

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

06 June 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/13/0409 (Case 01485)	Ospringe
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Location : Brogdale Farm, Brogdale Road, Ospringe, Faversham, Kent, ME13 8XZ

Proposal : Variation to condition 5 of approved SW/11/1560 to the following: "The use hereby permitted shall be restricted to the hours of 5 am to 6 pm Mondays to Fridays including deliveries and dispatches and 7 am to 2 pm on any other day"

Applicant/Agent : Mr Leroy Moore, C/O Eric Przyjemski, DHA Planning, Eclipse House, Eclipse Park, Sittingbourne Road, Maidstone, Kent, ME14 3EN

Application Valid : 3 April 2013

8 Week Target : 29 May 2013

SUBJECT TO: Views of Kent Highway Services, the Economic Development Officer and the Head of Service Delivery, and to the outcome of a meeting with the applicants to explore the extent of the early morning use, the scope for use of alternative parking arrangements, and whether the amenities of neighbours can be adequately safeguarded.

Conditions / Grounds

- (1) The use hereby be permitted shall be restricted to the preparation of food or for any uses within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) only.

Grounds: In order to prevent the development having an adverse impact on the amenities of the area, and in the pursuance of policies E1 and RC1 of the Swale Borough Local Plan 2008.

- (2) No cooking of food shall take place within the area hereby approved for food preparation until details of a ventilation system have been submitted to and approved by the Local Planning Authority and upon approval the system shall be installed prior to any cooking of food, and thereafter 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.

- (3) No external refrigeration or air conditioning unit shall be installed other than in accordance with details which shall be submitted to and approved by the Local Planning Authority and upon approval the unit 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.

- (4) The uses hereby permitted shall be restricted to the hours of 8am to 6pm on any day including deliveries and despatches, except only for that part of the ground floor of the premises used for the preparation of food in which case that use shall be restricted to the hours of XX am to XX pm on any days including deliveries and despatches.

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

- (5) The use of the site hereby approved for food preparation will cease if refrigerated lorries and/or vans, used in connection with the business, park or wait in the established main or overspill vehicle parking areas at Brogdale Farm. All such waiting vehicles shall park beside the unit.

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, particular regard has been had to policies E1, E6, B1, RC1 and B26 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.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Description of Proposal

This retrospective application seeks a variation to condition 5 of planning permission SW/11/1560 granted in February 2012 which approved change of use, extension and alterations to part of a former cold store building to ground floor use for food preparation and first floor Class B1 business use. Condition 5 of SW/11/1560 restricts the hours of all approved uses to between 8am and 6pm on any day including deliveries and dispatches. The application is submitted to regularise on-going extended hours of operation by the butcher's business on the ground floor, which operates from as early as 5am.

This application seeks to vary condition 5 as follows:

'The use hereby permitted shall be restricted to the hours of 5am to 6pm Mondays to Fridays including deliveries and dispatches and 7am to 2pm on any other day.'

The submitted Planning Statement makes the following summarised comments:

"The applicant (Butcher of Brogdale) supplies fresh package meat to a number of primary schools in Sittingbourne, Faversham and the wider Swale area and to private schools in Canterbury and also a number of restaurants and pubs in Swale and the surrounding area

Approximately 20 No. fresh meat orders are prepared on a daily basis for schools and other local businesses. These take between 2 hours and 2.5 hours to be prepared and ready for dispatch by 7.30am. In order therefore for the business to meet its customer requirements and for the orders completed and ready for dispatch by 7.30am it is essential to start work at 5.00am. The orders are delivered direct from the premises by Transit size or smaller vans, no HGV's [sic] are used or operated by the business.

The proposed variation of hours of use will enable the business to meet existing customer and market requirements and maintain the 11 No. local jobs, which includes several trainee posts which have been created. Without

this variation to the hours of use, the business will not be able to fulfil its existing schools contracts which accounts for approximately 30% of the total business and jobs will be lost.

The closest neighbouring residential property (Brogdale Farmhouse) is located over 100 metres to the north of the meat preparation unit and beyond the boundary of Brogdale Farm. It is important to bear in mind that the property is screened from the meat preparation unit by the existing retail units at the Market Place and the other buildings on site and also by existing boundary walls and fencing. The parking and loading area associated with the unit is also located close to the building and again is a considerable distance from Brogdale Farmhouse.”

Relevant Site History and Description

The site is located south of Faversham and just south of the M2 motorway, within a Special Landscape Area and in the countryside. The Brogdale Road frontage of Brogdale Farm is largely occupied by residential properties on either side of the site entrance, with other residential properties opposite the entrance. To the north west of the farm yard lies Brogdale Farmhouse, and to the south and east lies open countryside.

The unit the subject of this application forms part of a former cold store building and is located to the rear (eastern part) of the built up part of the Brogdale site. The site as a whole has a long and varied planning history. The most recent and relevant history is as follows:

SW/12/1409- Change of use to use as demonstration gardens with incidental buildings and associated parking- (Withdrawn)

SW/11/1560 - Change of use, extension and alterations to part of former cold store building to ground floor class B2 use for meat preparation and a separate first floor class B1 business use (Approved)

SW/10/0036 – change of use, conversion and extension of existing cold store to provide business use (Approved)

SW/08/0271 – change of use of existing cold store to catering use (food preparations) and/or B1 use and minor alterations to the external appearance of the building – (Approved)

SW/08/0194 – change of use and alterations to chemical store to plant display and sale use with ancillary office and store, outdoor plant display area, new canopy, erection of glazed link between existing glasshouses and creation of additional craft/retail unit (Approved)

SW/07/0189 – change of use and alterations to part of existing cold store to form offices and labs (B1) (Approved)

Views of Consultees

Ospringe Parish Council has objected to the application, expressing concern that there have been complaints about disturbance to residents from late night and/or early morning activity at Brogdale for a very considerable period of time. They note that this concern has been recognised by the Borough Council and cite the fact that all recent planning permissions for commercial uses at Brogdale consistently control

operating hours to an 8.00am start; and that the most recent permissions also control deliveries to the same times. The Parish Council quotes from recent Officer reports regarding applications at Brogdale where I have expressed my concern that new commercial uses should not be permitted at the expense of amenities of neighbours, and that unrestricted uses are likely to harm the amenities of neighbours.

The Parish Council does not consider that the various policies cited by the applicant override the very real likelihood of disturbance arising from approval of this application; and that approval might undermine enforcement of other hours of use conditions across the wider site.

I am awaiting comments from Kent Highway Services, the Economic Development Officer and the Head of Service Delivery and I will update Members at the meeting.

Faversham Town Council, the boundary of which lies a little to the east of the premises, raises no comment on this application.

