Local Plan 2008. I do not believe that the granting of planning permission would undermine or prejudice the Neighbourhood Plan.

Recommendation

I note the concerns raised by the objectors, and would agree that this is a difficult proposal to determine. However, it should be noted that three applications made in the 1990s which had maritime purposes (sail-making, boat building and repairs) were approved by the Council. The Council has therefore been extremely supportive of proposed maritime uses here but, in each case the approvals issued were never implemented. It is therefore only reasonable for the Council to consider other sustainable uses for this building.

I believe that the proposed use will ensure the preservation of this simple but interesting warehouse building, also creating jobs and another reason to visit this historic part of the town. It must be remembered that a fire some fifty years ago removed much of the original fabric of the building, so that a significant proportion of what can be seen today is not the original fabric anyway. If the works are carried out

in a sensitive manner (and the above conditions should ensure that they are), the end result will be a preserved, vibrant and useful listed building

I therefore recommend that the applications be approved, subject to the imposition of the conditions recommended above.

Responsible Officer: Graham Thomas (Area Planning Officer)

List of Background Papers

- 1 Application papers & correspondence relating to application SW/12/1523 & 1524.
- 2 Application papers & correspondence relating to application SW/12/0871 & 872.
- 3 Application papers & correspondence relating to application SW/98/219 & 220.
- 4 Application papers & correspondence relating to application SW/96/272 & 273.
- 5 Application papers & correspondence relating to application SW/94/349 & 350.
- 6 Application papers & correspondence relating to application SW/93/661 & 662.

- Location :** Brotherhood Wood, Gate Hill, Dunkirk, Faversham, Kent, ME13 9LN
- Proposal :** Change of use for gypsy and traveller site to incorporate previous site approvals, increase number of pitches, relocate and enlarge communal facility building. Includes parking, lighting, fencing and landscape buffer.
- Applicant/Agent :** Mr Joseph Robb, C/O Mr John Burke, John Burke Associates, 13 Morris Court Close, Bapchild, Sittingbourne, Kent, ME9 9PL
- Application Valid :** 8 February 2013
- 8 Week Target :** 5 April 2013

SUBJECT TO: Clarification of proposed pitch numbers, the need for the proposed emergency access gates, and further views of the Highways Agency

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.

Grounds: 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 shall be carried out in accordance with drawings RDD-0113-01 Rev C sheets 1 and 2 and drawing 09_308A_003 as approved under planning permission SW/11/1271.

Grounds: For the avoidance of doubt.
- 3 There should be no more than twenty nine (29) permanent single pitches across the overall site area, incorporating the pitches previously approved by planning permissions SW/10/1362, SW/11/0163 and SW/11/1271, on which no more than an absolute overall maximum of thirty six (36) caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than twenty nine (29) shall be residential mobile homes. There shall be no more than one (1) mobile home stationed on any pitch.

Grounds: In accordance with the terms of the application and in the interests of the amenities of the area, and in pursuance of policies E1, E6, E9, E12 and E19 of the Swale Borough Local Plan 2008.

- 4 No person or group of persons, and no caravan, shall occupy pitches marked "Transit Pitch 1" and "Transit Pitch 2" on plan No. 09_308A_003 as approved under planning permission SW/11/1271 for a single period exceeding 3 months. No more than three caravans shall be sited on any either transit pitch at any time.

Grounds: In accordance with the terms of the application and in the interests of the amenities of the area, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

- 5 The mobile homes on the permanent pitches (that is those pitches not marked "Transit Pitch 1" and "Transit Pitch 2" on plan No. 09_308A_003) shall be sited in accordance with drawings RDD-0113-01 Rev C sheets 1 and 2 and drawing 09_308A_003 as approved under planning permission SW/11/1271.

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area, and in pursuance of policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 6 The pitches on the site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites (March 2012).

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area, and in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

- 7 The utility/day rooms on individual pitches as shown on drawing 09_308A_003 as approved under planning permission SW/11/1271 shall be constructed in materials approved by Swale Borough Council under the terms of condition (5) of planning permission SW/10/1362 unless samples of alternative materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority.

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area, and in pursuance of policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 8 The site shall only be used for residential purposes, and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area, and in pursuance of policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 9 Notwithstanding details submitted with the application, no floodlighting, security lighting or other external lighting over and above that approved under the terms of condition (7) of planning permission SW/10/1362 shall be installed or operated at the site, other than in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority.

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area, and to protect the biodiversity of the surrounding woodland, and in pursuance of policies E1, E6, E9 and E12 of the Swale Borough Local Plan 2008.

- 10 Notwithstanding the details shown on the submitted and approved drawings, no development shall take place until alternative 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 proposals for fencing to the outer boundaries of the proposed pitches, planting schedules of plants, noting species, plant sizes and numbers where appropriate, and an implementation programme.

Grounds: In the interests of the visual amenities of the area, and in pursuance of Policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 11 All approved 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.

Grounds: In the interests of the visual amenities of the area, and in pursuance of Policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 12 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.

Grounds: In the interests of the visual amenities of the area, and in pursuance of Policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 13 No further materials including aggregates or topsoil shall be brought on to the site in connection with the finishing of hard standing areas, unless details of

its nature, specification and origin have been submitted to and approved the Local Planning Authority.

Grounds: In the interests of the amenities of the area, to prevent localised flooding from any impervious hard standings, and in pursuance of Policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 14 No work on construction of the approved communal building shall commence until full details of external materials for roofing, walls, windows and doors have been submitted to and approved by the Local Planning Authority. Upon approval works shall be carried out in accordance with the approved details.

Grounds: In the interests of the visual amenities of the area, and in pursuance of Policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008.

- 15 The communal building hereby approved shall be used only for the management of the site, and for the amenities of residents of the application site. The building shall not be used for residential purposes.

Grounds: In the interests of the amenities of the area, and because the site lies in a rural location where new residential use would not normally be permitted, and in pursuance of Policies E1, E6, E9, E19 and H2 of the Swale Borough Local Plan 2008.

Reasons for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, particular regard has been had to the following policies: E1, E6, E9, E12, E19, H2, H4 and T1 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this instance, the application was carefully considered, along with local representations, the content of the application was clarified, and planning permission was granted with suitable conditions to allow development to go ahead without unacceptable consequences for the local environment.

Description of Proposal

This application proposes to increase the number of approved permanent pitches on an existing private gypsy site from ten (10) to twenty nine (29), by re-planning three out of ten approved large 500sq m pitches and making use of vacant land within the existing site boundaries. No overall enlargement of the area of the site is proposed. The current permissions allow up to 21 caravans (including up to 11 mobile homes) to be stationed on the site over 10 permanent pitches, plus two (2) three caravan transit pitches; a maximum of 27 caravans at any one time across the entire site.

The three approved pitches to be lost are two single pitches and one double pitch, each with a day room and space for a touring caravan. The proposal now is to re-plan these and to use adjacent vacant land at the rear of the site to create 22 smaller 150sq m single pitches, none of which would have day room or space for a second (touring) caravan. Instead the erection of a new permanent community building featuring toilets, showers, two large recreation rooms and an office to serve the site occupants is proposed.

The remainder of the site will stay as seven (7) approved large single pitches, each with a day room and space for a touring caravan, as already approved in December 2011. The already approved two (2) transit pitches for three caravans each at the front end of the site would remain unaffected by these proposals.

It is thus proposed to move from the approved layout of ten (10) large permanent pitches (nine single and one double pitch) plus a garden/play area, to twenty nine (29) single pitches, seven (7) of which would be as approved, but 22 of which would be smaller single pitches, plus the two (2) transit pitches. This would leave no garden area or further vacant space, but would maximise the use of the site within its existing boundaries.

The overall total number of permanent pitches (excluding the two (2) retained transit pitches) would rise from 10 (with up to 21 caravans) to 29 pitches with up to 36 caravans. The overall total maximum of caravans at any one time would rise from 27 to 42, including the transit pitches.

The new community building would be 22.5m by 9.8m with a ridge height of 6.7m. It would be a barn like design with timber windows, and clad in dark stained weatherboard under a slate roof. This community building is proposed towards the rear of the site near the new smaller pitches, and a set of double emergency gates are shown next to the building leading onto the footpath which runs down beside the site and serves as access to the wider woodland to the south.

The application also attempts to deal with outstanding matters relating to previous planning conditions by incorporating details of lighting, fencing and landscaping as part of this submission.

The application is supported by a Design, Access and Planning Statement. This contains a number of errors relating to the numbers of pitches now proposed, but I

am hoping to clarify these before the meeting. I draw the following points from the Statement:

- Each new pitch will have a storage shed, drying facilities, amenity space and one parking space.
- The communal building will provide further toilet and shower facilities for separate male, female and disabled hygiene as well as communal kitchen and recreation rooms, providing space for recreation, games, teaching, training, prayer and group activities. It has been designed to have features typical of agricultural and village buildings.
- The site is not at risk from flooding, nor will the development concentrate surface water run-off. Foul drainage will be to an existing mains connection.
- The site is well screened from public views by surrounding woodland and new chestnut post and rail fencing and an additional vegetation buffer in the form of laurel bushes will be erected/planted around the woodland edges of the site.
- The site layout has been designed in accordance with Government advice and each pitch will be fenced.
- "In total the current permissions permit up to 21 caravans to be permanently stationed on site of which up to 11 can be Mobile Homes, plus up to 3 caravans on each of the 2 Transit pitches. Allowing up to 27 gypsy and traveller families on the site at any one time"

NOTE: This appears to be an error by the applicant as the 10 approved pitches are all single pitches for one family, or one double pitch perhaps for a larger family. I would suggest that 10 families is the likely number of permanent occupiers. I would also suggest that the transit pitches are most likely to be occupied by one family each at any one time, bringing the total numbers of families on site at any one time to a maximum of 12. However, Members will note below the fact that this statement has caused concern both from the Parish Council and the Highways Agency.

- "Total 24 Permanent pitches, permitting up to 38 caravans to be permanently stationed on site, of which 8 can be Mobile Homes"

NOTE: This is another error. The application plan shows proposed 29 permanent pitches with up to 36 caravans, up to 29 of which might be mobile homes. Condition 3 above clarifies this point.

- Site access remains as existing together with a new emergency access gate. Adequate parking is provided for.
- Lighting will be low pressure sodium lighting (max 150 watt) with timed movement sensors directing light only to areas needing lighting in order to avoid light pollution to the surrounding woodland and wildlife habitat.
- The proposal is in line with national and local policy, and has been the subject of pre-application consultation with officers, the Parish Council and gypsy liaison officers.
- Swale Borough Council has undertaken a gypsy and traveller need assessment which shows a significant shortfall in provision, which has resulted in a spread of illegal sites and temporary permissions being granted,

which are not ideal in planning terms or in relation to the settled community.

- This site is an existing approved site. It is largely uncontroversial and well screened. Allowing an increase in its provision would meet a significant need and help to bring controls against illegal sites more quickly to the benefit of the settled community.
- The site will be managed by the applicant to provide for the needs of the gypsy and traveller community, enabling the settled community to benefit from a site more capable of good practice than any publicly provided site, and at no cost to the public purse.

Relevant Site History and Description

The site is located to the south of the A2 services slip road at Gate Hill. It is screened from all directions by extensive areas of woodland, albeit previous tree cover on the site has been felled, and hard core materials spread across the site, leaving a rather barren area of hard standing. The site is not easily visible from the A2, and is screened from the adjacent public footpath by a close boarded fence. Open wooded countryside lies to the sides and rear of the site. This forms part of the Blean Woods Special Landscape Area, and the Blean Woods South Local Wildlife Site as defined on the proposals map of the Swale Borough Local Plan 2008.

The site lies close to the A2 Boughton by-pass, with access via The Gate services, which provide local services such as fuel, a shop and a bus stop. It lies on the opposite side of the A2 from the built up area of Dunkirk, which has recently been provided with a new village hall. This area now has no church or school, both of these having closed in recent years, but it is linked to the wider range of services at Boughton.

The site started as a long narrow former woodyard, now the eastern part of the current area, which sits alongside an area of felled and hard surfaced former woodland to the west. Planning permission was granted to the original eastern part of the site in 1997 under planning reference SW/97/0923 for the retention of a mobile home. This granted temporary permission for a two year period. The mobile should have been removed from the site by 1999, but it appears that a caravan was still on the site in 2007.

Prior to this planning permission was granted in 1981 for the original yard area to be used as a fencing yard. This permission was renewed under planning reference SW/86/1053 in 1986, extending the use to 1991. Outline and later detailed, permission for a workshop building on the site was approved in 1991, 1994 and 1996.

More significantly, permanent but personal planning permission for two mobile homes and two touring caravans arranged as two pitches for gypsies on the original part of the site, was granted in October 2007 (SW/07/0950). This area was, and remains, fully hard surfaced. Members visited the site at this time as part of one of their annual reviews of the Borough. Those occupants have since vacated the site and the current applicant has taken over its occupation.

Application SW/10/0599 for an increase to three pitches (one double and two single pitches with paddocks on the then recently felled area to the west) was considered at the July 2010 meeting. Members resolved to refuse permission for the following reason;

“The proposal to increase occupation on this site and to expand it into an area including ancient woodland is likely to have a detrimental impact on its character, its surface water drainage characteristics, in a manner harmful to the countryside, which the Council consider would be premature to approve in the light of forthcoming Government guidance on provision of gypsy sites. The proposal is therefore contrary to policies E1, E6, E9, E12, E19, and H4 of the Swale Borough Local Plan 2008.”

A further identical application SW/10/1362 was then submitted in an attempt to address at least some of the Council’s reason. The area of the proposed caravan pitches then did not enlarge the area that the 2007 permission extended to. The area of woodland which had then recently been largely felled was not protected by a Tree Preservation Order (TPO), and this area was proposed mainly as paddocks, but with a small additional area of proposed hardstanding and garden.

This felled area had been cleared apart from a few retained trees and a large quantity of material has been brought in to create a level hardcore base which the applicant wished to cover in topsoil to create paddocks where he could keep horses. The few retained trees appear to have died since, possibly due to the hardcore now surrounding them.

That application was approved in December 2010, and an application (SW/11/0163) to vary condition 13 due to its unintended ambiguity was approved in April 2011. Conditional details for the December permission were approved in March 2011.

In December 2011 the applicant was granted a further planning permission SW/11/1271 for seven additional single pitches (each with day room and space for a touring caravan) plus two transit pitches on the formerly approved paddock area. This permission has been commenced by the laying out of the approved pitch boundaries and stationing of caravans on this wider area, but the planning conditions required to be complied with before commencement have not been dealt with.

These permissions provide for a combined total of ten (10) permanent pitches plus two (2) transit pitches and form the starting point for consideration of the current application. This application seeks to establish a brand new unified permission across the entire site, creating less ambiguity about which conditions apply where, and dealing with the outstanding conditions issue. This is also an attempt to negate the need for enforcement action relating to the various on-going breaches of conditions.

Views of Consultees

Dunkirk Parish Council did not object to the 2011 application after having visited the site at the applicant’s invitation. They supported that proposal “as long as covenants

are placed on it ensuring that there is no further development at the site and that the site will not be permitted to expand any further”.

In relation to the current application the Parish Council, having had a presentation from the applicant prior to the application’s submission, recommends refusal of the application. They have gone into considerable detail in their representations, which I summarise below;

- The site has a history of retrospective planning applications, latterly involving the loss of trees to create a paddock for grazing horses. The Parish Council only agreed to the latest application on the basis of strict conditions after meeting the applicant and receiving his assurance that he would comply with all conditions and that no further development would occur.
- The Parish Council took a pragmatic approach and supported the last application as the final change following earlier applications dating back to 2007.
- The latest approval contained conditions limiting the number of pitches to 10 and the overall number of caravans to 21. This limit should be adhered to. Since then there have been numerous breaches and non-compliance with conditions.
- The applicant has not applied for a site licence.
- The proposal is contrary to Local Plan policies (including H4) and the location is a sensitive woodland which will come under pressure. It is not in a sustainable location even though some basic facilities are nearby, and the proposal goes against the aims of the NPPF to conserve the environment, achieve good design and promote healthy communities.
- The Parish Council has referred to the DCLG’s guidance on “Designing Gypsy and Traveller Sites Good Practice Guide” of May 2008 and come up with numerous points where they consider that the application fails to adhere to that guidance. I refer to this guidance below, and will comment on the Parish Council’s points there.
- Errors in the applicant’s figures for the number of pitches and caravans.
- Errors or inadequacies in the application form.
- The Parish Council states that the current permissions only provide for 15 caravans (plus 6 on transit sites).

NOTE: they actually provide for 21 caravans (plus the 6); an overall total of 27 at any one time.

- The pre-application consultation with the Parish Council showed a building of just 15 m x 10m by 4.3m – this application shows a building with two floors and approximately two and a half times bigger, and including an office. The building is too close to the site boundary – less than the 3m suggested in the design guidelines.
- The building is too large with no justification in a rural area and within Blean Woods – it is inappropriate and goes far beyond that recommended in national design guidance for visiting health, youth or education services.
- The parish has a wonderful new Village Hall that is open to all and is now used by a large number of local groups - this new hall could lead to alienation

of gypsy families by their lives being insular instead of them using the new hall.

- The application appears to be retrospective, and a gross overdevelopment of the site, squeezing too many pitches into a relatively small area of land, overloading local infrastructure, and with insufficient garden, amenity or private space.
- The application more than doubles the occupancy of the site and land set aside for children's play has been removed.
- The development is similar to that rejected by the Borough Council at pre-application stage.

The Environment Agency has no objection to the application subject to a condition relating to surface water drainage. However, the site is already hard surfaced and previous applications have explored the potential for flood risk. This has revealed that the fill material would act to attenuate surface water run-off. As the current proposals will have no real impact on surface water flows I do not consider that a condition in relation to surface water drainage is reasonable or necessary.

The Highways Agency (HA) offers no objection to the application, but does have concerns about how the number of existing families occupying the site has been calculated and what the site potential is. This relates to what appears to be the applicant's error in referring to the authorised number of caravans (27) as the number of families permitted to live on the site, whereas the 27 caravans includes the tourers on the 10 approved pitches, and caravans on the approved transit pitches.

The HA notes that previous applications involved very small numbers of caravans resulting in few trips in and out. In those applications each pitch was said to be for one family, but now the application speaks of two families on some of these pitches, doubling the existing approved use – they ask that this should be clarified at this stage to inform the decision, and any future applications.

The HA continues by noting that the site access is adjacent to the exit from the service area and almost directly onto the slip road, where traffic leaving the service area will be expecting other traffic to be accelerating, not stopping to turn into the site, so creating the potential for conflict. Current Government policy does not permit development to be accessed from slip roads but this site had an historic access there, and the limited number of pitches and resultant movements did not appear to pose a higher risk than from the old woodyard use. However, with the current interpretation of two families per pitch they see this risk as increasing.

The HA says that they are aware of the need for new sites and do not unreasonably wish to stand in the way of that being achieved. However, there is ambiguity in the application and a strict interpretation of current policy would not permit any increase in traffic over and above that from the original woodyard use. The Agency does not want to see the number of approved pitches leading to a different interpretation of the number of caravans and additional traffic. They close by saying that it seems likely that this application is at the peak of what they would accept based on current guidance.

I note the Agency's comments, which appear to be based on an error by the applicant, but it is clear that they are becoming concerned over a significant increase in site usage. I will attempt to contact the Agency and the applicant to clarify matters and report further at the meeting.

The Kent Wildlife Trust has no objection to the application, but they do see the proposed laurel planting to have the potential to be invasive and to compromise the Local Wildlife Site that surrounds the site. They request a condition requiring native species planting such as blackthorn or hawthorn.

The County Council's ecological advice service has provided comments from which I draw the following points;

- The site is located in an area designated as a Local Wildlife Site and Ancient Woodland but the site is now all hardstanding so no ecological survey is required.
- There is a need to ensure that development does not result in degradation of the surrounding woodland.
- The proposed laurel hedge and grassland buffer is not acceptable. Instead, native species such as blackthorn, hawthorn, buckthorn and holly should be included.
- Post and rail fencing around the site will prevent the site encroaching on the woodland but enable wildlife to move through the site.
- Lighting can be very detrimental to wildlife species within the woodland, especially bats, and specific guidance on lighting has been sent to me.