Other Representations

I have received 21 letters of objections including one from local group Countryside Under Threat which raise the following summarised points:

- Will result in a dramatic increase in the early morning inward and outward deliveries and dispatches to the Brogdale site
- Residents are already being disturbed by the noise of vehicles breaking and accelerating when entering and leaving the premises
- Light pollution from the car lights and noise of clanging locks as early as 4.15am every day of the week
- Brogdale Road is a rural residential area and not an industrial area
- Brogdale Farm is not suitable for large scale developments including the creation of an industrial site that it will in a residential area
- Business uses should not automatically be given precedence over residential well being and community cohesion
- There have been 5 years of complaints of disturbance in the early hours when the butcher unlawfully operated from the Market Place behind Brogdale Farmhouse
- The original permission for meat preparation did not give proper consideration to the policies that protect residents and clearly has no benefit or is related to existing activities of the National Fruit Collection which conditions need to be satisfied under Policy B26
- Extended opening hours do not meet the aims of Policy B26 and would not have been approved initially
- Meat processing activity can easily be carried on at a more appropriate site which has the correct setting with deliveries to the butchers shop within the original hours set for the butcher
- The expansion of the hours will definitely further aggravate the setting of the grade II listed building

- The business has always been run outside of the approved hours of use and has not just suddenly expanded in the last 3 months
- The creeping nature of the permissions at Brogdale cannot be acceptable
- The overflow car park included in the red outline, this is not included under Policy B26
- Historically the farm did not operate outside of the hours of 7.30am and 4.30pm and no work at weekends - this was seasonal and created very little vehicular movement
- Current conditions are already being breached by the applicant- vehicles left running outside of the gate in the early hours of the morning, the Butcher arrives as early as 4am
- Inward and outward movements do occur before 7.30am

One letter of support has been received from the overall landowner of the site making the following comments:

- Over the last 5 years substantial capital investment has been made
- As a result this is now a significant rural enterprise centre with some 20 businesses and over 50 full and part time jobs
- The butcher is a key activity both for his retail and production operation to which this application relates
- We did not consider the hours of use a major issue at the time of the original permission SW/11/1560 - the cold store still has no restrictions on the hours of use
- This remains a working farm where these unrestricted hours are still entirely appropriate
- The flexibility to the hours of use is essential to ensure the effective operation of the business and the security of the 11 jobs (4 of which are trainees)
- The unit is sufficiently far away from all residential units so as not to cause any demonstrable harm to the neighbours and the extremely small number of earlier traffic movements is not significant and would be substantially less than if it might be if this premises were to have continued in the previous cold store
- Members should support this application as a clear message that Swale is supportive of business innovation and investment and job creation

Relevant Planning Policies

The policies most relevant to this application are saved policies E1 (General Development Criteria), E6 (The Countryside), E9 (relating to Special Landscape Areas), B1 (Supporting and Retaining Existing Employment Land and Businesses), RC1 (Helping to Revitalise the Rural Economy) and B26 (Brogdale National Fruit Centre) of the Swale Borough Local Plan 2008. The unit is located within the designated employment area under Swale Borough Local Plan 2008 Policy B26.

Policy B26 states (in relation only to the built up part of the farm) that;

“In order to help safeguard the continuation of the National Fruit Collection at Brogdale National Fruit Centre, the Borough Council will grant planning permission for a range of research, commercial, tourism and educational use. Development proposals will:

- 1. be of a scale and character appropriate to the rural setting of the site;*
- 2. clearly demonstrate that the proposed uses will both relate to the existing functions of the Brogdale National Fruit Centre, and make a significant contribution to the long term viability of the National Fruit Collection;*
- 3. be the subject of a satisfactory transport impact assessment; and*
- 4. be limited in extent to the area identified on the proposals map.”*

The National Planning Policy Framework is also a material consideration in determining this application. In terms of “Supporting a prosperous rural economy”, it states at paragraph 28 that

“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 neighborhood 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”*

Discussion

Members will note that there have been several objections to this application, not least from the Parish Council, and it is clearly a contentious issue locally. However, Members should note that planning permission has already been granted for the use and that this application is simply for a variation to one condition. All that can be considered in determining this application is the impacts above and beyond the approved use and hours of operation; the Council cannot seek to control the existing permission through this application.

Therefore, the main considerations in the determination of this application are the potential increase in vehicular movements, particularly early in the mornings, and whether the proposed increased in operational hours would have a significantly detrimental impact on the amenity of neighbouring residents. These factors should be considered against the potential benefits of the proposal to the local economy in continuing to support this local business and ensuring the future viability of this small scale business.

Whilst the site lies within the land zoned by policy B26 of the Local Plan, that policy really seeks to offer flexibility for novel development at Brogdale to support the National Fruit Collection (see policy wording above) over and above normal rural development policies such as E1, E6 and RC1. These were the policies relied on in approving the use in the first place, and I consider that these are the ones that should be focussed on now. I also consider that the proposed change of hours is in principle capable of meeting the objectives of policy RC1 of the Local Plan which looks to provide rural jobs provided the proposal is in scale with its locality with no detriment to landscape character, biodiversity or countryside conservation; and

providing it does not lead to a significant increase in traffic or unsustainable travel patterns. However, it is the issue of the impact on the amenities of the nearest dwellings (policy E1) that is at the heart of the issue now.

Neighbouring residents are particularly concerned about amenity issues in respect of vehicular movements at the entrance of the site before usual business hours. Whilst I do consider this location to be a residential area as some have suggested I do sympathise with this concern, and whilst the premises is reasonably small, detached from neighbours, and does not have a large workforce, I am concerned that a blanket extension of operating hours from 8am to 5am - and to 7am on Sundays when schools are not generally open - may be an unfair imposition far beyond the needs of the business. I am also concerned that no suggestions for mitigating the impact on amenity of the extended hours have been put forward by the applicant.

As things stand, and subject to comments from the Head of Service Delivery, I consider that a case for refusal of the application can be made for a simple extension of hours. However, I have arranged to meet with the applicant at the site to look at the possible implications of the early morning traffic and to explore what potential mitigation measures can be suggested to reduce or eliminate additional implications for the amenity of neighbours.

I anticipate that I will be looking at issues surrounding clarification on numbers of staff arriving and number of vehicles leaving and entering the site between 5am and 8am; the possibility of revised drawings showing alternative parking arrangement to the rear of the site; and whether additional conditions can be drafted to ensure that nuisance is minimised.

With regards to the potential highway implications, I am awaiting comments from Kent Highway Services and clarification from the agent about vehicular movements. I note from the objections received that many nearby residents are particularly concerned about vehicular movements and these concerns are exacerbated by the lack of information in this respect. Whilst these issues are not yet clear and I will update Members at the meeting, I am not expecting vehicular movements to be significantly greater than under the approved hours of operation. In addition, the site has good access and a good surrounding road network. As such, I do not consider it would be reasonable to recommend at this stage the application be refused on highway safety grounds.

Recommendation

As the application stands I am concerned that a blanket extension of operating hours will lead to a loss of amenity for neighbours due to uncontrolled early morning traffic movements, and from vehicle parking close to Brogdale Farmhouse. However, I am keen to understand the scope for mitigation that might enable the applicant to continue his current operation at the site. Subject therefore to information in relation to likely vehicular movements in the early morning, and to exploring the scope for conditions relating to parking and access arrangements, I am of the opinion that the variation to condition to extend the hours of operation might not have such a

significant detrimental impact on the amenity of the surrounding residential properties to warrant a refusal of this application.

I will report further at the meeting, but as things stand I recommend the same conditions as on the current permission with the potential to amend the operating hours of the food preparation use if adequate safeguards can be put in place.

Responsible Officer: Graham Thomas (Area Planning Officer)

List of Background Documents

1. Application papers and correspondence for SW/13/0409
2. Application papers and correspondence for SW/11/1560, SW/12/1409, SW/10/0036, SW/08/0271, SW/08/0194 and SW/07/0189.

- Location :** 1-2 Limes Place, Preston Street, Faversham, Kent, ME13 8PQ
- Proposal :** Change of use of part of 1-2 Limes Place from B1 (business) use to A5 (hot food takeaway) use; the extension of 1-2 Limes Place; and its use as 5 residential properties. (see also SW/13/0400 for conservation area consent)
- Applicant/Agent :** Cook Associates, 1-2 Limes Place, Preston Street, Faversham, Kent, ME13 8PQ
- Application Valid :** 4 April 2013 and as amended by drawings received on 3rd May 2013
- 8 Week Target :** 30 May 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 development hereby approved shall be carried out in accordance with the following approved drawings: 002, 003B, 004E and 005B

Grounds: For the avoidance of doubt.

Pre-Commencement Conditions

- (3) Prior to commencement of the commercial use hereby approved full details of the mechanical extraction duct system shown on the approved drawings shall be submitted to and approved by the Local Planning Authority, and upon approval the system shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Grounds: In the interests of residential amenity and the character and appearance of the conservation area in pursuance of policies E1 and E15 of the Swale Borough Local Plan 2008.

- (4) Prior to commencement of the commercial use hereby approved full details of the design, siting, discharge points and predicted acoustic performance of any air conditioning, ventilation or refrigeration equipment to be installed shall be submitted to and approved by the Local Planning Authority, and upon approval this equipment shall be installed, maintained and operated in a manner that 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.

- (5) Prior to commencement of the commercial use hereby approved a scheme for the provision of on-site refuse storage facilities shall be submitted to and approved by the Local Planning Authority. The facilities shall be provided in accordance with the approved details before the commercial use hereby permitted is commenced, and thereafter they shall be permanently retained. No refuse shall be stored outside the building otherwise than in accordance with the approved scheme.

Grounds: In order to protect residential amenity and preserve or enhance the character and appearance of the conservation area, and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (6) Prior to the commencement of development hereby approved, detailed drawings of all new external joinery work and fittings shall be submitted to and approved by the Local Planning Authority, together with sections through glazing bars, frames and mouldings. The details shall include: elevations at 1:20; vertical and horizontal sections showing the location of frames within the walls, and 1:1 or 1:2 scale sections through all individual components. The development shall be carried out in accordance with the approved details.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (7) Prior to the commencement of development hereby approved, details at a scale of 1:5 of the roof eaves and verge, dormer window construction and brick window arches shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (8) Notwithstanding the references to “Velux” rooflights on the approved drawings, prior to the commencement of development hereby approved, construction details of and proposed sizes of rooflights shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (9) Prior to the commencement of development hereby approved, a 1m square sample panel of brickwork shall be constructed on site and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples and the sample panel shall be retained on site until the brickwork has been completed.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (10) Prior to the commencement of development hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and works 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.

- (11) Prior to the commencement of development hereby approved, full details of the external staircase and cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

Post-commencement conditions

- (12) The commercial use hereby permitted shall not be open to the public, nor shall it generate deliveries to customers, except between the hours of 09:00 to 24:00 on any day.

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

- (13) All deliveries to the commercial use hereby permitted and all deliveries to customers from the premises, other than refuse collections, shall take place only through the front doors of the premises on to Preston Street. No deliveries to customers shall be made using vehicles that are parked to the rear of the premises.

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

- (14) No deliveries to the commercial premises hereby permitted shall take place outside the hours of 07:00 to 19:00 Monday to Friday, or before 07:00 or after 13.00 hours on any Saturday. No deliveries to the commercial premises shall be permitted 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.

- (15) 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.

- (16) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron.

Grounds: In order to preserve or enhance the character and appearance of the conservation area and in pursuance of policies E1, E15 and E19 of the Swale Borough Local Plan 2008.

- (17) The areas shown on the submitted plan as car parking space for the retail unit and for the new flats 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 commercial premises and flats 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.

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 have a detrimental impact on the special character and appearance of the conservation area or the residential amenity of nearby dwellings. In resolving to grant permission, particular regard has been had to the following policies: E1, E15, E19, B3, T3 and T4 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 opportunity was given to the applicant to address design concerns and amended drawings were received and presented to Planning Committee.

Description of Proposal

This application is for the conversion of the ground floor accommodation located at 1-2 Limes Place, Preston Street, Faversham to an A5 hot food takeaway, and for the extension of the premises and of a detached rear outbuilding to create a total of 5 flats. The application was also originally accompanied by an application for Conservation Area Consent, but on further examination it has become clear that this application (SW/13/0400) is not required because the proposals do not involve any demolition. This application is no longer under consideration.

To clarify the terms of the application, which has been assumed by some to be on behalf of Dominos Pizzas, the applicant has stated that *"we did not previously and are not now seeking consent for Dominos...neither the previous application nor this one has been submitted on their behalf..we have not received an offer from Dominos for our premises..however we do not exclude the sale to either Dominos or any other party who may make an offer to us"*.

The application is supported by a Design and Access Statement which states that the original shop front to no 1 will be retained, whilst no 2's existing entrance will be infilled and new glazing installed. The existing front dormer window will be restored and existing front rooflights will be replaced with a similar dormer to match those in the rest of the terrace.

A two storey rear extension is to be added to the main building to accommodate one flat and two duplexes, all being two bedrooms. Space to the rear of the building is

shown to accommodate the amenity area for the flats and the 5 parking spaces for the flats and 2 parking spaces for the commercial unit. Bin stores and residential bicycle parking areas are also shown. It is said that “*operational use can be from the Preston Street frontages*” And that “*access to the hot food take away will be from Preston Street.*”

An extract duct is to be located on the side wall of no 1, but towards the rear of the building. This will rise up in a narrow gap between the premises and the very tall former Co-op building now in use as a Chinese restaurant, where it will be generally out of sight and away from windows. Details of the technical specification of the system have been submitted.

A detached coach house, currently also in use as offices, is located to the rear of the site adjacent to Union Street and is to be converted into two 2 bedroom flats with a first floor extension and external timber staircase added.

The statement goes on to explain that the current owners Cook Associates, a firm of Chartered Architects and Civil and Structural Engineers, have been practicing in Faversham since 1978; from no 1 Limes Place since 1979; and from both premises since 2000. The practice expanded up to 34 staff but now operates with 10 staff and now are looking to relocate to more modern premises within Faversham.

No details are provided regarding opening hours or likely numbers of staff to be employed as there is no specific “end user” for the site.

The applicants see the location as easily accessible, and the use having no negative impact on the amenities of others as the scheme was designed to ensure no overlooking or overshadowing. Furthermore they suggest “*that the bulk of the sales from the takeaway should be delivered items and thus there will be little noise of nuisance from this. In any event there should be no more noise or nuisance than is generated by the adjoining or nearby takeaways restaurants or public houses.*”

Relevant Site History and Description

The site is located within Faversham town centre and within the Faversham conservation area. Preston Street is a busy thoroughfare in the centre of Faversham. It is open to traffic in both directions and the pedestrian area of the town leads off it. Parking restrictions apply to the road during the day but are relaxed in the evenings. This part of Preston Street has a mix of retail, office, restaurant, public house, and takeaway units, with residential properties especially at upper levels and towards the railway station end.

Union Street to the rear of the site is a narrow quiet residential street of small terraced properties which leads to Victoria Place and together they form a cul de sac. The road has residential parking along one side and is a popular short cut for pedestrians to the station.