Kent Highway Services note that the A2 is a trunk road and that the Highways Agency should be taking the lead role in commenting on the highway aspects of the application. They have, however, referred the application to their Countryside Access Officer in relation to the public footpath alongside the site.

Kent Police have provided specific and more general advice on the application; they note that the proposed layout has been designed with regard to national design guidelines, but note that there are some variances from this guidance in relation to lack of amenity space, density and pitch numbers and sizes. They suggest that this guidance is adhered to, along with guidance in the Council's own Gypsy and Traveller Corporate Policy to create a safe and sustainable site. In particular they note the suggested maximum numbers of 15 pitches on any site which will be exceeded here. They also suggest that a comprehensive Site management and maintenance plan is put in place, as suggested by the Council's own Policy, and controlled via a Section 106 Agreement.

The Police express concern that there may be an over concentration of use and high density of occupation/pitches which could lead to problems of health and safety, lack of amenity space, loss of privacy, and insufficient parking. They strongly recommend securing the site boundaries and transit pitches with security fencing with no openings as opposed to post and rail fencing to prevent encroachment unauthorised access, casual intrusion or increased permeability into the woodland, and to ensure the transit pitches remain available for transit use. Finally, the Police recommend

taking aerial photographs in case of encroachment onto the woodland, and refer to the need to take care in matters of site layout, lighting, surveillance, landscaping and ensuring that the transit pitches are not used for permanent caravans.

Canterbury City Council has commented, seemingly unaware of the 2011 permission, noting that the enlargement of this site will go some way to meeting the need for such sites and reducing the number of unauthorised sites. The site is seen as secluded but with good access to services. With the imposition of suitable conditions the proposal is seen as one that could be supported and the City Council raises no objection.

The Head of Housing does not object to the application, but supports the idea of a facility where some units are designated for homeless families.

The Council's Environmental Response Manager has no objection to the application, and he considers that it would provide a useful spot for unauthorised travellers to move to.

The Head of Service Delivery has referred to the need for the site to be licensed and set out to appropriate standards in terms of caravan spacing and distance from boundaries, drainage, electricity and water supplies and fire precautions. He notes that recreation space appears limited. He would also prefer to see clarification of which pitches are to be rented, which should be separated from permanent homes, and says that touring caravans have different standards.

Other Representations

Swale Footpaths Group notes that the access track is also a public footpath, that it would not be encroached upon, but ask if there would be more vehicle movements to and from the A2.

Owners of woodland to the south of the site, who also own the footpath running beside the site have queried the proposed emergency access which opens onto the footpath/track which the applicant does not have a right of way over. They see the emergency access shown as inappropriately located. This sentiment is echoed by another owner of part of the woodland who does not wish to see his right to use the track impeded or interfered with; or the security of the woodland which is currently protected by two locked gates compromised.

I am hoping to clarify with the applicant the need for this access point and will report further at the meeting.

Planning consultants acting for Esso (who run the nearby petrol filling station) object to the application for further increasing the number of pitches on the basis of health and safety concerns relating to intensified use of the track that serves as access to the site as contrary to clause (h) of policy H4 of the Local Plan which seeks to ensure that sites do not result in pedestrian or highway safety, and they see that the proposal conflicts with that policy. They note that DCLG's new Planning policy for traveller sites (March 2012) replaces previous guidance and that in its policy H it stipulates that applications must be determined in line with the Development Plan,

with sites in open countryside away from existing settlements strictly limited, as well as avoiding undue pressure on local infrastructure. They also refer to the policy's requirement to have regard to the provision of play areas for children, and to not enclosing sites with hard landscaping that might give the impression that the site and occupants are deliberately isolated from the rest of the community; criteria which they say this proposal fails to meet.

Relevant Planning Policies

National Policy

National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework and the Planning Policy for Traveller Sites (PPTS) both published in March 2012. The requirement in both documents is very clear, in that the Council should now set pitch targets which address the likely need for pitches over the plan period. Furthermore, the Council is required, from 2013 onwards, to maintain a rolling five year supply of sites which are in suitable locations and available immediately.

The PPTS is a recent change in national policy. Prior to this national policy was set out in Circular 01/2006 where the original intention was for regionally set pitch targets to be met.

The Council has in my view responded positively and quickly to the change. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which I have very recently received a draft version of. This indicates a continuing need for more sites. From the GTAA results, the Council will produce a Development Plan Document setting out deliverable sites to meet this need. It is anticipated that this will take at least two years to become formal policy. The following paragraphs of the PPTS are particularly relevant to the determination of this application;

22. Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

23. Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

24. When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

25. Subject to the implementation arrangements at paragraph 28, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

Local policy

The Development Plan comprises the South East Plan and the Swale Borough Local Plan 2008 (LP). I will focus on the contents of the Local Plan as the Government has announced its intention to abolish the South East Plan very soon.

The NPPF was released in March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above will have expired by the date of the meeting. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below (bar H4) are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

LP policy E1 sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.

LP Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.

Within Special Landscape Areas (the site is within the Blean Woods) LP policy E9 gives priority to the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well being of their communities.

LP policy E12 states that development likely to have an adverse effect on a Local Wildlife Site will not be permitted unless it can be clearly demonstrated that there is a need for the development which outweighs the interest of the site and that adverse impacts have been adequately mitigated, or where not possible, compensated for.

The A2 at this point is described as a Primary route in the Local Plan. LP policy T1 requires that development proposals do not lead to an intensification of use of any existing access onto a primary or secondary distributor road or route, unless it can be created in a location which is acceptable to the Local Planning Authority and the Highway Authority, or where an access can be improved to an acceptable standard and achieve a high standard of safety through design.

In terms of policies directly related to the provision of gypsy sites, the Local Plan (in production prior to current NPPF) does not assess the need for sites, or allocate any new sites. It does however, encourage gypsies to provide their own sites via Policy H4 as follows:

“Policy H4

The Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.

1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.

- k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- i) the land will not be in a designated flood risk area.

2. Additionally to 1, for proposals for short term stopping places:

- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

The adopted policy is a criteria based policy, not an allocations document/DPD. As such it is not compliant with the NPPF or PPTS and is now of very limited weight. I will therefore look at the future of local policy.

Corporate Policy

In January 2009 the Council published a consultation draft Gypsy and Traveller Corporate Policy to address the issue of gypsy site provision. This recognised that the Borough has traditionally had one of the largest gypsy and traveller populations within Kent and the South-East of England, often related to traditional farming activities.

The policy was based on meeting the predicted site needs from the 2006 GTAA (and was designed to meet the expected RSS figures) and whilst the previous Circular advocated a site allocations policy, the Council's policy explained that the combination of the wide range of pitch numbers potentially required, and the Council's good record of approving small private sites, meant that at that stage a site allocations approach was not the right way forward for Swale.

Instead, the Council undertook a full survey of potential sites against a set of criteria in accordance with Government guidance. This included a review of current temporary permissions and an assessment of the potential of publicly owned land to meet the identified need.

This, together with finding a solution for a persistent group of families at Sittingbourne (who were responsible for the vast majority of the unauthorised encampments in the Borough), was expected to see the Council making adequate provision to meet needs.

The Policy produced a schedule of possible sites to address local need, and these were published in the March 2010 Gypsy and Traveller Corporate Policy Site Assessment Consultation. The Council had thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria. This has been used as a material consideration in the determination of planning applications for new sites. The Council has thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria.

The Corporate Policy was in my view largely successful in guiding the provision of gypsy and traveller sites. Currently, since 2006 planning permission has been granted to station 112 caravans (equivalent to 66 pitches) on 23 new and established permanent sites. Other sites remain on only temporary permissions pending resolution of the numbers of sites needed and the means of providing them. The current application site already has permanent permission, so the site assessment process is not relevant; it has already been seen to be well located and acceptable on a permanent basis. The question now is whether a greater number of pitches is acceptable.

Kent Police have specifically referred to the site being proposed for more than 15 pitches which is contrary to the Policy guideline. The Policy draws on the national design guidelines (see below) and specifically states that “the Good Practice concludes that sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community”.. I should add at this point that the overall site size is not being enlarged and if the existing pitch pattern were simply extended the maximum number of pitches possible would be 14. This application is perhaps not exactly what the national guidance had expected, but is a scheme generated locally from within the gypsy and traveller community, and I consider that this is a factor which should weigh heavily in decisions about whether to insist on generic standards being applied without flexibility, especially bearing in mind the current pitch provision situation across the Borough.

The Council's Draft Core Strategy

The recently published Draft Core Strategy sets out three options for pitch provision. Option 1 sets out a target of 41 pitches, option 2 – 112, and option 3 – 74. Only option 2 takes full account of the likely need, using the figures from the 2006 GTAA which assessed need for the period 2006-2011, and extrapolates figures based on that for the period up to 2031. However, following the publication of the NPPF and the PPTS, there is an onus on Local Planning Authorities to meet the need for pitches as defined by their GTAA's.

The Council's LDF Panel has therefore decided to produce a new GTAA to cover the Local Plan period to 2031 as mentioned above. The results of the that Assessment are likely to be far more significant than the options quoted above in setting future pitch targets.

Discussion

The 2007 planning permission on this site was not a temporary permission, reflecting the developed nature of the site, its seclusion and lack of landscape impact despite being within a Special Landscape Area, and its acceptable access arrangements. These basic attributes of the site remain unchanged. As such, occupation by gypsies or travellers was sanctioned on a permanent basis. The 2010 and 2011 permissions rationalized the site, and added further pitches within the current site boundaries.

The current proposal involves re-arranging some of the approved pitches to create more pitches, whilst retaining the two transit pitches. Bearing in mind the comments from the Kent Wildlife Trust and Kent County Council above I do not consider that these changes are likely to affect the wildlife, landscape or public impact of the site. Whilst the overall number of permanent caravans would now be up to 36 with the principal mobile homes being twenty nine (29) in number; substantially more than preferred by LP policy H4, this is a very suitable site and the preferred pitch numbers in policy H4 no longer carry weight. This site is not likely to put pressure on narrow lanes as it is accessed through service area off a dual carriageway trunk road and this, together with the other benefits of the site in terms of visual seclusion and access to services, means that the proposal represents the expansion of an existing suitably located site.

Nor do I believe that the scale of the site as proposed will be likely to dominate the local community as the PPTS advises against due to its seclusion, degree of detachment and the fact that the site boundaries are not being extended in this application. The PPTS looks to prevent sites in rural area avoiding undue pressure on local infrastructure, and I am mindful that no statutory body has raised concern over this use bar the Highways Agency, a matter which I am confident can be resolved by the meeting.

The area itself is subject only to local landscape and wildlife designations which do not confer any legal protection on the area. The land remains entirely surrounded by woods and there are clear boundaries to the site. Conditions on landscaping and lighting will mean that the expansion within the site is not likely to have far reaching impacts on the wider woodland. However, I am more inclined to side with ecological advice regarding boundary treatments than with the views of Kent Police; and I think that post and rail fencing is more appropriate than solid fencing that will effectively create a fenced in site. I also share the ecological concerns over the proposed laurel hedging and will seek a far more appropriate planting scheme if planning permission is granted.

There is some concern from the Highways Agency regarding overall occupancy numbers. However, I think this is a result of an unfortunate error by the applicant and if the real likely number of families is seen to be 29 i.e. one per single pitch this will allay the concern in access terms. I will report further at the meeting.

The applicant did take advantage of pre-application advice and the current proposals have been considerably scaled down now. Reference has been made to the Government's design guidelines for gypsy sites, and I think this is where the Council really needs to focus in terms of whether this application is acceptable. It is not a matter of sheer numbers, or of encroachment on the countryside, but of achieving an acceptable layout within the existing well defined site boundaries. The Parish Council and Kent Police have drawn attention to a number of issues where they consider the application conflicts with the advice, and I will refer to their comments below.

The advice, published in May 2008, specifically relates both to public sites and to private sites. It aims to ensure that sites are sustainable, safe, easy to manage and maintain, and are of a decent standard. It recognizes right at the start that "It is recognized that it will not be possible to meet all aspects of this guidance in every

respect on every site” and that in the case of small private sites the preferences of the owner may contain elements that are not appropriate for social provision”. Nor is it suggested that the guidance be used in isolation to decide whether or not a private application should or should not be granted planning permission.

In terms of site layout a number of key standards emerge, but variety of site layout is not frowned upon. It is said that whilst there is no ideal size of site, those up to a maximum of 15 pitches seem to provide the most comfortable environment and are easiest to manage. Over that size, a clear preference from the local gypsy and traveler community is suggested as necessary. This application is from a member of that community, and the layout is broken up into a series of closes which the guidance suggests. The Parish Council and Kent Police have both pointed out the fact that the number of pitches here exceeds the figure of 15 but they do not point to any harm arising from the proposed layout. Furthermore, whilst I do not consider that a Section 106 Agreement will assist in site management I will be seeking clarification from the applicant of his intentions, which I believe are to work with the Council and County Council to provide an opportunity for unauthorised encampments to be tackled more effectively.

The Parish Council does note that the community building is less than 3m from the site boundary (a recommended minimum distance to prevent fire spread) but here of course that boundary is with the footpath, and not land permanently occupied by others or likely to become so, so I do not consider that this is a problem.

The caravans themselves are set more than the recommended minimum distance of 6m apart, and each pitch is shown with a storage shed, drying line and parking space. The layout follows the recommended pattern of pitches being grouped in small closes rather than the creation of a bland and anonymous layout. This is in line with best practice.

Where I see the layout as most liable to criticism is where it fails to provide any open space or play area. This was included in the 2010 and 2011 approvals but the area was promptly hardsurfaced. Instead, a substantial community building with space for indoor recreation and events is proposed, and this goes significantly beyond any suggested standard of recreation or leisure provision in the design guidance. It is not unreasonable in my view to see the proposed community building providing a far greater standard of facility than a small area of grass, and I do not consider that to refuse this application on that one ground could be seen to a proportionate response to the other advantages of the proposal.

It also seems possible that the Parish Council may be able to provide some form of play equipment in the parish under the proceeds of a future neighbourhood plan CIL Levy, and this can only help to reduce the significance of this apparent shortfall. I would also suggest that Members bear in mind that this application arises from within the gypsy and traveller community and can be expected to have been designed to meet what the likely occupants of the site would wish to see rather than an externally applied standard.

Recommendation

I believe that the addition of more caravan pitches on an established and suitably located gypsy site can be welcomed as a way of helping to meet the existing need for further pitches, irrespective of the final pitch numbers the Council will need to provide for. The site will remain readily accommodated within its setting.

The surrounding woodland is not threatened by this proposal, and I expect to agree landscaping and lighting details that give due respect to the important ecology of the woodland.

The application shows the current boundaries of the site used to their maximum, which will ensure that the development will go a substantial distance towards meeting local need for sites, and there are substantial benefits to be gained from approval of this application.

On this basis, and subject to the conditions recommended above, I consider that the tangible merits of the proposal outweigh other material considerations.

Accordingly, subject to clarification pitch numbers, the need for the emergence access point, and to the conditions above I recommend that planning permission is granted.

Responsible Officer: Graham Thomas (Area Planning Officer)

List of Background papers

1 Application papers and correspondence for application SW/13/0137

2 Application papers and correspondence for applications SW/86/1053, SW/97/0923, SW/07/0950, SW/10/0599, SW/10/1362, SW/11/0163 and SW/11/1271

2.7	SW/13/0006 (Case 22124 + 01333)	Sheerness
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- Location :** Thames Reinforcements Limited, New Road, Sheerness, Kent, ME12 1NB
- Proposal :** Variation of conditions 4 & 17 of SW/06/0829 to allow 24hr loading of vehicles and erection of an acoustic screen wall
- Applicant/Agent :** Mr Kevin Keegan, Thames Reinforcements Limited, New Road, Sheerness, Kent, ME12 1NB
- Application Valid :** 22 January 2013
- 8 Week Target :** 19 March 2013

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.

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

2. A permanent acoustic screen wall shall be constructed to a height of 7 metres and 3 metres where specified in the locations as shown on drawing SH_APP_04, received 22 January 2013. Details and specification of the materials to be used to form the acoustic screen wall, and British Standards details of the colour of the acoustic screen wall, shall be submitted to be approved by the Local Planning Authority prior to construction.

Grounds: In the interests of local residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008, and paragraphs 110 and 123 of the National Planning Policy Framework.

3. The acoustic wall referred to in condition (2) above shall be erected prior to the commencement of overnight loading and unloading of vehicles on the site or within the existing building.

Grounds: In the interests of local residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008, and paragraphs 110 and 123 of the National Planning Policy Framework.

4. Between 1900hours and 0700hours, Monday to Friday all loading of trailers with any metal product or material shall be carried out within the factory building only and with the roller shutter doors in a closed position.

Grounds: In the interests of local residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008, and paragraphs 110 and 123 of the National Planning Policy Framework.

5. The premises shall be used for the purposes of a steel fabrication unit and for no other purpose, including any other purposes in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended.

Grounds: In the interests of local amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

6. No work other than the loading or unloading of vehicles shall take place outside of the hours of 07.00 to 19.00 Monday to Friday, 07.00 to 12.00 noon on Saturdays, or at any time on Sundays or bank Holidays.

Grounds: In recognition of the terms of the application, in the interests of local residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008, and paragraphs 110 and 123 of the National Planning Policy Framework.

7. No development 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

8. No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:
 - a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
 - b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Grounds: To ensure any land contamination is adequately dealt with, pursuant to policy E1 of the Swale Borough Local Plan 2008.

9. The areas allocated for vehicle parking and / or turning, as shown on drawing SH_APP_04 received 22 January 2013, shall be retained for the parking of vehicles in association with the use of the site and shall be kept clear of obstruction.

Grounds: In the interests of highway safety and amenity, and in pursuance of policies E1 and T3 of the Swale Borough Local plan 2008.

10. No impact pile driving in connection with the construction of the acoustic wall hereby permitted shall take place other than between the hours of 07.00 and 19.00 Monday to Friday, 07.00 to 12.00 noon on Saturdays, and shall not take place at any time on Sundays or bank Holidays.

Grounds: In the interests of local residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008, and paragraphs 110 and 123 of the National Planning Policy Framework.

11. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

12. 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.

Grounds: In the interests of the visual amenities of the area and in pursuance of policies E1 and E19 of the Swale Borough Local Plan 2008.

Reasons for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, particular regard has been had to the following policies: Policies E1, E13, E19 and B1 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application follows on from pre-application discussions with the applicant, further to consideration by Members of application SW/11/1457 at planning committee meetings in May and September 2012. The proposal addresses Member's concerns with regard to local amenity and enabling the applicant's business to remain operational, and was considered to be acceptable as submitted.

Description of Proposals

This application seeks to vary conditions (4) and (17) of planning permission SW/06/0829 (the decision notice is appended to this report) to allow 24-hour loading of vehicles Monday to Friday, and vehicle access to and egress from the site between 05.00 and 20.00 Monday to Friday, at Thames Reinforcements, New Road, Sheerness.

Condition (4) of SW/06/0829 restricts the use of the site to between 07.00 and 19.00 on weekdays, and 07.00 to 12.00 on Saturdays. Condition (17) stipulates that "*no work involving the movement of metal goods or the use of forklift trucks shall be carried on outside the building...between the hours of 1900 and 0700 the next day.*" The current proposal would therefore enable the applicants to load finished materials / products onto vehicles throughout the night on weekdays, and for lorries to leave / access the site between 05.00 and 20.00 in order to get an early start on deliveries.

As part of the application an acoustic screen wall, measuring between 3m and 7m high, will be erected along the southern and eastern boundaries of the site to minimise the potential for noise and disturbance to nearby residential properties.

The proposed wall will start in line with the southernmost corner of the existing industrial building and will stand approximately 7m tall when running (approximately) northwards adjacent to The Fleet. Where the application site abuts the adjacent Monarch Chemicals site, to the northeast, it will reduce to approximately 3m high and returns northwestwards to fully enclose the boundary of the Thames Reinforcements site with The Fleet.

The submitted covering statement explains:

"Customers expect a high quality service with product to be delivered at prescribed times and often at short notice.

Many of the specified times for delivery are 8.00am and to arrive at this time vehicles must leave early.

Early departure of vehicles also allows the vehicles to miss peak hour traffic and to cover more miles in the same time; this increases efficiency of the vehicle and fuel usage and eases traffic congestion on local roads in the morning peak hours.