A previous similar application on this site SW/12/1305 was refused permission under delegated powers in January 2013 purely due to the harmful architectural changes

proposed, including removal of the shopfront to no.2, and which were felt to harm the character and appearance of the conservation area. The reason form refusal stated;

“The proposal shows a lack of regard for the architectural and historic integrity of the application building without clear justification, and fails to preserve or enhance the character or appearance of the Faversham Conservation Area contrary to Policies E1, E15 and AAP1 of the Swale Borough Local Plan 2008, and the Council’s Supplementary Planning Guidance “The Design of Shopfronts, Signs and Advertisements”.

Members have since approved the change of use of the nearby amusement centre at 28/29 Preston Street to a hot food takeaway in February 2013 (SW/12/1579).

Previous planning history for the application site is split between the two properties, no1 Limes Place and no 2 Limes Place as follows:

1 Limes Place

SW/79/0584 APPROVED the change of use from shop to office in 1979

SW/90/0875 APPROVED first floor single storey rear extension for a new office 1990

2 Limes Place

SW/78/0646 APPROVED new shop front 1978

SW/78/0647 APPROVED shop sign 1978

SW/92/0823 APPROVED installation of Seeboard charging meter 1992

SW/97/0971 APPROVED change of use of rear ground and upper floor from storage and residential to offices/studio and use of rear gardens for hardstanding 1997

It is also worth noting that of the existing restaurants and takeaways in this part of Preston Street, all either have no restrictions on opening hours, or their opening hours are permitted until midnight; or indeed to 1am entrance for sit-in customers in the case of the large Chinese restaurant next door to the premises.

Views of Consultees

Faversham Town Council recommends refusal of the application stating 3 reasons:

1. The proposed change of use would result in an unacceptable increase in traffic in Preston Street
2. Rear servicing of the building would result in unacceptable loss of amenity to neighbouring residential properties
3. The proposed ventilation flue is inappropriate in scale and design to the conservation area

They further comment that *“If the Borough Council were minded to grant permission, the Town Council would ask that no deliveries or servicing are permitted at the rear of the building and that no night time deliveries are permitted in Preston Street to safeguard the amenity of residential neighbours”.*

The Head of Service Delivery considers that there is potential for nuisance from odour and noise from any ventilation/extraction system and therefore recommends a condition that approval should be gained for any proposed system from the Borough Council. In addition conditions restricting delivery hours and construction hours, and opening hours of the takeaway are recommended.

Other Representations

The Faversham Society notes that the existing shop front will be retained but objects to the roof lights in the front roof slope which would detract from the appearance of the roof. These are now omitted on the amended drawings. The Society sees parking for the residential properties to the rear to be acceptable but suggests that no parking or servicing for the takeaway use should happen from the rear as this is a residential area. However, they suggest that an additional takeaway in this vicinity is likely to contribute to traffic problems in Preston Street.

A total of 28 letters of objection have been received from local residents and existing business owners. Their comments are summarised below:

- Will ruin the historic aspect of Preston Street, Faversham is losing its historic characteristics. Faversham thrives on being unique, this is not what this historic town needs
- Would not preserve or enhance the Conservation Area
- If we want to encourage tourists to Faversham as an historic market town then additional fast food chain restaurant is likely to be detrimental
- Do not want Faversham to become a “chain town” that lacks individual character. “Chain businesses” take trade away from smaller local businesses
- This will result in taking money away from the local economy as the town already has fast food outlets run by local people where income generated stays in the local economy
- There are already 10 such establishments on Preston Street and there are enough fast food outlets already. Should be encouraging retail and diversifying beyond eating
- Faversham is a Fairtrade Town and a Transitional Town this application will undermine these initiatives
- We should not encourage yet another junk food outlet as obesity is a government public health priority
- This will jeopardise existing hot food outlets
- Faversham has already objected to last application by a vast margin. Other similar takeaway applications in immediate vicinity have been refused, so should this

- The increase in traffic will block a busy bus route. Already a lack of parking on Preston Street, and huge amounts of delivery vans, trucks and residential vehicles will become unbearable to residents

- Preston Street is now already a rowdy, noisy area particularly at night due to the takeaways
- All residential, delivery and business traffic would run through Union Street putting pedestrians at risk
- The traffic of the mopeds will be unbearable to Union Street residents. All headlights will shine into my house on Union Street
- Delivery and rubbish trucks currently cannot make it up Union Street as it is too narrow, more would cause more problems from the commercial and residential traffic.
- The increase in vehicles will lead to Union Street being blocked more often – one writer has sent a photograph of a lorry loading in Union Street to service the Chinese restaurant
- The rear access route is owned by the adjacent Chinese restaurant who will not give permission for its use
- Not enough parking spaces shown for employees
- Not enough parking spaces on Union Street for the new flats
- Likely to be an increase in odour levels and a smell nuisance to those at the back of the development
- Increase in noise and rubbish
- Will increase noise on the reasonably quiet Union Street
- Will increase the already significant loitering late at night
- Will lead to increase in litter leading to more vermin
- Impact on residents will be all day and late into the night
- Most noise will be late at night
- This would be better at the business edge or an out of town site
- The proposal for 5 flats is over development and creating slums
- These flats will not sell due to the problems of being so close to the takeaway
- This application deprives the town centre of viable office space with rear parking
- Area cannot cope with more apartments
- Will result in overlooking to residents in Union Street
- The occupiers of the new flats would have the noise of the delivery drivers and the smells from the food and the noise of the extractor fans to deal with
- The residential and take away uses are incompatible
- The advert has not been put up in the right place
- It is apparent that information is being withheld from the public regarding the true nature of the proposal as a reference to Dominos still remains in the documentation

Development Plan Policies

National Planning Policy Framework (NPPF)

The NPPF was released on 27 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 has now expired and 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 letter 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 Development Plan principally consists of the saved policies of The Swale Borough Local Plan 2008 including;

Policy AAP1 (Faversham Town Centre) which seeks to promote a strong and diverse local economy, by amongst other things, granting permission for proposals which widen the range of employment uses and services available for residents and tourists, provided that they conserve and enhance the architectural and historic fabric of the centre. This includes making use of upper floors for new housing.

Policy B3 (Maintaining and Enhancing the Vitality and Viability of the Town Centres) protects the “core” shopping area from non-retail uses, but as this application site falls within the “Secondary Shopping Area” the Council will permit non retail uses to create a wider mix of uses, provided they do not lead to a concentration of non-retail floorspace, result in the loss of residential accommodation or an important use, or lead to loss of residential amenity.

Policy E1 (General Development Criteria) addresses the general criteria against which all applications should be determined.

Policy E15 (Conservation Areas) requires proposals within the conservation area to be of a high standard of design and to preserve or enhance the character or appearance of the place, and to take into account the likely resulting ambience provided by the mix of land uses or traffic.

The Council’s SPGs on conservation areas, the conversion of building to flats, and for shopfronts are also relevant to this application.

The National Planning Policy Framework came into effect in March 2012 and defines sustainable development as having three dimensions an economic, a social and an environmental role. Paragraph 132 requires where there is potential harm to a designated heritage asset a clear and convincing case must be presented.

Discussion

I consider that the main issues in addressing this application relate to;

- the impact on the Town Centre and this secondary shopping area,
- the potential harm to local residential amenity rising from the change of use,
- parking and highway safety, and
- has the application overcome the reasons for refusal of the previous application?