The construction industry has perhaps been hardest hit of all sectors in the current economic downturn and Thames Reinforcements Limited has been forced to examine every opportunity to operate more efficiently and to provide the level of service required so that the business can remain viable at the current market prices.

Thames Reinforcements Limited now needs to have a greater throughput of material to compensate for the lower prices that the market will accept.

The current limitation on working 7.00am until 7.00 pm restricts our ability to send vehicles out early enough to achieve the 8.00 am delivery times that many customers require...

Due to the increased throughput there is insufficient crane time within the working day to allow all of the vehicles to be loaded in the working day.

It is not possible to add further cranes into the works as the cranes run along the length of the building and adding a further crane would only reduce the efficiency of the existing cranes rather than adding capacity.

The way to extend the vehicle loading capacity in line with production capacity is to extend the working hours for the loading operation; this can be done behind closed doors with minimal noise generation...between 8.00 pm and 6.00 am."

Relevant Site History and Description

Thames Reinforcements is a Class B2 (general industrial) unit situated on the New Road industrial estate within the built up area of Sheerness. The company produces bent and cut steel reinforcement beams, pillars, pylons, etc. for various commercial, industrial and construction-related processes.

The site comprises a large rectangular factory unit, measuring 185m long by 27m wide and 14m high, that runs along the western boundary for almost the whole depth of the plot. An area of vehicle parking is provided to the front of the site, with HGV access and equipment / materials storage areas to the side and rear of the unit. The building has three loading bay doors on the northern elevation.

The site is bordered by other industrial / light industrial units to the southwest, west and north. To the east, across The Fleet, lie the residential properties on Shearwater Court and Briton Court and the Medway Road allotments, and to the southeast is West Minster Primary School.

Planning permission was granted for B2 industrial use of the site in 2006, under planning permission SW/06/0829. Condition (4) of that permission states:

“The use of the premises hereby permitted shall be restricted to the hours of 7 am to 7 pm on weekdays, 7 am to 12 noon on Saturdays, and shall not take place at any time on Sundays or Bank Holidays.”

This condition aimed to ensure that any potential disturbance to local residents was minimised, particularly in the overnight period. The officer's delegated report references this, and further notes that the additional conditions in regard to limiting activities outside of the buildings, keeping loading doors closed and details of mechanical ventilation would further minimise the potential for disturbance.

In particular members will note condition (17) of that permission, which states:

“No work involving the movement of metal goods or the use of forklift trucks shall be carried on outside the building hereby permitted between the hours of 1900 and 0700 the next day, unless in association with an emergency or with the prior written approval of the District Planning Authority.”

In 2010 application reference SW/10/1488 sought planning permission for removal of condition (4), in its entirety, to allow 24 hour working, seven days a week. The application was refused on the grounds that insufficient evidence was presented to demonstrate that 24 hour use of the site would not cause serious harm to the amenity of the occupants of the nearby dwellings by virtue of noise and disturbance.

Prior to that the history of the site was linked to that of the adjoining land at Monarch Chemicals, at which permission was granted for the erection of a single-storey building in 2005 under SW/05/1307, and permission was refused for change of use of part of the site to storage and distribution of chemicals in 1993 under reference SW/93/0061.

Of most relevance, however, is planning application SW/11/1476, which, in 2012, sought consent for variation of condition (4) only, to allow loading / unloading of vehicles throughout the night on weekdays. Members will recall that the application was presented to them (with a recommendation for refusal on the grounds of residential amenity) at the 24 May 2012 meeting, when members resolved to defer the item in order to allow officers to discuss the proposals with the applicant and agree a mutually acceptable solution.

Members may recall that this was a particularly sensitive item at the time as the nearby Thamesteel mill had recently ceased operations at the cost of numerous jobs. A letter from Gordon Henderson MP in respect of that application expressed concern at the potential loss of further jobs in Sheerness should that application have been refused and the applicants chosen to relocate their business elsewhere. He did, however, also recognise the need to balance economic growth with protecting the amenity of the surrounding residents, and noted that such heavy industries have great potential to harm residential amenity.

The current application therefore arises from discussions with the applicant, further to Member's request, with a view to enabling the business to remain operational on the site whilst minimising the level of noise and disturbance affecting local residents – particularly those within the Bridgewater Road estate to the southeast.

The report for SW/11/1467 is attached as Appendix A to this report.

Views of Consultees

The Environment Agency has no objection, but comments that the Council will need to liaise with the Lower Medway Internal Drainage Board as *“their consent will likely be required for the works as it looks like the wall will be constructed in their byelaw margin. They would need to be satisfied that the wall does not obstruct flood flows and worsen flood risk elsewhere and does not interfere with their maintenance schedule.”*

The Lower Medway Internal Drainage Board (LMIDB) objects to the application on the grounds of *“the proposed fencing being within 8m of The Fleet. The Board requires an 8m access strip for maintaining The Fleet from time to time.”* This issue is discussed below.

Kent Highway Services have no objection.

The Head of Service Delivery has no objection to the proposal subject to conditions above, namely (2), (3) and (4) which require further details of the acoustic wall to be agreed prior to development., and that the loading of trailers between 19.00 and 07.00 Monday to Friday be carried out in the building and the roller shutter doors be kept closed.

Other Representations

Three local residents have written to object about the application. Their comments can be summarised as follows:

- The acoustic wall would not reduce noise at night time;
- Local residents are kept awake at night due to noise from the site, and often miss work due to lack of sleep;
- The proposed wall will not stop *all* noise and disturbance from the site;
- Summer evenings will be disturbed;
- A round-the-clock operation seems to have been the applicant's intention from the start;
- Works at the site shake nearby houses;
- The applicant has consistently breached their planning permission;
- The Council has not acted on previous complaints and the company seems *“to have some hold over the Council”*; and
- Local residents are ignored.

Development Plan Policies

The National Planning Policy Framework (NPPF) notes, at paragraph 19, that *“the government is committed to securing economic growth in order to create jobs and prosperity,”* and encourages local planning authorities to proactively meet the needs of businesses and *“support an economy fit for the 21st century.”*

However, the NPPF also notes the importance of protecting local amenity, and states at paragraph 110 that *“the aim should be to minimise pollution and other adverse effects on the local and natural environment.”* Paragraph 118 continues on to stipulate that *“if significant harm resulting from a development cannot be avoided...adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”*

With specific regard to residential amenity paragraph 123 of the NPPF states that planning decisions should aim to avoid significant adverse impacts to health arising from noise and disturbance from developments.

With regard to recent policy changes: the NPPF was released on 27th March 2012 with immediate effect, however, paragraph 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above will be expiring shortly (and before the final date for determination of this application). As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012.

All Local Plan policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

Policies E1, E13 (coastal zone), E19 (high quality design) and B1 of the Swale Borough Local Plan 2008 are relevant to the determination of this application.

Policy E1 seeks to ensure that all development proposals respond to the characteristics of the site’s location, protect and enhance the natural and built environments, and cause no demonstrable harm to residential amenity, amongst others.

Policy B1 aims to support existing businesses within the Borough, but states that activities having an unacceptable impact upon an area will not be looked upon favourably.

Discussion

The application site lies within the defined built up area of Sheerness, and within the New Road industrial estate where industrial development is normally acceptable in principle. Furthermore, I would note that the Local Plan (see policy B1, which I refer

to above) aims to support existing businesses within the Borough, and generally encourages proposals to expand operations on existing sites. However, that support comes with the caveat that such uses should cause no demonstrable harm to the character or amenity of the local area and, more specifically in this instance, to the amenity of any surrounding residential properties.

It is clear to me, however, particularly with reference to the comments of the Head of Service Delivery, that activities currently carried out on the site outside of the approved working hours are seriously detrimental to the amenity of the surrounding residents by virtue of the levels of noise generated.

Furthermore, on viewing the results of the Head of Service Delivery's monitoring exercise (further to noise complaints from local residents) as part of my research into the 2011 application, it is clear that a lot of the noise arising from the site is due to the loading of vehicles. Numerous loud noises can be heard when finished product is deposited into trucks (in particular a clanging and banging as metal is rolled into trailers), as well as engine noise from forklifts and substantial background noise from within the factory itself when the loading bay doors are opened.

During the course of the consideration of the previous application the site operators made a number of changes to working practices in an effort to reduce such disturbance, including:

- Reversing beepers turned off at night;
- MAFI unit (high-powered forklift) engine not being run at such high pressure, and drivers instructed on correct way to operate vehicle;
- Fork lift no longer used for tidying loads;
- All steel bins discharged earlier in the day to avoid crashing noise; and
- Winding carousels brought indoors, despite being permitted outdoors under current consent.

However, returning to the Head of Service Delivery's previous monitoring exercise, the use of a forklift, revving of the MAFI and crashing from steel bins were all evident at antisocial hours – producing significant 'spikes' on the noise monitoring levels, and visible in the accompanying video footage.

It is clear from the supporting statement, which I quote from above, that such operations (and subsequent noise and disturbance) are necessary for the business to remain competitive and viable. Policy B1 aims to support and retain existing businesses within the borough and therefore indicates that the current proposal should be supported.

Conversely, policies B1, E1 and the general thrust of the NPPF discourage Local Authorities from supporting such applications where they would give rise to serious amenity impacts for local residents. It is clear in this instance that the activities at the application site are already seriously affecting the quality of life for nearby residents, and there is thus a conflict of interests.

However, the proposed acoustic wall would shield the Bridgewater estate from the majority of noise emanating from the Thames Reinforcements site. At 7m tall along

the southern and southeastern edges of the site it would absorb or deflect sounds from the works back to the north, away from nearby houses. As noted above, the Head of Service Delivery is in support of the proposal, subject to details of the specification of the wall prior to construction – this will ensure that it is fit for purpose.

The height of the wall would make it a prominent feature, but I believe that a suitable colour scheme and the implementation of a suitable landscaping scheme would soften its appearance and help it to blend into the landscape. Furthermore it would be viewed against the context of the existing Thames Reinforcements building, which is a blue industrial “shed” approximately 14.5m high. Against this backdrop I do not believe that the proposed acoustic wall would be harmful to local visual amenity.

The proposed wall would also be situated well away from any residential dwellings – a minimum of 118m from the nearest dwelling – and is unlikely to give rise to any serious amenity concerns in itself, in my opinion.

I do note the LMIDB’s objection to the proposal, and understand their concerns. However, having visited the site and walked along the southern bank of The Fleet, I can confirm that the majority of the industrial premises backing onto this drainage channel have permanent fencing (either palisade fencing or concrete post and wire) positioned at the top of the bank, *including* the application site, i.e. well within the 8m access strip suggested by the LMIDB .

The proposed acoustic wall would be behind the existing palisade fence (i.e. further from The Fleet), and would thus not worsen the situation in terms of access by the LMIDB. Furthermore there is the potential for maintenance access from the southern side, which is unobstructed and features a wide public footpath along the stretch alongside the application site.

Notwithstanding the above it is worth noting that if the LMIDB’s 8m byelaw is applied strictly, this would sterilise a significant area of the applicant’s (and also the neighbouring sites) land, which currently forms part of the their yard and provides space for storage and vehicle manoeuvring.

Taking this into account I do not believe that the Council would be justified in refusing planning permission on the basis of the LMIDB’s objection.

As noted above Members will recall that the previous application, ref. SW/11/1476, was put forward for refusal, but Members resolved to defer the item to enable officers to work with the site owner to achieve a solution that allowed them to remain operational *and* enhance the amenity of the neighbouring residential dwellings. Taking the above into account I believe that this scheme achieves both of those goals, and will be beneficial for all parties involved.

Recommendation

This application arises from significant discussions between officers and the applicant with a view to enabling the existing business on site to remain operational while also safeguarding local residential amenity in terms of a reduction in noise and

disturbance from the site. I believe that the proposed development will achieve both of those aims without giving rise to any serious harm to local residential or visual amenity.

I have considered all representations received, but none contain or amount to a reason to justify refusal of planning permission in this instance.

Taking the above into account I recommend that planning permission be granted.

Responsible Officer: Jim Wilson (Major Projects Officer)

List of Background papers

1. Application papers and correspondence for SW/13/0006.
2. Application papers and correspondence for SW/11/1476, SW/10/1488, SW/06/0829, SW/05/1307 and SW/93/0061.

2.7 APPENDIX A

PLANNING COMMITTEE – 13 September 2012

DEFERRED ITEM

Report of the Head of Development Services

Deferred Items

Reports shown in previous Minutes as being deferred from that Meeting.

Deferred Item	SW/11/1476 (Case 22124 + 01333)	Sheerness
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Location : Thames Reinforcements Limited, New Road, Sheerness, Kent, ME12 1NB

Proposal : Variation of condition (4) of SW/06/0829 to allow loading of trailers Monday to Friday, 1900 to 0700, and to allow access to vehicles Monday to Friday 0500 to 2000

Applicant/Agent : Mr Kevin Keegan, Thames Reinforcements Limited, New Road, Sheerness, Kent, ME12 1NB

Application Valid : 10 January 2012 and as updated by the “Acoustic Survey for Planning Application” received 14 August 2012.

8 Week Target : 6 March 2012

13 Week Target : 10 April 2012

Background

This item is presented as an update to notify Members of progress.

Members will recall this proposal at the 24 May Planning Committee meeting. My report to that meeting and the appendices to it are attached for information.

The application seeks to vary condition (4) of planning permission SW/06/0829 to allow loading of trailers between 19.00 and 07.00, and access to vehicles 05.00 to 20.00, Monday to Friday at Thames Reinforcements, New Road, Sheerness.

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Condition (4) of SW/06/0829 restricts working hours to between 07.00 and 19.00 on weekdays, and 07.00 to 12.00 on Saturdays. The proposal would therefore enable the applicants to load finished materials / products onto vehicles throughout the night, and for lorries to leave the site from 05.00 onwards in order to get an early start on deliveries.

Officers recommended that the application be refused due to the likely harm to the amenity of the nearby residents by way of noise and general disturbance. This recommendation was partly based on the track-record of the applicant's, who have frequently breached their hours of work conditions, which has given rise to significant numbers of noise complaints to the Council's Environmental Health team.

Members voted at the May meeting to defer the item, with the committee minutes noting that the *"...application be deferred to allow the applicants to meet with planning and environmental health officers to demonstrate that they were complying with conditions to protect the residential amenity of the surrounding area, and to discuss possible amendments to working practices. And in order for a new report to be presented, which would address the issue of a temporary permission and possible amendments to the application."*

Comments

Since that meeting the Council's planning and environmental health officers have met with the applicant to discuss a way forward. The applicant has informed officers of a number of changes to working practices including relocation of some machinery to less noise-sensitive areas of the site; and the introduction of a new fleet of quieter vehicles.

Most importantly, however, has been the submission of an acoustic survey that explores the potential for a large acoustic barrier (likely to need to be six metres in height immediately adjacent to the roller doors on the north-east elevation of the building) to be erected at the site. This would need to be designed to shield the nearby residential properties (particularly those at Shearwater Court, Briton Court and Miranda Court, which are located to the east of the application site) from the majority of on-site noise, and careful consideration would need to be given to the visual impact of such a substantial barrier, together with appropriate careful landscape planting is likely to be required. Nevertheless, the provision of such a barrier could potentially enable the applicants to receive permission for the working hours and vehicle movement hours they are seeking.

Initial discussions with my colleagues in the Environmental Health team indicate that this could be a workable solution, and I believe that it may achieve a solution for both the applicant and local residents. The matter will, however, require further investigation and the current application may have to be substantially amended or withdrawn to reflect the proposed development. Further consultation with local residents and businesses will also need to be undertaken.

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I therefore request that Members note the above, and delegate to officers to fully explore the applicant's proposed solution, and if satisfied that an acceptable acoustic barrier is being proposed to grant planning permission subject to appropriate planning conditions.

Responsible Officer: Jim Wilson (Major Projects Officer)

List of Background papers

1. Application papers and correspondence for SW/11/1496.
2. Application papers and correspondence for SW/06/0829.
3. Application papers and correspondence for SW/10/1488.

Location : Horsham Plantation Yard, Horsham Lane, Upchurch, Sittingbourne, Kent, ME9 7AP

Proposal : Change of use from B1 to car sales & showroom

Applicant/Agent : Mrs Tracy Ferguson, Spring Farm, East Hall Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4JX

Application Valid : 8 February 2013

8 Week Target : 5 April 2013

Conditions

Time limit:

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.

Grounds: 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 approved shall be carried out in accordance the following approved drawings: block plan scale 1:500 received 8th February 2013.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Pre-commencement

3. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.

- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Grounds: In the interests of visual amenity and the character of the countryside and the residential amenities of occupiers of nearby dwellings, in pursuance of policies E1, E6 and E7 of the Swale Borough Local Plan 2008.

Upon commencement

4. The premises shall be used for the purpose of car sales and for no other purpose, including any other purposes in Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Grounds: In the interests of the amenities of the area and in pursuance of policies E1, E6 and E7 of the Swale Borough Local Plan 2008.

5. The use of the premises hereby permitted shall be restricted to the hours of 7 am to 7 pm on weekdays and Saturdays, 10 am to 4 pm on Sundays and not at all on Bank Holidays.

Grounds: In the interests of the amenities of the area and in pursuance of policies E1, E6 and E7 of the Swale Borough Local Plan 2008.

6. No valeting of cars or car repairs shall take place from the site and there shall be no use of a pressure washer or similar device at the site.

Grounds: In the interests of the amenities of the area and in pursuance of policies E1, E6 and E7 of the Swale Borough Local Plan 2008.

7. The area shown on the submitted plan as staff and customer car parking space 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) Order 1995 (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.

Grounds: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to highway safety and amenity in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

Informative:

1. The applicant is advised that the display of any signage will be likely to require advertisement consent and an application for this consent should be

submitted prior to the use of the site for car sales commences.

Reasons for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety or convenience. In resolving to grant permission, particular regard has been had to the following policies: E1, E6, E7, RC7, E13, E9, B1, RC1 and T3 of the Swale Borough Local Plan 2008.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was acceptable as submitted and no further assistance was required.

Description of Proposals

This application seeks planning permission for the change of use of this site from B1 light industrial to car sales. The site contains a large former agricultural profiled metal building that would be used to store cars for sale. There is also an internal office within this building. There would be designated outside areas for cars that are for sale and customer and staff parking. Approximately 60 cars would be brought onto the site for sale. The hours of use would be 7am to 7pm on week days and Saturdays and 10am to 4pm on Sundays. They do not intend to operate on bank holidays. There would be four full time members of staff employed at the site and one part time member of staff.

Members may be aware that the applicant has already brought a number of cars onto the site in anticipation of the grant of planning permission. They have also sited a portacabin adjacent to the northern boundary which they intend to use as an office. It is understood that this portacabin was already on the site when the applicant moved on but was adjacent to the eastern boundary. The applicant has been informed that planning permission should have been sought beforehand and that if planning permission is refused for the sale of cars at this site, the cars and portacabin will need to be immediately removed. However, the applicant assures me that they will not be trading from the site (i.e. selling cars from this particular site) until they receive planning permission. I noted on my site visit that the cars were laid out differently to what is shown on the plans and I accept that should planning permission be granted, some flexibility could be allowed. However, I would expect

the customer and staff parking area to be clearly defined on the site should planning permission be granted. I will discuss this matter in more detail under the heading 'Highway safety/amenity'.

The applicant has indicated that they intend to display two large signs advertising their business, one towards the entrance of the site and one on the large building to the rear. This does not form part of the planning application as a separate application for advertisement consent would be necessary. The above informative addresses this matter. The applicant has stated that they do not intend to provide any additional lighting at the site, including security lighting, and would rely on the existing lighting at the site. This will be discussed later in the report under the heading 'Impact on visual amenities'.

Relevant Site History and Description

This application site lies within the countryside and within a strategic gap. Horsham Lane is also designated as a 'Rural Lane' and the site lies within a coastal zone.

The site is accessed from Horsham Lane towards the bottom of a hill and on a bend in the road. Horsham Lodge, a residential property, lies to the east of the site and this property is elevated above the site at a higher ground level. Horsham Lakes lies further to the northeast of the site and open countryside lies to the north, northwest and south of the site. Further along Horsham Lane to the east lies Upchurch village and there are a number of residential properties fronting Horsham Lane. A scattering of residential properties lies along Horsham Lane to the west. A grade II listed building lies 95 m to the west. I do not consider that the proposed use would have any impact on the setting of this listed building due to the distance and screening between the two sites.

The site is bounded by a thick tall (approx. 6m) row of leylandii trees to the east and west boundaries. The gated entrance to the site lies at an approximate 45 degree angle with Horsham Road. This factor, as well as the heavy screening along the eastern boundary and the fact that the ground level of the site is lower than Horsham Road at a parallel point, means that when travelling from the east, the site is easy to pass without noticing. It is however, clearly visible when travelling from the west. The access off of Horsham Lane is shared with Horsham Lodge.

This site has been used for many years for light industrial activity, specifically, for the packing of plastics brought onto the site. This particular use was granted planning permission in 1999 under SW/99/0715. Relevant to the current planning application are conditions 3, 4 and 5 of the 1999 permission. These conditions restricted the use of the site to B1 only i.e. light industrial. As such, any light industrial use can currently operate the site. A light industrial use includes an office; research and development and an industrial process that can be carried out in a residential area without detriment to the amenity of the area.

Condition 4 specified that there should be no work that takes place outside of the industrial units on the site and that there should be no external storage.

Lastly, condition 5 restricted the use to operate between 7am and 7pm on week days, 7 am to 12 noon on Saturdays and not at all on Sundays and Bank Holidays. This was in the interests of the amenities of the area.

In 2002, planning permission was granted to vary conditions 2 (retention of parking area) and 4 (outside storage). The varied conditions essentially specified a new area for vehicles to park and a specific area for the external storage of materials. This permission recognised that in order for the business to operate on the site, there would reasonably need to be some external storage.

Prior to this B1 use, the site was used as a transport yard. This had conditions limiting the size and number of vehicles that could use the site – four lorries of a maximum size of 16 tons. Prior to this the land was in agricultural use, specifically storing and packing fruit. All of these former uses have generated a certain amount of traffic movement along Horsham Lane including heavy goods vehicles.

Views of Consultees

Upchurch Parish Council raise no objection but do comment that consideration should be given to the provision of visitor parking, the volume of traffic generated – the projected figures for vehicles accessing the site should be monitored, lighting should be monitored and that other consultees comments should be given serious consideration.

The Head of Service Delivery has no objections.

Natural England is satisfied that given the nature and scale of the proposal, there is not likely to be an adverse effect on the nearby SSSI. They also comment that the LPA should consider the possible impacts resulting from this proposal on protected species, local wildlife sites, local landscape and biodiversity enhancements.

Kent Highway Services have no objections to the proposal. They state the following:

'I do not consider that the proposed development will generate significant volumes of traffic or attract many large vehicles, considering the limited size of the site and the type of operation involved. Independently operated second hand car sales in fairly remote locations such as this are generally not expected to be particularly busy, attracting an infrequent number of visitors. It is also appreciated that the site, whilst currently vacant, does have an extant industrial use, and this would have generated vehicle movements, some by large HGV's. The turnaround of sales at this site is not anticipated to be quick, and replacement stock is likely to be delivered individually, or in pairs on a 2 vehicle transporter, typical of this type of operation.

Whilst the access does have a degree of restricted visibility, it is not too onerous, and it is acknowledged that it already operates reasonably well considering the previous and existing activity using it associated with the site and other properties and commercial uses that are also served from it.'

They recommend conditions to ensure that the parking for visitors and staff is retained and that there is adequate circulation space within the site to cater for deliveries and access to the visitor and staff parking spaces. I consider that condition 7 above is adequate in this respect.

Other Representations

Five representations have been received. They object to the proposal on the following grounds:

- Increase in traffic would be undesirable in view of the hazardous access onto Horsham Lane;
- Any visual distraction to passing motorists would be a hazard on a dangerous bend;
- Pre-application discussions have given the applicant a false impression that the application would be approved and this is why they moved onto the site without the benefit of planning permission;
- Query the status of the company applying for planning permission;
- There will be more frequent traffic movements as a consequence of this proposal when compared to the previous B1 use;
- It is highly likely that additional lighting would be required for the proposed use, contrary to the applicant's assertion;
- The site will attract crime and it is likely that there will be a future need for a security hut for 24 hr security. Additional fencing will also be required;
- Any additional lighting would have a detrimental impact on the area, residents and cause distraction to passing motor vehicles;
- Concern that the signs would blight the area;
- There are more suitable sites elsewhere;
- If this application is approved then strict restrictions should be put in place to ensure that any cleaning, preparation or repairs is conducted inside the building and there should be an embargo on vehicle breaking on the site;
- The existing site is used by occasional lorries to deliver and collect packing material. The proposed use would be a significant change to vehicle movement/parking;
- Questions how the anticipated rate of car sales of 6-10 vehicles per week will sustain the business;

- The storage of cars, cleaning and minor works is bound to cause some environmental pollution which could damage adjacent agricultural land;
- The constant running and demonstration of cars will cause noise pollution;
- Increased local traffic including car transporters.

Development Plan Policies

The National Planning Policy Framework (NPPF)

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above will be expiring shortly, and before the final date for determination of this application. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. With the exception of policies B1 and E7, all policies cited in this report are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development – economic, social and environmental. At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 28 states:

‘Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.’*

Swale Borough Local Plan 2008

Policy E1 gives general guidance regarding design and amenity, amongst others.

Policy E6 seeks to protect the countryside of the Borough for its own sake by restricting unnecessary development.

Policy E7 seeks to ensure that settlements do not merge together, lead to the erosion of the rural character of the area and limit urban regeneration opportunities.

Policy E9 seeks to protect the quality and character of the Borough’s landscape.

Policy E13 seeks to protect the undeveloped coast.

Policy RC7 seeks to protect the character of rural lanes by controlled levels of traffic and any physical deterioration.

Policy B1 seeks to support and retain existing employment land and businesses.

Policy RC1 seeks to revitalise the rural economy.

Policy T3 deals with traffic and seeks to minimise the highways impacts of any new development through the provision of adequate parking, sightlines, turning space, etc.

Discussion

I consider the key issues to be the principle of the development, the impact on residential amenities, the impact on visual amenities/the landscaping impact and the impact on highway safety/amenity.

I have also given consideration to the impact of this proposal on protected species/wildlife and biodiversity and conclude that there is little scope for protected species or wildlife to be present at this industrial site. The retention of the Leylandii trees will continue to offer a habitat to some wildlife and maintain biodiversity levels within and around the site.

Principle

This site lies within the Countryside and within a Strategic Gap. Both of these designated areas seek to protect its open character and rural quality and appearance. Policy E6 (countryside) allows the re-use of existing rural buildings in accordance with policy RC1. This policy seeks to revitalise and diversify the rural economy by providing new rural jobs and services provided that the development is of an appropriate scale and retains the rural character of the site. There should be no detriment to the landscape character, biodiversity or countryside conservation. The use should not result in significant increase in traffic or create unsustainable travel patterns. I will discuss further these considerations below and conclude that the proposal would not cause significant harm.

Policy RC1 also states that maximum use should first be made of existing buildings, followed by previously developed land in preference to development on greenfield land. I am of the view that the proposal is wholly compatible with this part of the policy. Policy RC1 is compatible with the NPPF, specifically paragraph 28 as quoted above. I am therefore of the view that the proposal would be acceptable in principle.

Impact on visual amenities

The main visual impact that the proposed use would have is from approximately 60 cars being parked within the site and any new signage and lighting. The impact of

the signage will be considered under a future separate application to be submitted to the council and Members will note that the lighting is controlled by condition 3 which requires further details to be submitted if necessary.

As such, I will focus on the visual impact from the cars. Whilst this site is within the countryside, there are a number of factors that I have taken into consideration that I believe reduce the visual impact in this case. Firstly, the site is well screened from the approach to the east being set below the road level and due to the row of dense Leylandii. I accept that much of the site would be seen when approached from the west. However, this would be seen within the context of what has been, for a number of years, an industrial site with a backdrop of the large industrial looking building, and prior to this a working farm. Whilst parked cars would not generally be seen as an attractive feature, I would not describe such a sight as offensive or incongruous within this particular setting.

I am also mindful of the previous use of the site which allowed a certain amount of external storage of materials associated with packing plastics and also parking of vehicles associated with this use. I do not consider that the parked cars would have a materially worse appearance than the previous use.

One must also consider the fact that this site has a permitted B1 use and as such, it is entirely possible that another business that has a number of cars, vans or lorries associated with it, could occupy this site without any restrictions other than the times of use and the specified area for external storage. The visual impact would therefore be comparable with the proposed car sale use.

I accept that the existing portacabin has been on the site for some time as it is mentioned in the planning history file notes. I do not consider that its relocation to the western boundary would have a harmful impact on the appearance of the site or the surrounding area. I therefore consider that the proposal would not have a significant detrimental impact on the visual amenities of the surrounding area.

Impact on landscape character

The site lies within the Upchurch and Lower Halstow Fruit Belt. The Swale Landscape Character and Biodiversity Appraisal describes the condition of this landscape as 'moderate' and notes the subdivided fields on the outskirts of settlements and large transmission cables that affect the remote rural character of the area. The sensitivity of this landscape to change is also described as 'moderate'. I have taken this appraisal into consideration and have also noted the significant screening that the tall Leylandii provided to two of the main boundaries of the site. The existing former agricultural building also screens the site from the northeast and as such, long-range views of the site are extremely limited. I therefore conclude that there would be no detrimental impact on the character of the landscape.

Impact on residential amenities

The nature of the car sales use is relatively quiet in itself. The only real noise would be car engines and slamming doors, both of which would potentially be noticeable to residents immediately adjacent to the site. I conclude that this would not be at a noise level that would cause significant detriment to them. Customer's voices are unlikely to cause a disturbance in my view. I have recommended condition 6 which will ensure that, as set out in the applicant's planning statement, there would be no valeting of cars on site or use of a pressure washer and no car repairs.

The closest neighbouring property to the application site is Horsham Lodge. As set out earlier in the report, this property is elevated above the application site and the dense Leylandii trees cut the site off from this property to some degree. I consider that there would be no significant impact on the residential amenities of this neighbouring property. I also consider that the site is far enough away (95m) from no. 60 Horsham Lane to ensure that noise generated by the proposed use is not harmful.

Impact on highway safety/amenity

Kent Highway Services have carefully considered the potential traffic movements generated by the proposed use and have compared this with the previous use of the site. They are of the view that the proposal would not result in a significant increase in traffic to and from the site and are of the view that the access is acceptable for the level of traffic expected to be generated by the proposed use. They also consider that Horsham Lane is able to cope with any additional traffic that this use may generate.

The applicant describes the proposed business as operating mostly via the internet and does not rely on passing trade. Such a claim is entirely reasonable in my opinion given the popularity of internet usage for the sale of used cars. I am also mindful that the applicant currently operates from a site in Strood and would therefore be in a good position to inform us of the way in which his business operates on the ground. The fact that much of the business is internet based means that the application site acts more as a site for the storage of cars with customers arriving on site to view or purchase cars having made an appointment beforehand. This in itself would limit the number of customers as one would expect the appointments to be staggered. They state that they expect to sell between 6 and 10 cars a week. Whether this is sustainable for the business is not a matter for consideration here but I am of the view that even if the number of cars sales exceeded this range, the number of vehicles entering and leaving the site would not be likely to reach a level where there would be a significant impact on highway safety/amenity.

The applicant also claims that cars would arrive on the site by a 2 car transporter and by employees driving the individual cars on to the site on two days of the week. The number of cars being brought onto the site over these two days would be limited by the capacity of the site to store cars and the rate of car sales which, as set out above, is not expected to be above 10 a week. This anticipated level of car delivery would not result in a significant increase in traffic on Horsham Lane in my view.

I have considered Policy RC7 – Rural lanes and am of the view that the proposal would not significantly deteriorate the character of this rural lane owing to the moderate increase in traffic anticipated.

Members will note that I have recommended a condition to ensure that customer and staff parking is provided and retained. I expect the applicant to ensure that this condition is complied with at all times. This will ensure that cars do not need to park within the access off Horsham Lane or indeed the highway.

Recommendation

Having considered the comments from local residents, the parish council consultees and the relevant planning policies, I am of the view that the proposal would be acceptable in principle as it would comply with Policies E6 and RC1 of the Local Plan and the NPPF.

The proposal would have no significant detrimental impact on the visual amenities of the immediate and wider surrounding area/landscape and would have not be significantly harmful to residential amenities subject to the conditions suggested above. I also consider that there would be no significant increase in traffic as a consequence of this development and therefore conclude that there would be no harm to highway safety and amenity.

I therefore consider that planning permission should be approved.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background papers

3. Application papers for SW/13/0152.
4. Correspondence relating to SW/13/0152.
5. Application papers for SW/99/0715
6. Correspondence relating to SW/99/0715

- Location :** 26 London Road, Sittingbourne, Kent, ME10 1NA
- Proposal :** Proposed conversion of a former residential care home into four number one bedroom and one number two bedroom units and three number bedsits and external alterations.
- Applicant/Agent :** Mr M Salter, C/O John Keeley, CK Designs, Mariners Bungalow, Hampstead Lane, Yalding, Kent, ME18 6HG
- Application Valid :** 14 March 2013
- 8 Week Target :** 9 May 2013

SUBJECT TO: The receipt of amended drawings to address discrepancies between what is shown on the plans and the development as part constructed and any comments received from local residents and Kent Highway Services (deadline for comments 15 April 2013).

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.

Grounds: 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Grounds: In the interests of visual amenity and in pursuance of policies E1, E19 and E24 of the Swale Borough Local Plan 2008.

3. Prior to the occupation of development hereby approved, details shall be 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 as approved.

Grounds: In order to ensure sustainable development pursuant to policies E1, E19 and U3 of the Swale Borough Local Plan 2008.

4. Prior to the first occupation of the residential units hereby permitted, details shall be submitted to and approved in writing of the bin and bike stores. The development shall proceed in accordance with these approved details.

Grounds: In order to secure appropriate waste storage and to encourage sustainable transport in pursuance of policy E1 of the Swale Borough Local Plan 2008.

5. Prior to the occupation of the development hereby permitted, a scheme of soundproofing between flats shall be submitted to and approved by the Local Planning Authority and upon approval shall be carried out prior to occupation of the development.

Grounds: In the interests of the amenities of the area and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

6. 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 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity and in pursuance of policy E1 of the Swale Borough Local Plan 2008.

7. The area shown on the submitted plan as car parking space 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) Order 1995 (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 development hereby permitted.

Grounds: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity and in pursuance of policies E1 and T3 of the Swale Borough Local Plan 2008.

8. The development hereby approved shall be carried out in accordance with the following approved drawings: 1:500 scale block plan, drawings A, B, C and E.

Grounds: For the avoidance of doubt and in the interests of proper planning.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the applicant used the Council's pre-application advice service and was informed that amended drawings were required to address discrepancies between what is shown on the plans and the development as commenced.

Reason for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety and convenience. In resolving to grant permission, particular regard has been had to the following policies: SP4, E1, E18, E19, E24, B1, H2, T1, T3, U3 and C1 of the Swale Borough Local Plan 2008.

Description of Proposal

This application seeks planning permission for the conversion of a former residential care home into four number one bedroom and one number two bedroom units and three number bedsits (8 in total) and external alterations at 26 London Road, Sittingbourne.

At the time of my site visit the works were well underway. The development that has commenced is different from that shown on the plans in that the rooflights are in different positions, there is a change from a door to a window, there is an additional small window, and a subdivided loft floor plan with associated changes to the rooflight layout etc have taken place. I have requested amended plans to address these inconsistencies.

The associated external alterations are six rooflights to be installed. The submitted block plan indicated there would be three car parking spaces to the front of the property as well as refuse storage facilities. A 13 metre long rear garden would be provided along with secure bicycle storage facilities.

Relevant Site History & Description

This application relates to a substantial three storey detached property located on the north side of the A2 opposite the junction with Burley Road. There are double yellow lines to the front of the property. The curtilage of the property is defined by a wooden fence and to the rear of this is an overgrown unused parcel of land with

redundant greenhouses on it. It is believed this parcel of land formed part of a larger plot prior to subdivision.

The surrounding area is characterised by a mix of property types with substantial detached and semi-detached properties fronting London Road which are used for a variety of purposes including residential, dentists, doctor's surgery, convent etc, and terraced properties within the side streets to the south.

The application site is located within the built up area boundary as defined by the Proposals Map of the Swale Borough Local Plan 2008. It is also within an area of high townscape value.

The property has an extensive planning history as follows;

- SW/84/821- change of use to residential home for the elderly- approved.
- SW/86/1059- two storey rear extension to residential home- approved.
- SW/94/189- change of use of 26 and 28 London Road to residential care home and erection of new day care centre- refused and allowed on appeal.
- SW/04/0582- mobile building in the garden to accommodate 2 offices, day-care and storage- approved.
- SW/11/0662- lawful development certificate proposed for mother and baby residential care home and training centre (to establish it falls in the same use class as existing use as C2)- withdrawn.
- SW/11/1030- change of use from C2 residential care home to part C2/D1 care home and assessment centre- approved.

Views of Consultees

The Head of Service Delivery raises no objection subject to condition 6 above.

I am yet to receive the comments of Kent Highway Services. I will update Members at the meeting.

Other Representations

None received.

Policies

National Planning Policy Framework (NPPF)

The NPPF is relevant in relation to securing sustainable development, housing provision and social facilities;

Paragraph 14 states;

“14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted.”

Paragraph 49 states “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

“51. Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers. They should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.”

“70. To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;
- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

The 12 month period noted above will be expiring shortly, and before the final date for determination of this application. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. With the exception of policies B1 and H2, all policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process, with the following exceptions. The relevance of policies B1 and H2 will be explained below.

Local Plan Policy U3 also conflicts with the NPPF insofar as the NPPF does not require demonstration that there is an overall need for renewable energy. However policy U3 can still be afforded limited weight, and renewable energy is to be encouraged by emerging Core Strategy Policy CP1.

Swale Borough Local Plan 2008

Policy SP4 is an overarching housing policy. Policy E1 gives general guidance regarding design and amenity, amongst others. Policy E18 seeks the conservation or enhancement of the local historic and architectural character. Policy E19 aims to achieve high quality design on all developments in the Borough. Policy E24 will permit alterations provided they are well designed, preserve architectural interest and protect residential amenity.

Policy B1 seeks the retention of employment space unless it is inappropriately located, demonstrated by expert advice that it's no longer suitable for employment use, market testing shows insufficient demand to justify its retention, or allocated in the Local Plan for another purpose. The report to the LDF panel noted that this policy would be difficult to uphold because of the NPPF's wider definition of employment use and in the event of pressure to release to other uses, notably housing, when there is insufficient land supply.

Policy H2 encourages the provision of new housing within the built up areas of the Borough, and in locations with good access. This policy, although not wholly compliant with the NPPF in respect of its approach to housing within the countryside, is still relevant in this case in my view.

Policy T1 will not permit development that intensifies an existing access onto a primary route where this would be detrimental to highway safety and convenience. Policy T3 requires parking in accordance with Kent Highway Services standards. Policy U3 encourages renewable energy. Policy C1 looks to protect existing community services and facilities. The change of use of such facilities will not be permitted where this would be detrimental to the social wellbeing of the community. Before agreeing to its loss or change of use the Council will require evidence that the current use is no longer needed and is neither viable nor likely to become viable.

The Council also has adopted Supplementary Planning Guidance entitled 'The Conversion of Buildings into Flats & Houses in Multiple Occupation'. Part 1 of the SPG is relevant here in that it says permission will not be granted for buildings with total floor area of less than 110 square metres, the area should have a significant proportion of properties no longer in single family use, that parking should be in accordance with Kent County Council standards, the units should be in accordance with the SPG's floor space standards, there should be a fire escape, noise intensive units should not be sited over noise sensitive rooms, and sound insulation to walls and floors will always be required.

Kent Highway Services Interim Guidance Note 3 'Residential Parking' is the current parking standard. The parking table shows that a maximum of 1 space per 1 and 2 bedroom flat should be provided in an edge of centre location. Note 3 applies which

says that reduced or even nil parking provision is acceptable for rented properties subject to effective tenancy controls.