No 1 and no 2 Limes Place are currently in use as architects' offices on all levels (this change was approved under planning permissions in 1979 and 1997) and the proposed change to a hot food takeaway does not reduce the availability of retail space within this secondary shopping area. As such the proposal is in line with the aspirations of Policy B3 and its resistance to the loss of retail space.

I therefore see no objection in principle to a non-retail use in this location. Policy AAP1 allows for new services and a wider range of employment uses to be added to the town centre for both residents and tourists, provided that the town's architectural and historic fabric is conserved. Furthermore the conversion of the upper floors of the premises to residential accommodation is also in line with policies B3 and AAP1 and is supportable in principle.

There has been a lot of objection to the potential use of the premises by a multinational chain enterprise, Dominos name being mentioned. However the application is not based on the unique trading pattern of Dominos Pizza, but is for a hot food takeaway of any kind, even one that might be family owned or independent. The identity of the user is not material to the merits of the application, nor is potential competition between businesses.

There have been no previous refusals of permission for such uses in this part of Preston Street other than a very recent one at this very site which was based purely on harm to the character or appearance of the conservation area, due to the rather crass alterations then proposed for the premises. These issues have been resolved with this application.

A significant issue however is the potential impact of the proposed change of use on the amenity of local residents, particularly in relation to noise nuisance. Nearly all letters of objection mention this point. I have taken expert advice from the Head of Service Delivery and he has not raised objection on these grounds

One of the main areas of concern is the likely use of the rear of the building for the delivery of takeaway food. Access to the rear of the site is between 10 and 8 Union

Street. Union Street with Victoria Place is a quiet narrow cul de sac with designated parking along one side. It is clear from many representations that neighbours have assumed that delivery drivers would exit the premises to the rear via Union Street out to Stone Street and out and around the town. As mopeds and motorbikes are the usual vehicle used for this type of food delivery the noise from these vehicles throughout the evening is considered by local residents to be harmful due to the close proximity of their properties and the likely intensity of the service.

This would also be the only access to vehicles attached to and visiting the 5 new dwellings and for staff to the take away business, and for refuse lorries. The current use of the premises sees all traffic using this route to the staff car parking area, but this can be expected to be during office hours.

The application statement, received on 17th April specifically indicates that all access to the take away will be from Preston Street. This conflicts with the drawings which show 2 parking spaces and service access to the rear of the building. The application is somewhat ambiguous and this has resulted in considerable local concern. In my view access for home delivery motorcycles or small cars up to 12 midnight seven days a week via Union Street would be harmful to the amenities of those residents. I consider that this would justify refusal of the application.

Whilst the application is otherwise unclear I consider that the statement should be noted and that the imposition of a planning condition preventing deliveries to and from the premises at the rear would overcome concern over residential amenity. If all deliveries were to and from the front this would in my view, notwithstanding the view of some residents, result in little change to the busy character of Preston Street.

Assuming that the majority of the deliveries to customers are in the evening, this is the time that on street parking restrictions are more relaxed and traffic levels are lighter. I consider that a condition preventing deliveries out from the rear of the premises will overcome the amenity issue and is a reasonable approach to the application.

I note that residents are concerned about the impact on Preston Street of customers visiting the shop, due to the lack of parking and the impact on the amenity of noise from customers awaiting their order. Furthermore the addition of "another" takeaway in this area of the town is considered by local residents to be harmful. Given the existing character of Preston Street I do not consider that it would be reasonable to object to the application on these grounds.

I note the weight of public opposition to this scheme and whilst some of the objections do not centre on wholly planning related issues it is clear the concern of local residents to this mainly late night, 7 day a week change of use and the likely harmful impact of the proposed change of use will have on them and the town as a whole.

No opening times have been submitted with the application but I note elsewhere along this part of Preston Street, that planning permissions have permitted opening until midnight (or are unrestricted) and a condition has been recommended to control

hours in a similar manner.

The lack of information regarding the proposed flue prevents a full and proper determination as to its acceptability but I see no reason why acceptable details could not be controlled via the use of planning conditions. The flue will be discreetly positioned and I see no reason to oppose the application on these grounds.

There has been relatively little comment concerning the provision of the 5 dwellings, however the proposed design is appropriate and due to the location of the site in the town centre the provision of additional dwellings in this location are acceptable in principle. I further consider that the detail of the application in relation to the dwellings to be acceptable.

Finally, Members should very carefully consider that the Council only refused the previous very similar application on architectural grounds in January 2013. To introduce a new reason for refusal now would be inconsistent and potentially unreasonable, opening the Council up to a claim for costs in the event of an appeal.

Following the submission of amended drawings which have addressed my initial concerns regarding design issues, it is my view there are no harmful effects on the historic buildings of the town or the character and appearance of the conservation area from this proposal, and I consider that the proposal fits well with the aims of the policy.

I therefore consider that the revised application has squarely addressed and overcome the Council's only previous ground for refusal and that a refusal of this application would be untenable.

Recommendation

This application has attracted considerable opposition on a number of fronts. Some of these objections relate to matters of competition and oversupply of eating establishments which boils down to whether or not there is demand, and a wish not to see multiple retailers dominate the town's economy. These matters should not influence Members' decision on this application.

Nevertheless, one of the main issues of concern however is the potential impact of deliveries on the amenities of residential properties in Union Street, and general amenity to the residents on Preston Street.

Residential amenity is an important issue, and I consider that planning conditions covering opening hours, construction hours, delivery hours to and from the premises, the precise specification of the extract system, and restricting deliveries to customers to be from the front of the premises only are necessary and will adequately safeguard amenity. I have recommended such conditions above. Deliveries from the front of the premises should not present highway safety issues, but should add to the vitality of the area, which the current use of the premises does little to enhance.

Apart from this issue, I find the amended scheme has sufficiently addressed the previous design and architectural concerns regarding the impact on the conservation area. I also consider that the scheme for proposed takeaway use and creation of flats to be very much in accordance with aspirations for diversification of the town centre, for the secondary shopping area, and for the provision of new homes in sustainable locations.

I must advise Members that having overcome the previous reason for refusal leaves the Council with very little option in dealing with this application, and that subject to the conditions above I strongly 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/12/1305
- 2 Application papers and correspondence for SW/12/1305, SW/12/1579, SW/79/0584, SW/90/0875, SW/78/0646, SW/78/0647, SW/92/0823 and SW/97/0971

- Location :** King George V Playing Fields, London Road,
Faversham, Kent, ME13 8TH
- Proposal :** Refurbishment of existing external macadam surfaced sports facility and install a 3G artificial surface to enable junior football, organised training and recreational play plus new goals, replacement rebound boards to ball-stop fencing and improved clean access
- Applicant/Agent :** Mr Gary Axford, C/O Mr Tom Betts, Surfacing Standards Ltd, 1A Perth House, Corbygate Business Park, Corby, Northamptonshire, NN17 5JG
- Application Valid :** 5 April 2013
- 8 Week Target :** 31 May 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 development hereby approved shall be carried out in accordance with the following drawings submitted with the application: SS1302/03 & SS1302/04.

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

During Construction Conditions

- (3) 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

- (4) No additional lighting to the area shall be installed unless a design and specification for the lighting has been submitted to and approved in writing by the Local Planning Authority.