Discussion

The main issues to be considered in the determination of this application are whether or not the proposed flats would accord with the SPG, the potential loss of employment use and community facility, the impact on residential amenity and highway safety and convenience.

The flats compliance with the SPG

The property far exceeds the minimum size required for conversion to flats set out in the SPG. The area has a significant proportion of properties not in single family use. Each flat broadly complies with the floor space requirements of the SPG and in many cases exceeds it. A fire escape is not proposed here. Whilst there is potential for noise pollution between flats by virtue of their layout in my opinion, this can be overcome by condition 5 recommended above. Vehicle parking is discussed below. The rear amenity area is sufficient for the number of potential occupants. Based on this, the proposal conforms with the SPG in my view. I note that amended plans are yet to be received but whilst the layout of some of the flats may change, the number has not increased therefore the space to be converted remains the same, therefore I believe the amended plans will also conform with the size requirements of the SPG.

Loss of employment land and community facility

Local plan policy C1 seeks to protect community facilities through requiring justification that the current use is no longer needed and is neither viable nor likely to become viable. The agent has failed to fully address this requirement but it still falls to be considered whether the loss of such a use is acceptable. The agent states that “The building was formerly a residential care home which has been vacant for over a year as it was not financially viable as a care home in the present financial climate. Despite extensive marketing, the building has remained empty and disused.”

The background to this is that the site is extremely well located to take advantage of town centre facilities and is within easy walking distance of the town centre. As such this is a very sustainable location. Furthermore, there is an identified housing shortfall in the Borough. Para 51 of the NPPF encourages the reuse of empty buildings for residential purposes. Despite the loss of the community facility in the form of the care home, given the need for housing in the Borough and the sites excellent sustainability credentials, in my opinion the change of use is acceptable as a matter of principle.

Impact on residential amenity

The external alterations to the property are fairly minimal such that the impact on residential amenity from overlooking from the rooflights would be minimal in my view. Beyond this there would be no meaningful impact on residential amenity in my opinion.

In my view the impact on residential amenity is acceptable.

Highway safety and convenience

Although I am yet to receive the comments of Kent Highway Services, the adopted parking standards show that the provision of zero on site parking is such a central sustainable location is acceptable. However, three car parking spaces are proposed here, two of which conform to size standards but the third does not. In any case, whether two or three car parking spaces are provided, this exceeds Kent Highway Services requirements and as such in my opinion the amount of on site parking space proposed is acceptable. I await the comments of Kent Highway Services to assess the safety aspect of this property's access onto the A2 London Road.

For these reasons, subject to the comments of Kent Highway Services, I consider the impact on highway safety and convenience acceptable.

Other issues

The Head of Service Delivery considers the findings of the submitted asbestos report acceptable and recommends condition 6 above.

The external alterations are minimal therefore the impact on the area of high townscape value would be acceptable in my view.

Recommendation

The proposal conforms with the SPG requirements. The loss of the community facility is acceptable in my view given the need for additional housing and the NPPF's policy on conversions. The external alterations are minimal and as such the impact on residential amenity and the area of high townscape value is acceptable in my view. The amount of on-site vehicle parking conforms with adopted standards and I await Kent Highway Services comments on highway safety and convenience.

Having regard to all material planning considerations, I recommend, subject to the conditions above, the receipt of appropriate amended plans and any outstanding representations that planning permission is granted.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Backgrounds Documents

1. Application papers and correspondence for SW/13/0159
2. Application papers and correspondence for applications SW/13/0159, SW/84/821, SW/86/1059, SW/94/189, SW/04/0582, SW/11/0662 and SW/11/1030.

Location : Former Garden Hotel, 169 The Street, Boughton, Nr Faversham, Kent, ME13 9AB

Proposal : Amendment to current Listed Building Approval SW/12/0121 to incorporate removal of existing chimney stack to rear of existing building

Applicant/Agent : Fajast Holdings Ltd, C/O JAP Architects, 29A High Street, Clare, Sudbury, Suffolk, CO10 8NY

Application Valid : 16 January 2013

8 Week Target : 13 March 2013

NOTE: Shall Members agree with this recommendation, the application will have to be referred to the Secretary of State to consider if the SPAB objection means that he feels the need to determine the application himself.

Conditions

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

Grounds: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

Reasons for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area and preserve the special architectural or historic interest of this listed building. In resolving to grant consent, particular regard has been had to the following policies: E1, E14, E15 and E19 of the Swale Borough Local Plan 2008.

Description of Proposals

The application seeks an amendment to current Listed Building Consent under SW/12/0121 for the removal of an existing chimney stack to the rear of the building. The proposal is required to improve the layout of three of the proposed flats.

The chimney stack is located at the junction of the ridge and the hip. The stack is not of an early date, approximately from the mid to late 19th Century.

There are two more prominent chimneys to the rear of the property. The chimney in question sits to the west of these two chimneys and can be seen most clearly from the rear of the property.

Relevant Site History and Description

167-169 The Street, Boughton is a Grade II Listed Building. The building is located within the Boughton Street conservation area and is within the built up area. The building was occupied in the late 19th and early 20th Centuries by a general supplies department store, which incorporated some living accommodation above and to the rear. The property was converted to a hotel in the late 1980s and continued in this use until 2005. Since then the building has remaining unoccupied.

There have been a number of planning applications on the site. In 1986 an application was submitted to change the use from a shop with residential use to a hotel and restaurant. This application was approved under SW/86/1382 and 1383.

In 1987 an application was submitted for alterations and reconstruction of the hotel which was refused under SW/87/718. Under SW/89/798 and 795 applications were approved to extend the car park and the curtilage of the property. Consent was sought in 1989 for the change of use from a private dwelling to hotel accommodation and the provision of a covered link as well as listed building consent for an external door and louvre vents. These applications were approved under SW/89/1634 and SW/89/1365.

In 2008, under reference SW/08/0608 and SW/08/0609 an application for planning permission and Listed Building Consent was sought for demolition of existing rear extensions, alterations and new extension to the Listed Building to form 10 individually designed dwellings. These applications were approved. Further to this an application for new planning permission and Listed Building Consent to replace the extent permission/consent to extend time limit for implementation were submitted, under SW/12/0121 and SW/12/0177. These applications were approved.

Views of Consultees

Boughton-Under-Blean Parish Council raises no objections.

English Heritage has recommended that the application is determined in accordance with national and local policy guidance, and on the basis of our Conservation Officer's advice.

The Society of the Protection of Ancient Buildings (SPAB) has made an objection to the application. This objection is on the following grounds:

- The chimney stack appears to be an integral part of the building;
- The loss of the chimney stack would be a loss to the history of the building's development and will erode the important skyline of the building;
- The removal of the chimney stack would have a negative impact on the character of the historic building.

Other Representations

None were received.

Development Plan Policies

Policies E1, E14, E15 and E19 of the Swale Borough Local Plan 2008 are relevant to the determination of this application.

E1 (General Development Criteria) sets out standards applicable to all development, saying that it should be well sited, appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.

E14 (Development Involving Listed Buildings) requires any proposal affecting a Listed Building to preserve the special architectural or historic interest and its setting.

E15 (Development Affecting a Conservation Area) states that development within, affecting the setting of, or views into and out of a conservation area will preserve or enhance all features that contribute positively to the area's special character or appearance.

E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.

National Planning Policy Framework, paragraph 131, states that when determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the heritage asset and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and the desirability of a new development making a positive contribution to local character and its distinctiveness.

National Planning Policy Framework, paragraph 132, requires great weight to be given to the asset's conservation when considering the impact of a proposed development.

Discussion

The main consideration in this case concerns the architectural and historical significance of the chimney being removed and the possibility of bringing a currently disused listed building back into use.

I note the concerns raised by SPAB and respond as follows. I am of the view that the chimney stack sits uncomfortably on the roof at the junction of the ridge and the hip. The chimney cannot be seen from the front of the property as it faces The Street and the removal of the chimney would allow for considerable improvements to the internal aspect of the building.

The chimney in question is not of an early date (approximately mid to late 19th Century). The building has been vacant since 2005 and due to this is falling into a state of disrepair. I consider that the chimney only has marginal architectural significance and in this case the removal of the chimney is acceptable. It would assist in bringing the building back into use and in doing so having a wider positive impact upon the heritage asset.

Members should note that there has been a commitment by the Council to bring this building back into use through the approval of applications SW12/0017 and SW/12/0121 for 10 individually designed dwellings. In my view the removal of the chimney, which is only of marginal architectural significance would allow this to take place. This would be an overall improvement on the listed building and would improve the character of the conservation area. This complies with local and national policy.

Recommendation

This application seeks an amendment to current listed building consent to remove the existing chimney stack to the rear of the building. I consider the impact of the loss of the chimney in architectural terms to be minimal. This is combined with the considerable improvements to the building that the chimney's removal would allow. Taking this into account, I recommend that listed building consent be granted.

Should Members agree with this recommendation, the application will have to be referred to the Secretary of State to consider if the SPAB objection means he feels the need to determine the application himself.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background Papers

- 1 Application Papers and correspondence for Applications SW/12/0121 and SW/12/0177
- 2 Application Papers and correspondence for Applications SW/08/0608 and SW/0609

Report of the Head of Planning

PART 3

Application for which **REFUSAL** is recommended

3.1 SW/12/1423 (Case 13610)	Selling
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Location : Harefield House, Hogbens Hill, Selling, Nr Faversham, Kent, ME13 9QZ

Proposal : Erection of retaining wall and excavation to form pond and terracing (retrospective) and erection of estate fence. Plus change of use of part of site from agricultural to garden use (ancillary residential).

Applicant/Agent : Mr C Norton, C/O Jonathan T. Barber, 47 High Street, Canterbury, Kent, CT1 2SB

Application Valid : 29 January 2013

8 Week Target : 26 March 2013

SUBJECT TO : The receipt of the further views of the Environment Agency regarding potential flood risk

Reasons for refusal

1. The change of use from agricultural land to residential garden, with the creation of a large pond, vegetable plots and associated terracing and excavation, is contrary to the aim of protecting the countryside for its own sake and has resulted in a significant harm to the visual amenity and landscape quality and would fail to conserve and enhance the character of the Kent Downs Area of Outstanding Natural Beauty. The development is therefore contrary to Policies E1, E6, E9 and RC10 of the Swale Borough Local Plan 2008, and the guidance at Paragraph 11 of the National Planning Policy Framework.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this instance the Council felt that the application could not reasonably be amended in such a way that planning consent could then be granted.

Description of Proposals

This application seeks retrospective planning permission for the change of use of 3 hectares of land adjacent to Harefield House, Hogben's Hill, Selling. Permission is also sought for the erection of a retaining wall and excavation to form a pond and terracing and the erection of a new estate fence.

New metal estate fencing is proposed at the boundary to the Dovecote and adjacent to the Granary on the north-western and southern boundary.

The terracing of the land and the retaining wall works have all been completed. The pond and vegetable plots have been partly completed and the estate fencing has not been erected.

The Design and Access statement states the following:

'The works that are currently being carried out at the house are as follows:

- *Laying of new footpath and steps to the west of the house*
- *Cutting back of slope (involving removal of hedge) and the construction of a retaining wall, 575 square metres This work also includes the tilling of the existing lawn and grass on both sides of the wall and reseeding of the area to improve the quality of the grass. This element has been completed*
- *The construction of a pond including tilling and reseeding of the remainder of the land to form a meadow of approximately 9,855 square metres*
- *Terracing of a small part of the site immediately to the south-east of the new pond to form a vegetable plot*

Relevant Site History and Description

Harefield House lies within the defined countryside, the designated Kent Downs Area of Outstanding Beauty and the Sheldwich conservation area. Harefield House is Grade II listed.

Harefield House is located on the north side of Selling Road on a sloping site, 3 hectare site which slopes towards the north east towards Forstal House.

In the submitted Design and Access statement the agent confirms the following:

'This land is distinct from the rest of the site in that the aerial photograph shows it as rough pasture. The client indicates that it was used for grazing prior to their purchase of the property and that it was rented out for grazing by them in the first

couple of years. It is therefore reasonable to assume that the use of this part of the site has an established agricultural use.'

Planning permission was granted under SW/06/1316 for minor alterations to Harefield House.

Planning permission was granted for the conversion of The Granary, an old agricultural barn located on land within the ownership of Harefield House to residential use under SW/91/0890. Condition 2 restricts the occupation of the Granary to a person employed as a farm manager at Harefield Farm and members of his or her immediate family or for purposes ancillary to the enjoyment of Harefield House.

Members should note that the red outline for the current application includes the site of the Granary. However, the site area for SW/91/0890 (The Granary conversion) was closely drawn around the Granary and did not include all of the land in the ownership of Harefield House. As such the current application site would not have previously formed part of the curtilage of The Granary.

Views of Consultees

Selling Parish Council express '*unanimous support*' for to the proposal and make the following comments:

- Members regretted that the application was retrospective and that it may have caused less concern had there been communication with neighbouring properties and the planning authority from the outset
- The 'pond hole' is far less imposing when viewed close to
- Support the application subject to the Planning Authority checking the legalities of the change of land use from agriculture, that there be a hydrological survey regarding the pond and whether it posed a threat of flooding and the limiting of changes to the actual ecological and wildlife project as stated and communicated by the applicant

The Environment Agency raises no objection to the application in relation to the Source Protection Zone 1; appropriate measures need to be taken to ensure that no risk is posed to the groundwater aquifer from the possible leakage of contaminants in the recycled materials. Any materials used onsite should be appropriately tested or certified.

I am awaiting comments from the Environmental Agency in relation to the potential flood risk concerns and will update Members at the meeting.

The Kent Downs Area of Outstanding Natural Beauty Unit object to the application and make the following comments:

- Concerns in principle to the extension of residential curtilage into the farmed landscape and its impact on landscape character
- Issue of incremental impact and precedent
- The granting of permission to enclose this part of the domestic cartilage would mean that any use related to the curtilage would be acceptable in the future

- Reservations about the change in the landscape character of the area, the formation of a large pond and its impact on the AONB character
- Site should be restored back to its original state- restoration should be ideal solution

The Head of Service Delivery raises no objection to the proposal.

Other Representations

14 letters of objections have been received, which I will summarise below:

- The field has been in agricultural use for at least 28 years- grazing and pasture land. Occasional crops of hay were also taken from Granary Field. Granary Field has existed as a separate field for centuries- field recorded in a register in 1807
- Earth moving works took place in Spring and Summer of 2012, including the felling of trees and grubbing of hedges. No tree consent was applied for.
- The excavation of the field totally alters the character of this area in the AONB
- The application states that the Meadow falls within the curtilage of Harefield House- it does not, historically it has always been a field in its own right
- Policy RC10 (which I refer to below) seeks to protect sensitive landscapes of this nature
- Granary Field lies within the Source Protection Zone 1 for protection of the potable groundwater
- The Granary Field has been fenced as a single field at least since the late 1970's
- Granary Field forms part of a pattern of small fields in the immediate locality of the Sheldwich Conservation Area (which includes Hogben's Hill) and the development has a negative impact on the conservation area
- If Granary Field is absorbed into the curtilage of Harefield House, having had a separate existence for hundreds of years, an important part of this pattern will have been lost
- The Granary falls within the curtilage of Harefield House, a new fence has been erected which separates the Granary from the Granary Field.
- Under the applicant's ownership Granary Field continued to be grazed- mostly forpigs
- The applicant planted a hedge along the southern boundary of Granary Field and poplars were felled along the eastern boundary in February 2012- subsequently all other demarcation features marking the boundary between Granary Field and the curtilage of Harefield House were removed
- The character of this gently sloping pasture field has been disfigured by the excavation works- natural contour has been lost already
- The existing field would have been a haven for wildlife in its historic form
- Danger that the large volume of water contained within the pond would escape and would damage the foundations of properties adjoining Granary Field- mostly Forstal House, which is situated closest to the open-cast excavation and is on much lower ground

- Drop of 6.1 metres from the boundary of Forstal House with Granary Field to the basement floor of Forstal House- significant gradient over a relatively short distance
- Impossible to predict where any escaping water would end up- no details of the already carried out excavation
- No reference to The Granary Field separate existence to Harefield House in the application paperwork
- A number of errors in the application submission
- Uninterrupted views across the landscape in an Area of Outstanding Natural Beauty have been altered
- Extension of the residential garden would result in a substantially sized residential garden which is out of keeping with the prevailing character of the village
- The change of use from agricultural to residential garden would fundamentally change its character and appearance
- Permitted development rights could be removed but that only means that the applicant would have to formally apply for new structures
- Some structures do not fall under the term development and therefore could not be controlled by condition- such as children's play equipment, trampolines which would permanently change the appearance and character of the land from that of an open landscape to a formal residential garden
- Do not agree, in principle, with the concept of retrospective applications
- The change of use would set a precedent for residential land and redevelopment for housing
- The field can be seen from the wider landscape- in particular from residential properties overlooking the field
- Major concerns regarding the large scale excavation, which completely changes the look of Granary Field
- The owners could erect sheds, summer houses and other permitted garden structures on the land
- Reference to a previous refusal for a garden extension at Cheeseman's House due to the harm of the encroachment
- Contrary to the NPPF and Policies E6 and RC10 (which I refer to below) of the Swale Local Plan 2008
- Significant impact on the character and setting of the listed building
- Listed building consent should be required for part of the development

Members should note that one objection letter has been appended, as Appendix 1, as it provides useful background information.

One general comment letter stating the following has also been received:

'I wish to confirm that, as mentioned in David Woollett's letter to you, I grazed sheep in Granary Field when Mr Boyd lived at Harefield House and owned this field. It was certainly fenced as a single field at this time.'

CPRE object to the proposal (Please see Appendix 2) and make the following comments:

- The submitted documents fail to give an adequate impression of the proposed development, the terracing and the creation of the pond is inadequately described
- The development is significant from both a landscape and landform point of view
- Though the Council has recently granted permission for small scale garden extension (SW/12/0723 land rear of Orchard Bungalow, Dunkirk, site area of 0.027 hectares; SW/12/1199 Spurvyns, Bredgar, site area of 440 square metres; Beaumont, Bredgar, site area of 300 square metres; SW/13/0013 47 Woodside Dunkirk, site area of 942 square metres) these were for logical extensions and did not harm the landscape
- The size of the plot of land involved in this application is significant larger than those in recent applications
- The area is not typified by the existence of areas of water
- The angularity and almost alien form is not in keeping with the landform that is valued in this part of Kent
- The development fails to preserve and enhance the character and appearance of the area
- The development represents a piecemeal encroachment and development of the countryside
- The character of the landscape has been disfigured by the excavation works and terracing already carried out in Granary Field and clearly the current situation should not continue
- Ponds are not a feature of this part of the North Downs
- Difficult to draw any conclusion on what the final landscape would look like
- The applicant should be required to restore the Granary Field to the its condition prior to the excavation works
- The development is not required for agricultural and therefore is contrary to Policy E6, which I refer to below.

Development Plan Policies

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant Local Plan policies adopted since 2004 even if there is a limited degree of conflict with this Framework.

Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

The 12 month period noted above will be expiring shortly, and before the final date for determination of this application. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The site lies outside of the built-up area boundary and is in the countryside as identified in the Swale Borough Local Plan 2008 (SBLP2008) and the designated Kent Downs Area of Outstanding Natural Beauty, which is covered by Policy E9 of the SBLP 2008.. The site also lies within the Sheldwich conservation area and Harefield House is Grade II listed.

Swale Borough Local Plan 2008:

Policy E1 (General Development Criteria) expects amongst other things that development proposals cause no demonstrable harm to residential amenity and other sensitive uses or areas;

Policy E6 (Protection of the countryside) expects proposals within the countryside to protected and where possible enhance the area.

Policy E9 (Protecting the Quality and Character of the Borough's landscape) seeks to protect the quality, character and amenity value of the wider landscape.

Policy E14 (Listed buildings) will only allow proposals that preserve the setting of a listed building.

Policy E15 (Conservation areas) will only permit Development that preserves or enhances all features that positively contribute to the area's special character or appearance.

RC10 (Extending the garden of a dwelling in the rural area) will only allow the extension of a garden into the countryside if the proposal results in no significant harm to the landscape or form of a settlement.

Members should note the supporting paragraphs to this policy. Paragraphs 3.150 notes, among other things, that *'singly or collectively, these uses (residential or similar) can have a harmful impact upon the landscape as the rural character of the land, or the form of settlement is changed.'*

Paragraphs 3.151 states: *'When considering applications for such changes of use, the Council will be guided by its landscape character assessment and whether the proposal conflicts with Policy E9. The Council will also consider the likely cumulative effect of a single proposal if repeated by others in the locality.'*

Swale Landscape and Character Appraisal Supplementary Planning Document (SPD) September 2011. The application site falls within the *'Faversham and Ospringe Fruitbelt'*, seeks to conserve and re-enforce the character of the landscape. The SPD advises that the area is generally in good condition with 'few visual detractors'. The *'rural setting of the Kent Downs AONB needs to be conserved'*.

Discussion

The Council has received a number of letters and emails in respect of this application. A majority of the objection letters are concerned about the impact of the

proposal on the character of the area and the potential impact on the neighbouring properties.

Having taken all of these comments on board, I consider the key material planning considerations in this case to be the principle of the change of use from agricultural to residential land; the impact on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty and the countryside character; and the potential flood risk.

Principle of development

With regards to the first issue, Policy RC10 of the adopted Swale Borough Local Plan remains the main policy guidance for this application. Policy RC10 will only allow extensions to residential gardens located in the countryside if there is no significant harm to the landscape and the character of the countryside.

In my opinion the proposal to use The Granary Field, an agricultural field (as confirmed by the agent in the submission paperwork) as a residential garden with the creation of a pond, meadow and large vegetable plots has a significant detrimental impact on the landscape character and does cause harm. The change of use of the field, including the substantial excavation works and terracing has completely altered the character of the landscape, the gently sloping field has been flattened and appears almost completely laid to lawn. In my view the traditional character of this agricultural field has been completely lost which is not acceptable and contrary to Policies E6, E9 and RC10, which among other things, which seek to protect the quality and character of the wider landscape. In addition, within the Kent Downs AONB the priority is the long-term conservation and enhancement of natural beauty of this national asset over other planning considerations. Any development should have a minimal impact on the landscape character; I would argue that this development has a significant and adverse impact on the landscape character.

I note that reference is made to a number of planning applications where extensions to residential garden land has been allowed however these have been small scale and logical extensions which were deemed not to cause harm to the countryside character and as such are in accordance with the guidance contained within Policies E6, E9 and in particular, RC4.

Though the agent states that this field, known as Granary Field, has always formed part of the curtilage of Harefield House, I would argue that the evidence, in the form of aerial photographs clearly shows that the field has an agricultural past with mature hedging along the boundaries to Harefield House. In addition, planning permission was granted for the conversion of The Granary to residential use, sited within the grounds of Harefield House and at that time the site area was tightly drawn around the Granary and the Granary Field remained in agricultural use. As such I determine that the area to be used for the creation of a pond, meadow, vegetable plots and residential garden does not form part of the residential curtilage of Harefield House. Furthermore, the submitted application documents do not provide any evidence contrary to this. I do not dispute that the land has been in the ownership of Harefield House. However, the application paperwork even confirms that the land has been used for grazing under the existing ownership of Harefield House. I therefore find it

difficult to substantiate the claim that the land forms part of the residential curtilage of Harefield House.

In my opinion the main harm to the landscape character comes from the works carried out to Granary Field, which includes the excavation works, terracing of the entire field and the creation of a pond and vegetable plots. The removal of any boundary features such as hedging and trees results in the substantial expansion of the residential curtilage of Harefield House which is not acceptable in policy terms.

In my opinion the laying of the new footpath, steps and the construction of the new retaining wall to the west of Harefield House are acceptable and do not alter the appearance of the landscape to such an extent that it causes significant harm. This small plot of land seems to have been part of the historic curtilage of Harefield House, with substantial boundary treatment and seems a logical extension, a small extension, to the formal residential curtilage of Harefield House. The retaining wall has been well designed using materials in keeping with the surrounding area. In my opinion this part of the development does not have a negative impact on the setting of the grade II listed building or the wider landscape.

Impact on the character of the landscape

Moving on to what appears to be the key concern to all involved is the impact of the proposal, mainly in terms of the change in character of the application site and the impact on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty.

Policy E9 of the SBLP2008 provides specific guidance for any development within the Kent Downs AONB and quite clearly states that any development should protect or enhance the landscape. The priority is the long-term conservation and enhancement of natural beauty, including landscape, of this national asset over other planning considerations.

It is important to maintain and retain the traditional landscape patterns and the features within it. In my opinion the change of use from agricultural to residential garden will result in the loss of the traditional character of this landscape. The appearance of the field has been much altered, as a result of the terracing of the field and the insertion of the partly completed pond. The field previously had an agricultural character, gently sloping with mature hedging and some trees, most of which have now been removed. The entire field appears to have been levelled and laid to lawn which certainly alters the character and functionality of the field which in my opinion is contrary to the aims of Policy E6, E9 and RC10 of the SBLP2008.

Also of relevance is the adopted Supplementary Planning Document entitled 'Swale Landscape and Character Appraisal' which seeks to conserve or enhance the landscape character land within the Faversham and Ospringe Fruit Belt. The rural character and setting of the Kent Downs AONB should be conserve which the proposal does not achieve.

The guidance contained within NPPF, as noted above, is also of relevance and Paragraph 115 clearly states that great weight should be given to conserving

landscape within the designated Areas of Outstanding Natural Beauty. In my opinion this proposal fails to achieve this due to the nature of the development and the impact it has on the landscape.

Flood Risk

A number of the letters received make reference to the potential flood risk that could result if the pond is completed. I note the potential for flooding and have therefore consulted the Environment Agency on this aspect of the application and am awaiting comments which I will report to Members at the Committee meeting.

I acknowledge that there is a potential risk of flooding to some of the neighbouring properties, in particular Forstal House, which is located adjacent to the northern boundary of the site and lies lower than the site where the pond would be situated. I am concerned that the submitted information fails to fully show the extend the pond works and the potential impact on the surrounding area.

Recommendation

The impact of the development, most specifically the change of use of Granary Field, associated excavation and terracing, and the creation of a pond and vegetable plots on the special landscape and character of the Kent Downs Area of Outstanding Natural Beauty causes significant harm and as such is not in accordance with the aims of Policy E1, E6, E9 and RC10 of the Local Plan. In my opinion, the principle of the change of use from agricultural to residential garden is not acceptable and not in accordance with Policy RC10.

I therefore recommend that subject to the further views of the Environment Agency that the proposal be refused planning permission.

Responsible Officer: Jim Wilson (Major Projects Officer)

List of Background papers

- 1.Application papers and correspondence for SW/12/1423.
- 2.Application papers and correspondence for SW/06/1316.
- 3.Application papers and correspondence for SW/91/0890.

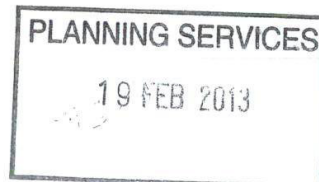
3.1 APPENDIX A

Mr Graham Thomas
Area Planning Officer
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent ME10 3HT

(P)

CHECKED

18th February 2013



Dear Mr Thomas

**Re: Planning Application SW/12/1423 (Case 13610)
Granary Field, Hogben's Hill, Selling**

We refer to the above Planning Application which was submitted to Swale Borough Council on behalf of Mr C Norton (the Applicant).

1. Background

Granary Field falls within a designated Conservation Area for Hogben's Hill (re-designated on 4th February 1993) and within the Kent Downs Area of Outstanding Natural Beauty (AONB).

Granary Field also lies within a Source Protection Zone 1 (SPZ1) on account of its proximity to the Featherbed Lane Water Pumping Station operated by Southern Water. The monitoring of this SPZ1 is a statutory function which is carried out by the Environment Agency in order to prevent the risk of contamination from any activities that might cause pollution to groundwater abstraction points, such as the Featherbed Lane Water Pumping Station.

Granary Field has existed as a separate field for centuries and is recorded in a register of landed property compiled in 1807 for its then owner, Lord Sondes. At that time the field is described as "Harefield Forstall Field" and is stated to contain an area of 2 acres, 3 roods and 28 perches. Subsequently the field came into the possession of Corpus Christi College, Oxford, the owner of the Harefield Farm, Selling. Granary Field remained separate at all times from the curtilage of Harefield House, the principal farmhouse of Harefield Farm. The field was used as grazing land, mainly for sheep, by the tenants of Harefield Farm, the last tenant being Mr Andrew Neame who lived at Harefield House from around 1979 to 1990. In 1990 a portion of Harefield Farm, including Harefield House and Granary Field, was sold by Corpus Christi College, Oxford to Mr Winter. The sale particulars prepared by the vendor's agents, based on the Ordnance Survey map of the time, show Granary Field as consisting of two enclosures numbered 2689 and 2485 by the Ordnance Survey and comprising a total of 3.37 acres or 1.363 hectares. It should be noted that although the Ordnance Survey map shows two enclosures, Granary Field was fenced as a single field at least since the late 1970's. The division of Granary Field into two enclosures may have occurred to suit the temporary grazing requirements of an earlier tenant but did not affect Granary Field's status as a separate and distinct individual field.

Granary Field forms part of a pattern of small fields in the immediate locality of the Hogben's Hill Conservation Area. Further examples of this pattern are the 3 enclosures in front of Forstal House. If Granary Field is simply absorbed into the curtilage of Harefield House, having had a separate existence for hundreds of years, an important part of this pattern will have been lost.

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2. Conversion of the Granary at Granary Field to a dwelling in 1992.

In June 1991 the new owner of Harefield House, Mr Winter, submitted a planning application (Reference SW/91/567 – Case 13662) for the conversion of the 19th century granary which gives Granary Field its name. The initial application referred to the conversion of the granary to a “granny annexe”, but this was amended to “dwelling” in a subsequent application submitted in September 1991 (Reference SW/91/890 – Case 13662). Selling Parish Council was opposed to the initial application since the granary was too remote from Harefield House to be considered as a “granny annexe”. Although Selling Parish Council and a number of local residents had recommended that the granary should be used for the agricultural purpose of farm management only, with no residential component, Swale Borough Council granted permission in respect of the second application in February 1992.

However, despite the fact that the granary was converted into a dwelling, the status of Granary Field as being a scheduled agricultural field was not in any way cast in doubt by Swale Borough Council in its consideration of both the above planning applications.

Subsequent to the conversion of the granary to a dwelling as Granary Cottage, the eastern boundary of Granary Field was re-drawn (and the boundary re-drawing recorded by the Ordnance Survey), such that Granary Cottage was incorporated into the curtilage of Harefield House. However, an equivalent area adjacent to the south eastern corner of Granary Field was appropriated from the former curtilage of Harefield House as compensation for the loss of the granary site to Granary Field. Thus, the territorial integrity of Granary Field and its particular status as a distinct agricultural field separate from the curtilage of Harefield House was maintained. We presume that this was done at the insistence of Swale Borough Council. The re-drawn eastern boundary of Granary Field was demarcated by a new fence and boundary gate as well as by a line of poplar trees which were planted by Mr Winter.

Granary Field continued to be grazed by a flock of sheep belonging to Mr Fridd of Saffery Farm, Selling while the field was in the ownership of Mr Winter and his immediate successor, Mr Boyd. Occasional crops of hay were also taken from Granary Field, both the haymaking and grazing activities being consistent with the field’s agricultural status.

On Mr Winter’s departure around 1995, the ownership of Mr Winter’s portion of Harefield Farm passed into separate hands from the land (including Granary Field) immediately surrounding Harefield House.

Mr Boyd sold Harefield House and its surrounding land comprising approximately 7¼ acres to the Applicant in 2006. Under the Applicant’s ownership, Granary Field continued to be grazed, recently by pigs belonging to a neighbouring owner. The pigs were held in smaller enclosures on Granary Field, initially near the northern boundary of the field adjacent to Granary Cottage, but most recently on the western boundary of Granary Field bordering the boundary with Forstal House. At the time of the departure of the pigs in January 2012, the Applicant expressed his intention that Granary Field should become a wild flower meadow.

3. Works carried out by the Applicant at Granary Field in 2012

In February 2012 the Applicant planted a hedge along the southern boundary of Granary Field and shortly thereafter the poplar trees marking the eastern boundary of Granary Field were felled. Subsequently all other demarcation features marking the boundary between Granary Field and the curtilage of Harefield House were removed.

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In May 2012 excavation works began on the northern section of Granary Field, between the boundary with Granary Cottage on the east and a mature field maple tree to the west, prompting an adjoining neighbour (Professor Stephenson) at the south-eastern end of the field to enquire in mid-June of Swale Borough Council if they were aware of the Applicant's plans. He was informed that no plans had been received and that an enforcement officer would visit the Applicant forthwith, and would report back. No more was heard and a follow-up letter was sent to the Planning Department on 24th June but received no reply at the time. No visit to the Applicant was made.

Soil and clay subsoil continued to be extracted from the northern section of Granary Field by two JCB excavators and deposited to a significant extent within the curtilage of Harefield House to form an embankment adjacent to its boundary with Granary Field. A large crater-like hole was excavated adjacent to the aforementioned field maple tree, from which soil and clay subsoil was extracted. On the western side of this extensive open-cast crater the excavation was so deep that the chalk substratum below the clay subsoil was penetrated. Certain adjoining owners continued to rely on assurances that the sole purpose of the works was to establish a wild flower meadow, and did not raise their concerns with Swale Borough Council in a wish to maintain good neighbourly relations. However, eventually the works being carried out were of such a magnitude that another approach was made to Swale Borough Council. Mrs Jo Millard of the Council's Planning Enforcement Team visited the site on 24th July and expressed her surprise at the extent of the works, which she classified as being an engineering operation that would require planning consent. Mrs Millard informed the Applicant accordingly on 27th July.

4. Recent Planning Decisions

We refer to recent planning decisions within the area administered by Swale Borough Council as the local planning authority that may have a bearing on the present Application.

The first is SW/10/0017 (Case 14976) in respect of Cheesmans House, Luddenham, near Faversham. The application, dated 6th January 2010, related to the change of use of agricultural land to domestic curtilage (residential), and thus had a similar subject matter to the present Application. However, the amount of land being sought to be appropriated to domestic curtilage was relatively modest compared with Granary Field. Furthermore the land in question did not lie within a Conservation Area nor within the Kent Downs AONB.

Nevertheless, on 5th March 2010, Swale Borough Council refused the application on the grounds that the proposed encroachment into and enclosure of agricultural land was harmful to the landscape and rural character of the land (contrary to Policies E1, E6, E9 and RC10 of the Swale Borough Local Plan 2008). Further, the application failed to demonstrate that the landscape character would be conserved or enhanced (contrary to Policies E9 and RC10 of the Swale Borough Local Plan 2008).

The second is SW/08/1260 (Case 23463) in respect of land at the rear of 3 The Potteries, Upchurch, near Sittingbourne. The application related to change of use from agricultural/grazing land to garden (retrospective) and was refused by Swale Borough Council on 18th February 2009 on the grounds that *"the change of use of the application site to domestic curtilage would have a detrimental impact on the character and appearance of the surrounding countryside and would contribute towards piecemeal erosion of the rural open and undeveloped character of the area, contrary to Policies E1, E6, E7 and RC10 of the Swale Borough Local Plan and QL1 and SS3 of the Kent and Medway Structure Plan"*.

It is clear from the plans attached to this application that the amount of land involved is very modest and is adjacent to a highly built-up area – neither of which apply to the present Application. Like the Luddenham case cited above, the Upchurch site does not lie within a Conservation Area nor within the Kent Downs AONB. Despite having the same broad subject matter as the present Application, the essential points of comparison are very limited.

3.1 APPENDIX A

In the Upchurch case, the applicant's appeal was allowed by the Planning Inspector (reported by the Swale Planning Committee on 7th January 2010). The Planning Inspector noted that the appeal site was "shielded from public view" (this is not the case in relation to Granary Field, which is overlooked by a number of houses). The Planning Inspector stated further that "in visual terms, it [the appeal site] is not significantly different in character at the present time from the agricultural land beyond it".

This observation would not be correct in relation to that section of Granary Field whose appearance has been altered by the excavation works carried out last year. The appearance of Granary Field has been significantly changed from its former character as a grazing field gently sloping downhill to the north. The "thin edge of the wedge" argument that was advanced by some local residents at the time of the Granary Cottage applications in 1991 could be employed with even greater justification in relation to the present Application.

To revert to the Upchurch appeal decision, the Swale Area Planning Officer (Mr R Bailey) expressed his disappointment at the Planning Inspector's decision, in that the Inspector had "failed to agree with the Council's view that the change of use of the land, although small in area, would contribute to the piecemeal erosion of the countryside and the strategic gap". The "piecemeal erosion" argument is even more pertinent in relation to Granary Field.

5. "Conservation or Enhancement of Landscape Character" (Policies E9 and RC10 of the Swale Borough Local Plan 2008).

It may be argued that the proposed terraced kitchen garden and pond or lake on the northern section of Granary Field can be construed as being an "enhancement" of Granary Field's landscape character. We do not agree.

The immemorial character of this gently sloping pasture field has been disfigured by the excavation works mentioned above. Large quantities of soil and subsoil have been mined from the hole which is intended to form a pond or lake. These quantities of soil have been moved to a significant extent into the curtilage of Harefield House in order to form an embankment. In order to make a virtue of necessity the pond or lake will be described as "a haven for wildlife" – as if this was not the case for the old Granary Field in its less manicured state.

There is the further danger that the large volume of water contained in the proposed pond or lake will escape and will damage the foundations of properties adjoining Granary Field, most particularly Forstal House which is situated closest to the open-cast excavation workings and is on much lower ground than these workings. There is a drop of 6.1 metres from the boundary of Forstal House with Granary Field to the basement floor of Forstal House, a distance of approximately 24 metres. This represents a significant gradient over a relatively short distance.

Given the unknown and uncharted nature of the watercourses in the chalk substratum below Granary Field, it is impossible to predict where any escaping water from the proposed pond or lake will end up. There are no similar ponds or lakes in the immediate vicinity of Granary Field. They are not a landscape feature that is frequently encountered in this part of the Kent Downs or in downland generally – quite different from their ubiquitous nature in the flatter landscape of the Weald of Kent. There is a pond in the field (formerly a hop garden) opposite Owens Court which also lies above (and presumably drains into) Featherbed Lane, but there are no dwellings at levels below this particular pond. Water has in the past drained from Granary Field on to the lower lying drive of Forstal House, and this is evidenced by a drain situated in the field enclosure (Ordnance Survey field number 1200) adjacent to the Forstal House drive. The proposed pond or lake, whatever the qualities of durability or longevity that may currently be attributed to any material with which it is to be lined, represents a "Sword of Damocles" to adjoining property owners, but is most potentially harmful to the amenity of Forstal House and its owners.

3.1 APPENDIX A

An opinion as to any potential danger to groundwater abstracted from the Featherbed Lane Water Pumping Station will no doubt be provided by the Environment Agency. We trust that a further opinion will be provided by the Planning Officer of the Kent Downs AONB Unit.

6. Points arising from the above Planning Application and Planning Statement.

The fundamental misconception at the heart of the Application is the deliberate failure to draw any distinction between the relatively minor works carried out within the curtilage of Harefield House, and the major excavation works carried out by the Applicant between May and July 2012 in the entirely separate Granary Field. Indeed Granary Field's separate existence is not acknowledged at all in the Application. There is a grudging reference to "the meadow" in Section 2.6 of the Planning Statement, but that is deemed by the Applicant (incorrectly as we have seen) to form part of the curtilage of Harefield House. The Application purports to airbrush Granary Field out of existence, notwithstanding the fact that it has been a separate agricultural field for at least two centuries.

A. Planning Application SW/12/1423 (Case 13610)

Item 3 – Description of the Proposal

The correct description of the Proposal in relation to Granary Field should read: "Change of use from agricultural field to domestic curtilage". The Proposal cannot be described as "ancillary residential", since there is no residential dwelling in Granary Field which (as has been stated above) is and has been a separate agricultural field entirely distinct from the curtilage of Harefield House.

The "retaining wall" and "estate fence" which the Applicant has erected within the curtilage of Harefield House are entirely separate from the "pond and terracing" in Granary Field for which he is seeking retrospective planning permission. It is completely misleading and disingenuous for these quite disparate items of development, differing entirely from one another in their order of magnitude, to be bundled together in the Proposal description.