Grounds: In the interests of the amenities of the area and the flat above the premises, 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, particular regard has been had to the following policies: E1, E15, E19, and C1 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 as submitted.

Description of Proposal

This is an application for planning permission for the replacement of the existing tarmac sports area with a 3G (artificial) football pitch and for replacement 'rebound' boards (to deflect footballs from the lower part of the fence) at King George V Playing Fields, London Road, Faversham. The northern section of mesh fencing alongside the railway line will be increased in height from 3m to 4m. A small section of existing path will be remodelled to improve disabled access.

The application is made by Faversham Strike Force FC, an organisation founded in 1999 and now one of the largest youth football clubs in Kent. It has a number of volunteer FA qualified coaches training the youth teams.

The proposal is accompanied by a Design & Access Statement, detailing the need for and use of the site, and a Heritage Impact Assessment.

Site Description & Relevant History

The site is in the King George V Playing Fields, adjacent to the London Road, within the Faversham conservation area. The site is owned by Swale Borough Council. Approximately forty metres away to the south is the grade II listed building 'The Mount', now converted into flats. To the north is the railway line.

The site of the existing pitch is towards the northwest corner of the playing fields close to the railway line. It is at present an area of tarmac, surrounded by 3m height wire mesh fencing with 1.2 m tall rebound boards. This part of the site is lower than the front part of the playing fields, so cannot really be seen clearly from London Road. The existing parking area is adjacent, along with a building used for refreshments/changing facilities. There are six existing floodlights serving the sports area.

In 1991, a Borough Council promoted scheme of lighting and refurbishment of the tennis court area was approved under reference SW/91/625. Importantly, this permission does not limit the hours of use of the floodlights.

There is no other relevant planning history.

Views of Consultees

Faversham Town Council raises no objection to the proposal.

The Head of Service Delivery raises no objection, subject to Condition 9 above.

I consulted Kent Highways Services in the light of local concerns over parking issues. They have raised no objection to the application, saying that:

"I can't see what the parking issues might be from the submitted plans on UK Planning, as the games area is existing, and merely appears to be resurfaced. The description of the proposals do refer to improved access, but I've been unable to find any other details about this, and the red line just encloses the existing hard surface play area.."

"The one objection on UK Planning raises an issue about who is entitled to use the car park, but this doesn't appear to be anything specific to this application, and is more an issue of management. I assume the car park is owned by Swale Borough Council, so whoever is responsible for it may want to comment on that objection, but can't see how it's relevant anyway."

I await the comments of the Head of Service Delivery, and will report these at the meeting.

Other Representations

One letter and one petition (signed by ten people) have been received from local residents. The comments contained therein may be summarised as follows:

- There are only sixteen parking spaces for the facilities; improving the facilities will increase demand and make the parking issues worse
- Noise and 'colourful' language from the users
- Floodlights will be on all evening in winter
- Attracts groups of youths, graffiti, litter, used syringes, etc.
- The Abbey School has recently installed excellent facilities, and they are 500 yards away with good access and parking arrangements
- Raising the height of the fence will mean cutting back established trees (*nb. The application does not involve raising the fenceline*)
- This is a public park, and Strike Force will not permit the public to use it at no cost
- It would be nice if its use was restricted to end at 20:00hours every evening.

Relevant Planning Policies

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

- E1 – General Development Criteria
- E15 – Conservation Areas
- E19 – Design Criteria
- RC2 – Rural Services & Facilities
- C1 – Community Services & Facilities

National Planning Policy Framework (NPPF) – Paragraphs 70, 73 & 74

Discussion

In my view the relevant planning considerations for this proposal constitute the balance between residential amenity and the improvement community sports facilities.

Firstly, it must be remembered that the site is already in sports use, and already has floodlights which were approved in 1991. The proposal is fully in accordance with policy C1 of the Swale Borough Local Plan 2008, which refers to the provision of community facilities. This proposal will improve the facilities already used by a number of young people, providing leisure and sporting activities.

Paragraphs 70 and 73 of the NPPF also support the proposal, as the proposal delivers social & recreational facilities and new opportunities for sport & recreation.

In replacing grey tarmac with green artificial turf, and replacing the old and damaged rebound boards with new boards, it can be argued that the proposal would have a positive effect on the character and appearance of the conservation area, in accordance with Policy E15.

I note the comments raised by the objectors, and would respond as follows:

- The use of the site will not change, just the facilities offered
- The floodlights are existing and have been in situ for over twenty years; no new floodlights are proposed, and I have thought it prudent to include Condition 4 above to control any lighting which might be proposed in the future
- The proximity of similar facilities at Abbey School should not preclude them on this site
- The improvement of the facilities will have no adverse effect on anti-social behaviour in the area
- The site has no restrictions at present, and a decision to impose conditions on times of use for such a minor change cannot be defended
- Kent Highway Services advises that there are no parking implications raised by this proposal, for the same reasons as above, and I am happy to take their expert advice.

Recommendation

In my view, and subject to the conditions above, this improvement can be achieved without harm to the character and appearance of the conservation area, or to residential amenity. The proposal therefore accords with local and national planning policy.

Taking the above into account I recommend planning permission is granted.

Responsible Officer: Graham Thomas (Area Planning Officer)

List of Background papers

1. Application papers and correspondence relating to SW/13/0224.
2. Application papers and correspondence relating to SW/91/625.

- Location :** Building adj to Former Whitbread Training Centre,
Abbey Street, Faversham, Kent, ME13 7BH
- Proposal :** Change of use of ground floor from offices to two
apartments.
- Applicant/Agent :** Abbey Iconic Limited, C/O Ms Anna Bloomfield,
Bloomfields, 66 College Road, Maidstone, Kent, ME15
6SJ
- Application Valid :** 22 January 2013
- 8 Week Target :** 19 March 2013

SUBJECT TO: Clarification from the applicant regarding the scope for affordable housing provision.

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 hereby permitted shall be carried out in accordance with drawings numbered 21258A/01 Revision A, 21258A/02 Revision A, 21258A/03 Revision A and 21258A/04 Revision A.

Grounds: For the avoidance of doubt

- (3) The areas shown as two car parking spaces and notated "Bay4" and "Bay 5" on drawing 21258A/01 Revision A to serve the proposed flats 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 not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

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.

- (4) No construction work in connection with the conversion of the ground floor into flats 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.

Reasons for Approval

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, whilst the proposal would result in the loss of modern purpose built retail or office space this loss is being approved in accordance with the terms of the development plan, and it would enable all parts of this building to be put to an acceptable use, without causing unacceptable harm to the amenities of the area or harm to the special character or appearance of the conservation area. In resolving to grant permission, particular regard has been given to the following policies: SP3, FAV1, E1, E15, E19, B1, AAP1 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 Council has made detailed enquiries into the potential for commercial use of the premises, has considered the degree of likely market demand for the premises in commercial use, and had regard to the Government's desire to see best use made of empty space for new housing. Having done so, it has decided that the benefits of the scheme in terms of providing good quality well located new housing outweigh the harm to the employment led strategy for Faversham.

Description of Proposals

Planning permission is sought for the conversion of the ground floor area of this newly built three storey building from its approved use as shop, offices, or business use to create two 2 bedroom flats. The flats would join the 3 flats on the first and second floors of the building rendering it entirely in residential use as 5 flats. No external changes to the building are required.