The Applicant states that the date when work started was 1st July 2012. This is incorrect. The excavation works in Granary Field had commenced in May 2012, as is evidenced by the following. In response to the grave concern expressed by Mr Woollett in a telephone conversation on 1st June 2012 at the intended purpose of the large crater-like hole that had already been excavated by that time in Granary Field, Mrs Norton stated that it was not her or her husband's (the Applicant's) intention to construct a pond or lake in Granary Field.

Item 4 – Site Address Details

The Site Address Details should refer to Granary Field, the name by which the Site, the subject of the Planning Application, has been known for many years. The Applicant states that the land lies to the northeast of Harefield House. This is incorrect. Granary Field lies to the northwest of Harefield House.

Item 9 – Materials

The Materials specified are not relevant to the works carried out in Granary Field and should be included in a separate planning application relating solely to the works that have been carried out within the curtilage of Harefield House. The reference to a "brick retaining wall" in the final line should presumably be to a "brick retaining wall".

3.1 APPENDIX A

Item 12 – Assessment of Flood Risk

We refer to Section 5 above of this letter in relation to the dangers posed by any potential escape of the large volume of water which would be contained in the proposed pond or lake in Granary Field.

We also refer to Section 1 above of this letter in which we mention that Granary Field lies within a SPZ1 monitored by the Environment Agency.

Item 14 – Existing Use

The past and existing use of Granary Field is as a scheduled agricultural field. We refer in particular to Section 2 above of this letter in this regard.

Granary Field is not currently grazed by livestock and can therefore be described as being vacant.

In relation to any potential contamination of groundwater underlying Granary Field, we refer to Section 1 above of this letter in which we state that Granary Field lies within a SPZ1.

Item 15 – Trees and Hedges

It is not correct to state that there are no trees or hedges on Granary Field (“the proposed development site”).

We have referred in Section 3 above of this letter to the mature field maple tree adjacent to the large crater-like hole excavated by the Applicant’s contractors.

We would also mention the very fine mature walnut tree, also at the western end of Granary Field, as well as a fine ash tree standing between the walnut tree and the aforementioned field maple tree. There is a fourth tree in this line of trees at the western end of Granary Field which is situated opposite The Thatch Cottage.

Photo 4 in the related Planning Statement shows the mature trees at the eastern end of Granary Field. Photo 4 demonstrates the importance of these mature parkland trees as part of the local landscape character. It is this immemorial landscape character of Granary Field which has been disfigured by the excavation works carried out by the Applicant.

We would also refer to the very fine mature hedge on the northern boundary of Granary Field with the portion of Harefield Farm owned by Sir John and Lady Swire of Luton House, Selling.

Incidentally the well-hedged enclosure immediately to the north of Granary Field is managed in the same traditional and conservation-minded way as Granary Field has been managed in the recent past i.e., by grazing of sheep with occasional crops of hay being taken.

Item 21 – Site Area

Prior to the re-drawing of its eastern boundary (mentioned in Section 2 above of this letter) Granary Field comprised 1.363 ha.

Item 24 – Agricultural Land Declaration

Granary Field is a scheduled agricultural field although it may no longer form part of an agricultural holding.

3.1 APPENDIX A

B. Planning, Design and Access Statement

Section 1.1

The first sentence states that the change of use being sought by the Applicant from agricultural field to domestic curtilage relates to “the grounds of Harefield House”. This is incorrect. The change of use relates to the entirely separate and distinct Granary Field, which is a scheduled agricultural field.

The second sentence states that “other works, which have been inspected by the Local Planning Authority.... are the subject of a second application which has already been submitted [submitted]”. Would you kindly supply details of this “second application” and of the inspection by the Local Planning Authority to which reference is made.

Section 2.3

It is stated that “a wide range and variety of trees are spread throughout the site”, and yet at Item 15 of the Planning Application it is stated that there are no trees or hedges on the proposed development site. You will appreciate that these two statements contradict one another.

Section 2.5 (for some unknown reason there are two Sections numbered 2.5, and this is the first of them).

It is stated that “there are no previous applications that have a relevance to the present case”. We do not agree and refer to the two applications submitted by the Applicant’s predecessor, Mr Winter in 1991 (please see Section 2 of this letter). In the course of considering these two applications Swale Borough Council did not cast doubt on Granary Field’s status as a scheduled agricultural field, and it ensured that Granary Field’s territorial integrity was safeguarded notwithstanding the conversion of the granary itself to a dwelling.

(The second) Section 2.5

The first sentence refers to “works that are currently being carried out at the house”, indicating that these are works being carried out entirely within the curtilage of Harefield House. This is correct as far as the items in the first two bullet points are concerned, but is incorrect in relation to the matters in the third and fourth bullet points which relate to the unauthorised excavation works carried out in Granary Field between May and July 2012.

There is the briefest of references to “the construction of a pond” in the third bullet point, which does not do justice at all to the very large crater-like hole in Granary Field excavated by the Applicant’s contractors in 2012. This hole resembles open-cast mine workings, and indeed soil and subsoil was mined from it, principally to form an embankment within the curtilage of Harefield House.

At the end of the third bullet point it is stated that “these are all works described in the other application which is with the Council”. Please supply details of this “other application”, which appears to include an application for the “new pond” mentioned in the fourth bullet point.

Section 2.6

In the first sentence it is stated that the change of use application relates to “the creation of a vegetable garden adjoining the north east boundary of the ‘meadow’”. This is the first grudging reference to the ‘meadow’ (presumably placed in inverted commas so as to cast doubt on its separate identity) – or to give it its correct designation, Granary Field – although the Applicant continues to maintain, erroneously, in the third sentence that it is “all that part of the curtilage” of Harefield House. In the fourth sentence the Applicant is willing to acknowledge that “this land is distinct from the rest of the site”. This is absolutely correct because, as we have demonstrated, Granary Field has been a separate and distinct agricultural field for at least two centuries, with its own separate identity.

Section 2.7

Although the Applicant concedes that Granary Field has “an established agricultural use”, he fails to draw the distinction between Granary Field and the curtilage of Harefield House as being two quite separate parcels of land.

Sections 2.8 and 2.9

The terracing mentioned here, which was carried out as part of the unauthorised excavation works in Granary Field between May and July 2012, dramatically exaggerates what was previously a gentle slope in this part of Granary Field. It is completely out of keeping and inappropriate in its relation to the rest of Granary Field.

Granary Field has been permanent pasture for many years, and since it is situated in a Conservation Area it should remain so. A kitchen garden can easily be established if required within the extensive domestic curtilage of Harefield House, and there is absolutely no need for part of Granary Field to be appropriated for this purpose.

Section 3.3

Granary Field is indeed one of the sensitive landscapes that Policy RC10 of the Swale Borough Local Plan 2008 is intended to protect. We maintain that the unauthorised excavation works carried out by the Applicant in Granary Field between May and July 2012 have caused significant harm to this sensitive landscape.

Section 4.2

In his assessment of the status of Granary Field, the Applicant states that “it must be accepted that the land forms part of the curtilage to Harefield House”. This statement is profoundly erroneous as we have sought to demonstrate throughout this letter. Granary Field and the curtilage to Harefield House are two entirely separate entities, although they happen to share a boundary with one another and are currently in the same ownership. The first, Granary Field, is a scheduled agricultural field, while the second is the domestic residential curtilage belonging to Harefield House.

It is further stated that “there is a clearly identified separation of the land from the surrounding countryside by the substantial and mature vegetation on the north eastern boundary”. Presumably this is a reference to the established hedge on the northern boundary of Granary Field. This statement is also false, in that Granary Field is surrounded by a number of similar established enclosures, each with their own mature hedges.

Section 4.3

The reference to the possibility of erecting “any sheds or other structures” on Granary Field is a cause for concern, although the Applicant indicates that this is not a possibility that he wishes to pursue at present.

It does, however, prompt concern along the lines of the “thin end of the wedge”.

Section 4.4

It is stated that “the effect of the proposal will not be seen from the wider landscape and will in any event be insignificant”. This statement is also incorrect, in that Granary Field is directly overlooked by 1-4 Granary Cottages, Laburnum Cottage, The Thatch Cottage and Forstal House. In addition, since Granary Field has a gentle slope down to its northern boundary it can be seen from a number of other nearby properties. Granary Field is an integral part of the Hogben’s Hill Conservation Area and the disfiguring excavation works which the Applicant has carried out without any planning permission are harmful to the Conservation Area as a whole.

Section 4.5

We do not accept the Applicant’s contention that the “growing of vegetables for sale over the whole of the meadow could be carried out as an agricultural operation without the need for planning permission”. As has been stated above, Granary Field has been permanent pasture for many years, being used principally for grazing with intermittent haymaking. Any departure from this use in a Conservation Area and an AONB would, we contend, require planning permission.

Section 4.6

We entirely disagree with the statement that “the proposal has no adverse impact on the character of the landscape”. The character of the landscape has been disfigured by the unauthorised excavation works carried out by the Applicant in Granary Field. The works have created a blot or scar on a sensitive conservation landscape, and in our opinion the only proper outcome, both in planning and in any other terms, is for the Applicant to be required to restore Granary Field to the condition it enjoyed prior to these unauthorised excavation works.

Section 5.1 – Conclusions

The first sentence characterising the major excavation works carried out by the Applicant in Granary Field in 2012 as involving “a change of use of a small part of the site for use as a vegetable plot” is preposterous. We do not see how these works can be construed as being “in accordance with planning policies” for the reasons we have given above.

C. Plans

The plans attached to the Planning Application appear to bear very little relation to the very extensive excavation works actually carried out by the Applicant in Granary Field. Swale Borough Council as the local planning authority will no doubt wish to inspect, measure and photograph these unauthorised excavation works in detail

In our opinion, the purpose of the Applicant in framing the Planning Application and related Planning Statement appears to be the concealment of the wholly objectionable and unacceptable excavation works carried out in 2012 in Granary Field under the cloak of the comparatively inoffensive works he has carried out within the domestic residential curtilage of Harefield House.

You will be aware of the fact that this is not the first occasion on which the Applicant has applied to Swale Borough Council for retrospective planning permission. In our opinion the practice of allowing applicants to apply for planning permission retrospectively is unjust, in that it potentially places those applicants who apply for planning permission prior to carrying out any works at a considerable disadvantage.

7. Conclusion

In view of the case we have set out above, we request that Swale Borough Council maintains Granary Field's status as a separate, distinct agricultural field within the Hogben's Hill Conservation Area and the Kent Downs AONB, and ensures that it is not appropriated (whether in whole or in part) to be incorporated into the curtilage of Harefield House. To that end, we seek the reinstatement of Granary Field to the condition that it enjoyed prior to the carrying out of the unauthorised excavation works mentioned above.

We fear that any failure to reinstate the Granary Field to its previous condition will create a dangerous precedent and will encourage other property owners to disregard proper planning controls (which have the force of law) in what is both a Conservation Area and an Area of Outstanding Natural Beauty.

Please do not hesitate to contact the undersigned in order for you to inspect the works at Granary Field from their properties. In relation to Forstal House please contact David Woollett on 01227 751101 and in relation to Granary Cottages please contact Professor Geoffrey Stephenson on 01227 751868 or via email as follows: gmstephenson@gmail.com.

Yours sincerely



David Woollett, M.A. (Oxon.), Solicitor
Forstal House, Hogben's Hill, Selling, ME13 9QU



Bridget Woollett
Forstal House, Hogben's Hill, Selling, ME13 9QU



Emeritus Professor Geoffrey Stephenson, BA, PhD, FBPsS, Chartered Psychologist
4 Granary Cottages, Hogben's Hill, Selling, ME13 9QY

Schedule of Enclosures

1. Sondes map prepared by the surveyor John Eagle in 1807 showing Forstal Field edged in red.
2. Ordnance Survey map prepared by the chartered surveyors Smith-Woolley in 1990 for the sale of Harefield Farm by Corpus Christi College, Oxford, showing Granary Field edged in red.
3. Ordnance Survey map prepared by Natural England in 2008 showing Granary Field edged in red.
4. Correspondence between the late Mr Woollett of Forstal House, Hogben's Hill, Selling and Swale Borough Council in 1991 documenting the status of Granary Field as a designated agricultural field, and comprising Mr Woollett's letters of 23rd June and 16th August 1991 and Mr Thomas' letter of 28th August 1991.



T-AD

26 February 2013

The Planning Department,
Swale Borough Council
Sittingbourne, Kent

Dear Sirs

SW/12/1423

“Erection of retaining wall and excavation to form pond and terracing (retrospective) and erection of estate fence. Plus change of use of part of site from agricultural to garden use (ancillary residential).”

Harefield House, Hogbens Hill, Selling, Nr Faversham, Kent, ME13 9QZ

I am writing in my capacity as Chairman of the Swale Committee of CPRE Protect Kent. The Committee wishes to **object** to the planning application above.

Preamble

In the past, the CPRE has not objected to many applications attempting to re-classify agricultural land to domestic curtilage.

However, an examination of this particular planning application showed that the conversion of agricultural land and the alterations to the land associated with it were changes to which the Committee might wish to object. Therefore, on the 26th of February, a member of our Committee visited the area to examine at the site. This was done from a number of vantage points, none of which were actually on the site itself.

The first impression gained by the site visit was that the documents provided by the applicant fail to give an adequate impression of the proposed development, with the main part of the development – the terracing and the creation of a pond/lake - being inadequately described. At the site it was clear that this development is significant from both a landscape and landform point of view. Therefore, the Committee feels it necessary to lodge an objection to this application.

The grounds on which we wish to object are as follows.

Policy RC10

This states that

“The Borough Council will not grant planning permission for proposals to extend the garden of a dwelling in the rural area, or to use such land as amenity land, unless there is insignificant harm to the landscape or form of a settlement.”

The Kent Branch of the Campaign to Protect Rural England exists to promote the beauty, tranquillity and diversity of rural England by encouraging the sustainable use of land and other natural resources in town and country.

Protect Kent, Queens Head House, Ashford Road, Charing, Kent, TN27 0AD Fax: 01233 714549 Email: info@protectkent.org.uk

Phone: 01233 714540 www.protectkent.org.uk



The Committee notes that SBC has recently given permission for a number of plots of agricultural land to be incorporated into domestic gardens, (e.g. SW/12/0723, 1199, 1465, 13/0013). However, in these cases the areas concerned were small and the inclusion of the land into garden in some cases was a logical thing to do and did not harm the landscape.

However, this application differs in a number of ways.

1. The size of the plot of land involved in this application is significantly larger than those in other recent applications. This is not a case of altering the shape of a garden or agricultural plot in a way that is logical or creates a better, or neater, defined edge to the land in question. Rather, it is the inclusion of a plot of land to the domestic curtilage of a dwelling which already has a significant area of garden.

As a result of this, the CPRE objects in principal to the change of land-use proposed.

2. Furthermore, the land contained in the application is within an AONB designation and the Sheldwich Conservation Area (as designated 18 March 1992).

Although there is no character appraisal available for the Sheldwich Conservation Area, the comments from the neighbouring Shepherd's Hill appraisal apply here. They say,

"The landscape of the North Downs around Shepherds Hill has an undulating, rather rounded, appearance being comprised of a series of gentle hills sculpted by intervening dry valleys. Superimposed on this landform is a mosaic of arable and grazing fields, woodlands and (to the north east) orchards, which results in an attractive and traditional appearance to the countryside."

The site visit revealed that the work already undertaken has resulted in a series of angular terraces and large depression that it is intended to convert into a pond/lake. The scene presented was reminiscent of an oriental paddy-field system that stood in stark contrast to the rolling landscape beyond. Also, the area is not typified by the existence of areas of water.

It was clear that, although the area is only a part of the overall view, its angularity and almost alien form was not in keeping with the landform that is valued in this part of Kent.

The *Planning Design and Access Statement* argues (para. 4.2) that the land in question "*forms of the curtilage to Harefield House and there is clearly defined separation of the land from the surrounding countryside.*" This, it is suggested, means that the area can be redesignated with no loss to landscape.

However, as the Shepherd's Hill CA character appraisal makes clear, this is an area which is characterised by a *mosaic of arable and grazing fields*. Rather than creating a *clearly defined separation of land* as the *Design Statement* suggests, the area conforms to the *mosaic of arable and grazing fields* deemed to be of intrinsic value just a little to the south of the site at Shepherd's Hill.

As such, the state of the land prior to terracing is exactly the form that is demanded in an AONB in this part of Kent and is the type of landform that the AONB and Sheldwich Conservation Area are designed to protect.

As a result it is the Committee's view that the proposed (and already completed) developments would (and have already) resulted in significant harm to the landscape thus contravening Policy RC10, and the *Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990* which requires that areas within special designations are managed to preserve and enhance their character and appearance.



3. Given the location in an AONB and Conservation Area, a change in land classification covering an area of this size will lead to a lessening of the control that the planning authority has in any future developments. The *Planning, Design and Access Statement* states that "... there is no requirement to erect sheds or other structures ...". But, once within the domestic curtilage it is difficult to see how the Planning Authority could restrict such developments.

As such, the Committee feels that the proposal represents a piecemeal encroachment and development of the countryside. This is precisely the sort of situation that policy RC10 is designed to prevent.

It is the Committee's view that the character of the landscape has been disfigured by the excavation works and terracing already carried out in Granary Field, and clearly the current situation should not be allowed to persist. The creation of a pond/lake may or may not ameliorate this from a landscape point of view, but two points are relevant here.

1. As stated above, ponds are not a feature of this part of the North Downs and so the proposal represents *a priori* an inappropriate development.
2. The deficiency in the information contained in the application is such that it is impossible to draw any conclusion on what the final landscape would look like..

The Committee feels that, while the conversion of part of the land to vegetable production could fall within the use of land for agricultural purposes, the creation of terracing and other hard objects, being similar in principle to the construction of polytunnels *etc.* should have been the subject of a planning application. Therefore we disagree with the contention in the *Design and Access Statement* that no planning application was required.

It is the Committee's view the applicant should be required to restore Granary Field to its condition prior to the excavation work.

Policies E1, E6, E9

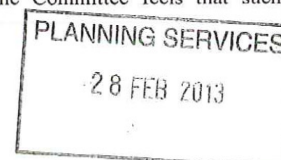
These general policies seek to protect and enhance the natural environment and the amenity value of the wider countryside of the Borough. Most of the points made above apply with equal force to the evaluation of the proposal under these policies.

Policy E1 requires that proposals "protect and enhance the natural environment". The points made above show, in our view, that the proposal fails in this respect.

Policy E6 requires that the "quality, character and amenity value of the wider countryside of the Borough will be protected and where possible enhanced." The caveats to this policy, *e.g.* that development proposals will only be permitted when it is demonstrated to be necessary for agriculture *etc.* do not apply in this case. Thus, Policy E6 reinforces Policy RC10 here and indicates that the proposal should be refused.

Policy E9 requires that the "quality, character and amenity value of the wider landscape of the Borough will be protected and, where possible, enhanced" For the reasons discussed above, the Committee feel that the proposal fails to satisfy E9.

The Committee have seen the objections submitted by the occupants of Forstal House and we support the comments that they have made. Especially, we were interested to see the comments made about the planning history of the site and the presumed requirements in 1992 to an earlier planning application to maintain the agricultural integrity of the land. The Committee feels that such considerations are even more important today.

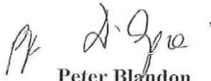


3.1 APPENDIX B

Also, the site inspection drew our Committee member's attention to the fact that the proposed pond/lake is at an elevation significantly higher than many of the surrounding properties. Again, no information is contained in the application pertaining to the technical aspects of this and the measures taken to maintain the integrity of the water feature.

Thus, the Committee's view is that Policies RC10, E1, E6 and E9 are grounds for the refusal of the planning application. We urge that this proposal is refused permission.

Yours faithfully


Peter Blandon
Chairman Swale District



Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, report for information

5.1 SW/12/0023 (Case 4514) - Outline planning permission for demolition of No.76 Bradfield Avenue, the erection of nine 2 bed bungalows (8 x semi-detached and 1 x detached) and cart lodge, layout associated access drive, parking areas, gardens, footpaths and hard & soft landscaping. Approval of access and layout being sought. Appearance, landscaping and scale reserved for future consideration - Site Part of 2 Broadacre and 76 Bradfield Avenue, Teynham ME9 9TA

APPEAL ALLOWED

The Inspector commented as follows;

Preliminary matter

1. The application was submitted in outline with all matters other than access and layout being reserved for future consideration. Indicative artist's impressions of the new dwellings have been submitted which I have taken into account.

Decision

2. The appeal is allowed and outline planning permission is granted for demolition of No. 76 Bradfield Avenue, erection of nine 2-bedroom bungalows (8 No. semi-detached and 1 No. detached) and cart lodge, lay out of associated access drive, parking areas, gardens, footpaths and hard and soft landscaping at 2 Broadacre and 76 Bradfield Avenue, Teynham, Kent ME9 9TA in accordance with the terms of the application, Ref SW/12/0023, dated 9 January 2012, subject to the conditions in the attached schedule.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of adjacent occupiers, in terms of noise and disturbance.
Reasons
4. The appeal site is a backland area of residential garden belonging to 2 Broadacre. It is in an area of mixed residential character. The site is near a main railway station and within walking distance of shops and facilities in the village of Teynham and is thus in a sustainable location. A previous appeal for a scheme comprising 11 No. 3 bedroom houses was dismissed (ref APP/V2255/A/08/2082192) on the grounds that the access road was proposed to be too close to the flank wall of No. 74, a semi-detached bungalow which would become detached following the demolition of No. 76.

5. The current proposal involves significantly fewer bedrooms overall, substantially reducing the potential for vehicle trips along the access. The boundary treatment between the access and the flank wall of No. 74 would incorporate a solid 215 millimetre thick brickwork wall and planting. The wall would be 2 metres high for much of its length but would be reduced in height near to Bradfield Avenue and would not be visually obtrusive in the street scene or to nearby occupiers. It would effectively prevent any disturbance due to vehicle headlights. The existing party wall of the bungalow would be refaced with matching brickwork including the existing chimney, which in my view would provide visual interest and would mitigate for the removal of No. 76. These measures can be assured by imposing appropriate conditions. The houses in Bradfield Avenue are not sufficiently homogenous in character for there to be any significant detrimental impact on the character or appearance of the area as a result of the demolition.
6. The internal layout of No. 74 includes a long living space that would be immediately adjacent to the boundary wall, but views out would not be significantly affected. The introduction of the masonry wall on the boundary line to the side, front and rear of No.74 would very significantly reduce the degree of disturbance that the occupants would notice as a result of the comings and goings of traffic along the access. There would be a reasonable distance of around 3.5 metres between No. 74 and the likely track of vehicles on the access. It would be a shared surface that would also be used by pedestrians, which is likely to assist in reducing speed. The appellant has submitted an acoustic report that indicates that the noise level of passing traffic as perceived by the occupants of No. 74, would be below background noise levels. Even if this turned out not to be the case from time to time, either because of a particularly noisy truck or an exceptionally quiet evening, I do not consider the living conditions of the occupiers of No. 74, or for that matter, the occupants of any other nearby property, would be demonstrably harmed.
7. Accordingly, the proposed development would not conflict with the residential amenity protection aims of policy E1 of the Swale Borough Local Plan of 2008 (LP).

Other matters

8. I have taken account of all the other matters raised including points raised by local residents concerning the potential for flooding and drainage problems, parking and congestion, highway safety and wildlife in the existing garden area. I accept that the site is not previously developed land, but that is not a barrier to development if the requirements of other planning policies are met. Neither these matters nor any other concerns raised are sufficient to outweigh the advantages of the scheme which would provide needed new housing.

Conditions

9. Apart from the standard 'reserved matters' conditions, the following are necessary. The Council has requested measures to mitigate for contaminated

land and whilst I have no detailed information on why it is thought an unusual risk may be present, I have included the condition in the interests of the future residents, slightly modified in the interests of precision. A condition is necessary to ensure that foul and surface water drainage is designed and constructed to void flooding. The refacing of the flank wall of No. 74 needs to be carried out before construction commences in accordance with a scheme approved by the Council, to ensure that the occupiers are protected from the effects of construction traffic.

10. A number of environmental concerns can be dealt with by means of a demolition and construction management plan including dust suppression, mud on the carriageway, site offices and parking for site personnel, operatives and visitors. In the interests of avoiding congestion and ensuring adequate parking provision, the parking and bicycle storage arrangements shown on the drawings need to be provided before occupation, as does the access to each dwelling along with related drainage and visibility splays shown on the drawings. Street lighting and street nameplates are not necessary to make the development acceptable under planning legislation. In view of the close proximity of residential houses and back gardens, the suggested time restrictions on construction activities have been amended to be more reasonable and to more closely reflect practice in similar areas elsewhere.
11. The new boundary wall along the access needs to be completed before construction of the dwellings in order to protect the amenity of the occupants during construction. In view of the changes in level evident at the site visit, the slab levels of the new dwellings and the coping level of the boundary wall need to be approved. Notwithstanding that scale is a reserved matter, in accordance with the information provided on the scale of development proposed, a restriction on the ridge height and the number of storeys is appropriate in order to ensure that the vehicle traffic generated remains within limits and the character of the development is sympathetic with the surrounding area.
12. I have not included a condition requiring sustainable construction techniques. No copy of LP policy U3 or any supplementary guidance has been provided and policy E1 does not specifically require sustainable construction. The Building Regulations require a high measure of energy efficiency. It has not been shown that any special sustainable construction measures are necessary to make the development acceptable.
13. For all the above reasons, the appeal should be allowed.

Schedule of 18 conditions

1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Except as otherwise indicated in this decision and conditions, the development hereby approved shall be carried out in accordance with the approved drawings: PDB/11/380/01, PDB/11/380/02A & PDB/11/380/03A.
- 5) No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising
 - (a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
 - (b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - (c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.
- 6) Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority). If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.
- 7) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted to the Local Planning Authority which shall include details of how the remediation works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis showing that the site has been made harmless shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- 8) No development shall take place until details of the proposed means of foul and surface water disposal have been submitted to and approved in writing by the Local

Planning Authority. The development shall be implemented in accordance with the approved details before occupation of any of the dwellings hereby approved.

9) Prior to the demolition of No. 76 Bradfield Avenue, a scheme for the reconstruction of the party wall (new side elevation) of No. 74 Bradfield Avenue, including the treatment of the chimney stack, matching verge details and a timetable for such reconstruction, shall be submitted to and approved in writing by the Local Planning Authority. This part of the development shall be implemented in accordance with the approved details before construction of any of the dwellings hereby approved.

10) No development shall take place until a demolition and construction management plan has been submitted to the Local Planning Authority and approved in writing. The demolition and construction management plan shall include the means by which dust arising from the site will be suppressed, wheel washing will be ensured, site offices will be accommodated and parking and turning areas for disposals, deliveries, personnel, operatives and visitors will be provided. The development shall not be carried out otherwise than in accordance with the approved demolition and construction management plan.

11) Before any of the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed as shown on drawing PDB/11/380/02A, with the exception of the wearing course but including the provision of a turning facility, with related:

(1) highway drainage, including off-site works,

(2) junction visibility splays.

The details of the access shall first have been submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details and retained and maintained as such.

12) During construction of the development hereby approved, no works shall be carried out before 0800 on weekdays and 0900 on Saturdays or after 1800 on weekdays and 1300 on Saturdays, nor at any time on Sundays or Bank Holidays, unless the prior written approval of the Local Planning Authority has been obtained.

13) No impact pile driving in connection with the construction of the development hereby approved shall take place on the site on Saturdays, Sundays or Bank Holidays or outside the following time periods: 0900 – 1700 Monday to Friday.

14) No dwelling shall be occupied until the areas shown on drawing PDB/11/380/02A as vehicle parking and turning spaces have been provided, surfaced and drained. The parking spaces shall be retained for the use of the occupiers of, and visitors to, the dwellings, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (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 the designated parking spaces.

15) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with the details shown on approved drawing PDB/11/380/02A for cycles to be parked.

16) Prior to the construction of any of the dwellings hereby approved, the new boundary wall between No. 74 Bradfield Avenue, as shown on approved drawing PDB/11/380/03A, shall be completed in accordance with details to be submitted to the Local Planning Authority and approved in writing.

17) No development shall take place until the slab levels of the dwellings hereby approved and the coping levels of the boundary wall have been submitted to the Local Planning Authority and approved in writing. The development shall be constructed in accordance with the approved levels.

18) The dwellings hereby permitted shall be single storey buildings only, with ridge heights no greater than 6.5 metres above ground level.

Observations

A decision in line with my original recommendation.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background papers

1 Application papers and correspondence for application SW/12/0023

2 Appeal decision dated 27 February 2013 ref; APP/V2255/A/12/2180493/NWF

5.2 SW/12/0172 (Case 20849) – Demolition of existing dilapidated dwelling and ancillary buildings – residential re-development of the site to provide one 5 bedroom detached dwelling with detached double garage, associated parking spaces and private access driveway and associated turning head at ‘Sunfield’, Lower Road, Brambledown, Minster ME12 3ST

APPEAL ALLOWED AND AWARD OF COSTS REFUSED

Main Issue

1. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

2. The appeal site is triangular and contains a modest bungalow that would be replaced by a 2-storey dwelling. It is outside the built-up area boundaries and therefore Policy E6 of the Swale Borough Local Plan applies. This seeks to protect and where possible enhance the quality, character and amenity value of the wider countryside. Development will only be permitted in certain circumstances including the acceptable rebuilding of a dwelling currently in residential use in accordance with Policy RC4. In turn, this establishes that replacement dwellings will only be permitted if they are of similar size and proportion to the original and are to be erected close to its position.
3. Annex 1 of the National Planning Policy Framework indicates that Local Plan policies should not be considered out-of-date simply because they were adopted prior to its publication. The appellant is nevertheless critical of Policy RC4 but the Framework recognises the intrinsic character and beauty of the countryside. Although there is no longer a reference to protecting it for its own sake there is no conflict between the Framework and the development plan regarding replacement dwellings. Whilst permitted development rights have changed since the Local Plan was adopted in 2008 this does not affect the status of the relevant policies.
4. The proposed house would be sited directly behind the existing single storey building and this would be consistent with Policy RC4. The Council alleges that there would be a 230% increase in floorspace but according to the appellant's figures the original floor area of 87 sq m would rise to 188 sq m (116%). The Council's Supplementary Planning Guidance (SPG) refers to a 60% increase but this is for extensions. Nevertheless, the proposed building would be significantly larger than the existing one, especially bearing in mind the additional storey. Consequently it cannot be said that the proposal would be of a similar size and proportion to the original dwelling and therefore it would not comply with the terms of Policy RC4.
5. However, the proposed dwelling would be situated in the midst of a small but recognisable cluster of development along Lower Road. This comprises a row of 2-storey dwellings, other bungalows and commercial premises including a

farm shop with an extensive parking area. There is a variety of styles and forms. Moreover, the proposal would be read very much in the context of the immediately adjoining buildings rather than the open land to the north and south. Especially given the diminutive stature of the existing property it is reasonable to consider the actual physical impact of the proposal rather than rely on a quantitative assessment.

6. The mass of the proposed house would be 'broken up' by a front projection and the mix of materials. Its scale would also be consistent with development nearby. Furthermore, the site is well screened along both side boundaries. It is intended to trim back the existing vegetation and to maintain it at an approximate height of 6m. This would have the effect of minimising public views of the proposal which would be set well back from the road and only glimpsed along the narrow site entrance. Whilst this hedgerow is not a permanent feature it can be expected that future occupiers would wish to retain it. Therefore the effect of the house and garage on the surroundings would be minimal as opposed to intrusive.
7. The appellant's evidence is that additions could be made to the property as 'permitted development' that would bring the floor area up to 196 sq m. The Government has consulted on extending these rights but as this possible change is in its early stages it can only be given limited weight. Nevertheless, the built footprint of Sunfield could exceed that of the proposal. That said, the side and rear extensions anticipated would be single storey. The appellant states that the property will be extended if a replacement dwelling is not granted. There is nothing to indicate that these works would not be implemented if the appeal failed.
8. So although extensions on 3 sides of the bungalow can be treated as reasonably likely to materialise the effect of this would be less than the proposal in terms of height. However, by expanding Sunfield it would be similar to the proposal in terms of floor area. This 'fall-back' position is therefore of some weight in favour. More to the point is that the consequences for the locality would be insignificant and particularly that the rural scene would not be compromised. In other settings this might not be the case but here the aim of protecting the countryside would not be transgressed.
9. Therefore the proposal would not harm the character and appearance of the surrounding area. There would be a conflict with Policy RC4 and consequently with Policy E6. However, this is outweighed by the finding that the aims of these policies would be adhered given the visual containment of the site, the nature of the locality and the compatibility of the proposal with it. To a lesser degree, the scope to undertake works to the existing bungalow as 'permitted development' is also a material factor.

Other Matters

10. The Council mentions that the aim of the policies is to maintain a stock of affordable houses in the countryside. This is highlighted in paragraph 3.139 of the Local Plan but there is no indication that this strand forms part of its case

or that there is a particular need in this part of Swale. In any event, given the scope to extend it, the appellant maintains that Sunfield is already outside of the category of “affordable”.

11. It is claimed that the site is in a highly accessible location with bus stops nearby. Whether future occupiers would use modes of transport other than the car for day-to-day living has little bearing on the outcome because the proposal is simply to substitute one dwelling for another.

Conditions

12. In the interests of the appearance of the area details of external materials should be agreed. Given the size of the dwelling in relation to the provisions of Policy RC6 and the 60% guide in the SPG there are exceptional circumstances warranting the removal of permitted development rights except in relation to porches and other roof alterations. Details of sustainable construction techniques should be provided to ensure compliance with local standards. To facilitate any minor material amendments a condition listing the approved plans should also be imposed.
13. So that the development functions properly and to maintain highway safety the parking and turning areas should be laid out and details of surfacing and surface water disposal provided. Any gates should be set back and this should also be covered by condition. In view of the scale of the development, the existing activity nearby and the other powers available conditions relating to hours of construction, pile driving and dust suppression are not necessary.

Conclusions

14. For the reasons given the proposal is acceptable. Although it would not accord with the development plan this is outweighed by other material considerations and the appeal should therefore succeed.

Costs application in relation to Appeal Ref: APP/V2255/A/12/2184529 Sunfield, Lower Road, Brambledown, Minster, Kent, ME12 3ST

The Application

The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).

The application is made by Mr C Condon for a full award of costs against Swale Borough Council.

The appeal was against the refusal of planning permission for demolition of existing dilapidated dwelling and ancillary buildings – residential re-development of the site to provide 1 no 5 bedroom detached dwelling with detached double garage, associated parking spaces and private access driveway and associated turning head.

Formal Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 *Costs Awards in Appeals and Other Planning Proceedings* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application refers to paragraphs B16 and B18.

3. The appellant devotes 15 paragraphs of his statement to detailing the provisions of the National Planning Policy Framework. Whilst this contains a presumption in favour of sustainable development it is by no means clear why the Framework might have made the specific Local Plan policies referred to outdated. In the circumstances it is understandable that the delegated report did not address this. The question of the 'fall-back' position was tackled and the reasonable view reached that the extended dwelling would have less impact than the proposed one.

4. As paragraph B18 explains planning appeals often involve matters of judgement concerning the character and appearance of the local area. The Council's view is that the bulk and scale of the proposal would be visually intrusive. In discussing the proposal the delegated report immediately deals with the percentage increase in floorspace and there is little mention of the surroundings. However, it can be assumed that the Council is familiar with the site and its case does not contain vague, generalised or inaccurate assertions.

Therefore, whilst the existing character of Lower Road could have been more fully acknowledged, the reason for refusal was substantiated.

5. In responding to the appellant's grounds of appeal the Council did not introduce a further reason for refusal. There was a passing comment about the availability of affordable rural housing but no more than that.

6. Therefore, although my decision is different to that of the Council, its behaviour has not been unreasonable and an award of costs is not justified.

Observations

The decision to allow the planning appeal is very disappointing as it is contrary to the Council's long-established and oft-tested policies of rural restraint. Members will note, however, that the application for costs has been dismissed as the Inspector did not consider the Council's approach to be unreasonable.

Members will note, however, that the Inspector considers the site to be an exception, stating at paragraph 6 that *"there would be a conflict with Policy RC4 and consequently with Policy E6... this is outweighed by the finding that the aims of these policies would be adhered given the visual containment of the site, the nature of the locality and the compatibility of the proposal with it."* I am therefore of the opinion that this decision should not set a precedent for future residential development within the countryside.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background Papers

1. Application papers and documents for application SW/12/0172
2. Appeal decision dated 15 March 2013 ref: APP/V2255/A/12/2184529

5.3 SW/12/0958 (Case 04440) Retrospective all weather riding surface and access track, Land rear of The Paddock, Highsted valley, Rodmersham, ME9 0AB

APPEAL DISMISSED

The Inspector commented as follows;

Preliminary Matter

1. It is claimed that the appeal is invalid since it was made more than 28 days after the refusal of planning permission. However, this reduced period only applies if the land and development are the same or substantially the same as those in an extant Enforcement Notice. For the reasons given in Mr Norville's letter of 5 February 2013 that is not the position here. I shall therefore determine the appeal which proceeds in the name of the original applicant.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Background

3. The Enforcement Notice served in May 2012 related to the use of land for the storage of building materials, plant machinery and the parking of commercial vehicles. It also concerned the creation of a hard standing. The storage use was undertaken by a tenant of the property and this has now ceased. The commercial vehicles and building materials have been removed although there was a boat at the far southern end. It is proposed to keep the track and levelled area. The latter would be finished in a shredded rubber compound or sand surface and used as an outdoor riding area in conjunction with the appellant's land. This includes paddocks and a stable although the planning permission of 2005 limits the use to the keeping of no more than 1 horse.

Reasons

4. Policy E6 of the Swale Borough Local Plan seeks to protect and where possible enhance the quality, character and amenity value of the wider countryside.
Only certain types of proposal will be permitted. Those listed do not include equestrian development. The Council's Supplementary Planning Guidance warns that all weather riding surfaces may not be acceptable in visual terms but should be kept close to existing buildings and screened by existing hedge and tree planting.
5. In this case, although not near the small stable building the proposal would be immediately behind a row of residential properties. The physical works would

not be visible from Highsted Valley as they would be at a higher level. However, they would be clearly seen from the public footpath immediately to the south as it rises up towards the woods. From this direction the track and arena would be hard, urbanising features that would contrast with and detract from what would otherwise be largely unspoilt sloping fields. The length of the development and the unnatural banking that results from the need to cut across the contours would be particularly intrusive. Although riding arenas may be common in the rural parts of the Borough the proximity to a public viewpoint and the nature of the proposal would lead to an adverse impact.

6. A hedgerow could be planted along the boundary but this would take a while to establish and its long-term screening value would be limited given the topography. The drive up to the stables is steep and an area may be required for horse box movements and turning. However, this does not warrant the extent of development proposed. The all weather area is said to be required for the winter riding of horses obviating the need to exercise them on the highway. Although it is not clear why this has arisen now when the stables were undertaken in 2006 it might well be beneficial to the appellant. However, given the scale of the use it is not a consideration of such importance that the visual objection identified should be set aside.
7. Therefore the proposal would harm the character and appearance of the surrounding area contrary to Local Plan Policy E6 and the general aims of Policies E1 and E19 regarding the environment and design and appearance.

Other Matters

8. Reference is made to other appeals where similar developments have been dismissed on the grounds of the effect on neighbours regarding noise, privacy and direct visual impact. In some places there is solid fencing and extensive vegetation at the rear of the houses along Highsted Valley but elsewhere the boundary is more open. Activities and vehicles movements in association with the track and arena would be noticeable at times but given that the keeping of horses has been accepted they are unlikely to cause significant disturbance or seriously disrupt the outlook from adjoining gardens and rear windows. Some claims are made that the use proposed would not be undertaken as indicated but I have assessed this point on the basis of the proposal.

Conclusion

9. For the reasons given, the proposal is unacceptable and the appeal should fail.

Observations.

Full support for the Council's decision in a case where the application appeared to be an attempt to retain an unauthorised hardstanding subject to confirmed enforcement notice. This decision now clears the way to prosecute the notice and see the hardstanding removed and the site restored to its former contours.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background papers

- 1 Application papers and correspondence for application SW/12/0958
- 2 Appeal decision dated 18 March 2013 ref; APP/V2255/A/12/2189182