No external amenity areas are available for the flats as the building was designed as offices. However, other flats in the same complex (arising from the conversion of the former training centre itself) have either little or no external amenity areas in this town centre location. The existing office courtyard car parking provision of one space per office can now be used to provide one space per proposed flat.

The application as submitted is supported by a Planning Statement, a Design and Access Statement, and by a Marketing Report. I will focus here primarily in the comments in the marketing report because this report covers other issues elsewhere. From the various reports I have drawn the following points;

- It has been an expensive exercise to build the property and have it un-let for so long.
- From the outset the applicants would have been delighted to have been able to let the property to active commercial tenants, and it has been constructed to provide flexible custom designed floor spaces.
- The Government is currently introducing proposals to relax the rules on making use of vacant offices for housing.
- The applicants have always been sceptical about the prospects for further employment use of this site, even at the time of the draft Local Plan.
- Faversham has a lesser business profile than Canterbury or Sittingbourne, and attracts lower rents. Demand is very much from small local users. Marketing periods are longer than for neighbouring towns, and flexibility is required.

This overall new building has been extensively marketed as a whole or by individual floor and in a flexible fashion since February 2009. The ground floor has continued to be marketed since the granting of permission for the residential use of the upper floors. Throughout this time there has been a marked lack of occupier interest in the commercial space with only 6 enquiries between 2009 and 2011, but none pursued their initial enquiry principally because of the location of the building and the lack of car parking within the immediate vicinity.

There has been no improvement in office occupier demand since 2011, and in fact office demand in east Kent has slowed further due to economic uncertainty, leaving an oversupply of office space and a drop in rental levels. Although Faversham has seen some inwards investment for niche retail use it remains restricted as a business location apart from home grown businesses who themselves have suffered in the wake of the recession.

- The proposals will have no adverse impact on the conservation area.
- There will be no adverse impact on residential amenity as existing obscure glazed windows will remain.
- The proposed flats will more than meet the Council's own floor space standards. Off-street parking is provided.
- Provision of housing in sustainable urban areas is encouraged by Government advice and local policy. It is more in keeping with the surroundings of this site.

The applicant has been keen to point out the Government's intention to introduce regulations permitting the residential use of office premises, and has suggested that this should have a material bearing on determination of the application, if only as a general guide to current thinking on such matters.

As a way of exploring the applicant's flexibility with the property I did suggest that he might be agreeable to retaining the proposed flats on a private rental basis as opposed to in owner occupier tenure. I considered this might be a way of addressing an aspect of housing need that is not necessarily well provided for, and add to the attractions of approving the application. The applicant's response has been that the ground floor accommodation is too small for a Registered Social Landlord to take on – this of course is not what I had suggested – and that;

“renting these two properties privately, as suggested, would not make economic sense. Gillcrest are primarily residential developers and we have no wish to enter the private rented housing market with all the associated complications.”

Relevant Site History and Description

This site lies in an extremely prominent position at the entrance to Abbey Street, and within the Faversham conservation area, next to the grade II listed Phoenix public house. The site now has a long and intricate planning history, which is worth understanding fully.

Originally, the site formed part of the long established Whitbread brewery complex, and latterly functioned as its training centre. Planning permission was granted on appeal in October 2006 for a mixed use development of the overall site comprising 11 flats in the original training centre building and for the erection of this wholly new three-storey traditionally designed 414sq m commercial building on the open part of the site fronting Abbey Street. The appeal was against non-determination of a 2005 full planning application (SW/05/0377) for a mixed new build office and residential conversion scheme.

At that time this development was not in accordance with site specific policy B21 of the then Swale Borough Local Plan First Review Re-Deposit Draft 2005. That Plan was the draft version of what became the adopted Swale Borough Local Plan 2008. This draft site specific policy B21, which at the time was subject to an objection to the Local Plan Inquiry, was that the entire site should be used only for small scale business and/or workshop uses. In other words the draft plan saw only commercial or employment in the original training centre building, with potential for additional new build employment only floor space being created on the site.

The site owners (the same owners then and now) considered this draft Local Plan policy too prescriptive, and argued that the market for commercial premises in Faversham would not support such a wholly commercial use of the site. The Planning Inspector who dealt with the appeal against non-determination of the planning application (SW/05/0377) agreed. His hope was that the residential part of the scheme would allow the conversion and restoration of the original training centre building to flats, and effectively cross-subsidise the construction of the new build high quality purpose built commercial accommodation.

This site was at that time the smallest wholly employment site allocated in the draft Local Plan, and the Inspector did not feel that its partial loss (or the additional 11 flats) would strike at the heart of the Plan's objectives. On the contrary he saw the

modern commercial floor space as potentially far more attractive to the commercial market than the original building on the site. He approved A1 (retail), A2 (professional and financial services) and B1 (business) uses of the commercial building. It must be said that the owners did not express any confidence in the success of the new commercial accommodation at that time.

The Local Plan Inspector (reporting after the appeal decision had been made) agreed that the evidence was that wholly commercial use of the site was not realistic and deleted draft policy B21, leaving the site without any specific policy. The site therefore has had no specific policy in the adopted version of the Local Plan. Other draft Local Plan aims for Faversham, including the employment led strategy for the town remain much as they were then.

The residential conversion part of the appeal permission was completed quickly and is now fully occupied. Externally, works on the new commercial building have also been largely completed for some time albeit there remain some snagging issues.

In February 2011 the current applicants submitted a planning application (SW/11/0187) for conversion of the entirety of the new build commercial building to 5 flats over all three floors. This application attracted a mixed reaction from local residents but a strong objection from the Town Council as they considered that there was a serious lack of office accommodation in the town, and that this building should be kept for commercial use. They asked that the applicants market the property for longer. That application was subsequently withdrawn in April 2011.

However, in June 2011 the applicants submitted a compromise application for the retention of the commercial uses of the ground floor of the new building and the conversion of the upper two floors to three flats. Despite Town Council opposition this development was approved by Members and planning permission (SW/11/0715) was granted in July 2011.

These three flats now occupy the first and second floors of the new building, but the ground floor of the property remains empty. This means that from the original brewery training centre site all but the vacant ground floor of the new building is now occupied as 14 flats. The ground floor shop/office accommodation in the new building remains unfinished internally and undecorated. This ground floor space has been marketed for some years by Cluttons and latterly by Smiths Gore (see comments above) as well as by local agents Invicta Estates of Stone Street, Faversham, but the space has never been occupied.

Views of Consultees

Faversham Town Council recommends refusal of the current application because the change of use would be contrary to policies B2, B16 and B21 of the Swale Borough Local Plan; and because insufficient parking provision will exacerbate on-street parking problems in the area.

NOTE: Policy B2 is now B1 (see below), policy B16 (now B14) – New Employment Sites - no longer includes this site, and site specific policy B21 has been deleted by the Local Plan Inspector as noted above.

The Council's Economic Development Officer has queried the applicant's marketing strategy and there have been very detailed discussions with the applicant's estate agents over how the property has been priced, described and marketed, and the amount of potential interest from potential users. As a result of this analysis and discussions the Officer has provided me with the following comments;

- I have concerns about the marketing particulars in terms of missing information (such as floor space figures) and inaccuracies in some particulars; lack of a marketing board displayed at the premises; a high asking price; and lack of truly comparable evidence of other available property.
- Lack of parking is not uncommon in such a town centre location.
- I feel uncertain that every opportunity to market this property has been optimised, and the agents might have done more to allay doubts regarding the marketing process.
- It is difficult to comment on the value to the community of this as employment space, as this is not a large office space that will offer significant employment numbers. However, it is the only new office space in Faversham town centre and would be ideally suitable for any small or medium size business looking for a new office in the area with excellent transport links.

The Head of Service Delivery recommends a condition to control the hours of construction work.

The Head of Housing considers that as the total number of residential units across the entire site will now exceed 14, the development triggers a need for an element of affordable housing provision. Given the advanced state of the site she has suggested that instead of on site provision a financial contribution equivalent to 30% of units across the site could be sought.

Other Representations

The Faversham Society recommends refusal of the application because the loss of office space would result in the potential loss of employment within an area close to the town centre.

I have received one letter from a local resident suggesting that no advertisement of the application was posted locally (this was in fact done) and objecting to the application for the following summarised reasons;

- There has been no obvious intention to market or sell the space for commercial use, and it appears that the building was never intended for commercial occupation. The ground floor has in fact been mainly occupied by a stash of building materials.
- Conversely the approved flats have been well advertised, and this advertising has remained even after this application has been submitted.
- The old argument about lack of office demand in Faversham did not prevent Mall House being used for offices.

I have very recently received a further comment on the application from a local businessman who had been hoping to purchase one of the ground floor office spaces (half the ground floor) for his office based business. He has noted that Faversham has “precious little” quality office space and that this development has already had the original permission altered to allow more residential property, of which Faversham has plenty. He suggests that the original asking price was unreasonably high, and that since being reduced earlier this year he has been trying to negotiate an agreement to buy, but that he now understands that this planning application has led to the owner being reluctant to negotiate with him. Having spoken to the writer I understand that no terms had been agreed as he thought the price too high.

Development Plan Policies

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 has expired by and as such, it has been 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 Development Plan comprises the saved policies of the Swale Borough Local Plan 2008 (LP). I will refer only to saved policies of the Local Plan.

Strategic policy SP3 (Economy) of the Local Plan seeks to satisfy economic need and to bring about a step change in the economic performance of the Borough by diversifying its economic base and offering secure and good quality employment. To do this the policy proposes supporting local companies, providing opportunities for new innovative industries, and improving the skills of the local workforce. It also seeks to safeguard the supply of land and buildings for employment use, supporting tourism and culture.

LP Policy E1 (Development Control Criteria) identifies general criteria against which development proposals should be assessed. Development therefore should:

- accord with the policies and proposals of the Plan unless material considerations indicate otherwise;
- respond positively by reflecting the positive characteristics and features of the site and locality;
- accord with adopted Supplementary Planning Documents;
- protect and enhance the natural and built environments;
- be both well sited and of a scale, design and appearance, that is appropriate to the location with a high standard of landscaping;
- cause no demonstrable harm to residential amenity and other sensitive uses or areas;

- provide safe vehicular access, convenient routes and facilities for pedestrians and cyclists and, where appropriate, enhanced public transport facilities and services;
- provide parking and servicing facilities in accordance with the County Council's standards.

LP Policy 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. The Borough Council expects development proposals to: respond positively to the area's appraisal; retain the layout, form of streets, spaces, means of enclosure and buildings, and take account of the likely ambience provided by a mix of land uses.

LP policy B1 (Supporting and Retaining Existing Employment Land and Business) states that

"1. Land and buildings currently in employment use will be retained for such use unless it is;

- a) inappropriately located for any employment use, and having an unacceptable environmental impact in an area; or*
- b) demonstrated by expert advice that the site is no longer suitable for any employment use; or*
- c) demonstrated by market testing that there is insufficient demand to justify its retention for any employment use; or*
- d) allocated in the Plan for other purposes.*

In cases involving a change of use or redevelopment for residential purposes, the Council will additionally require proposals to: (a) demonstrate, by reference to 1a) to d) above, that a mixed use approach to the site, involving a viable level of replacement or alternative employment provision, is not appropriate: and (b) there is no conflict with policy SH1"

I do not consider the site to be inappropriately located (a), nor is it allocated for other purposes in the local plan (d). However, it is the applicant's view under policy B1(a) that the site is inappropriately sited for employment use, by virtue of the fact that it is not in a visible or town centre location, near to amenities, public transport and parking facilities. It should be noted that this part of Abbey Street is defined by its mixed uses. It is not a purely residential street. As such, it does in my view continue to offer a suitable location for B1 (business) uses and other employment generating activities.

This leaves the issue of (b) unsuitability or (c) market testing. Under the terms of LP policy B1(c) it is the applicant's view that market testing has demonstrated that there is insufficient demand to justify the retention of this building for any employment use. LP policy H2 (Providing for New Housing) governs the provision of housing, which it says shall be as allocated on the proposals map, or within the defined built-up areas as shown on the proposals map (which this site is), in accordance with the other policies of the Plan.

LP policy H3 (Providing for Affordable Housing) states that on all housing sites acceptable under policy H2 that comprise 15 dwellings or more, the Council will seek

a proportion of the new dwellings to be made available to those who are unable to enter the open housing market. Normally this would be 30% of the total, and on this development site the proposal would result in a total 16 resident units (up from 14 at present). This was the logic behind my enquiry about private rental tenure (see above), and the piecemeal development of this site for residential use is now in danger of failing to meet the aims of this policy.

For Faversham, LP strategic policy FAV1 (The Faversham and Rest of Swale Planning Area) is the overriding strategy for the town. This seeks to achieve a better balance between population and employment opportunities alongside a reduction in commuting to other areas; and to retain and improve existing employment land and buildings.

This site lies within LP policy area AAP1 (Faversham Town Centre), albeit at its very edge, where the Council is seeking to promote a strong and diverse local economy, and directly opposite land included within AAP2 (Faversham Creekside), which seeks to ensure an employment-led regeneration of the Creekside. Locationally, it has been hoped that this site could have a pivotal role to play in terms of provision/retention of commercial activities at the junction of town centre and creekside, being visible, central and close to amenities. However, residential use of upper floors is provided for by policy AAP1, and the rigorous application of policy B1 which applies to the creekside (AAP2) (para 5.16 of the Plan) does not apply in the AAP1 area. Rather, a mix of uses is envisaged including some employment.

The NPPF itself (at paragraph 51) suggests that Local Planning Authorities should “identify and bring back in to residential use empty housing and buildings in line with local housing and empty homes strategies” and they should “normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B class uses) 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.” This statement may not fall squarely on the circumstances of this case, but Members have recently made it clear that they accept that the need for housing in Faversham is strong, and this in itself may be more significant than the need to safeguard this limited amount of employment floor space.

In a related manner, and whilst not strictly a policy matter, Members are aware that the Government is introducing new Permitted Development rights (this came into force on 30 May 2013) for the change of use of existing office space to residential use. This does not, to my mind, apply directly to this building both because the planning permission expressly prohibits such a change, but also because the office use here has never actually begun. Nevertheless, the Government’s agenda is clear; that it is seeking the use of empty office space for housing as swiftly as possible. I believe that this message needs to be borne in mind in considering his application, and that it might be seen as inappropriate to continue to resist residential use here when it could be begun in any number of other empty (or active) office premises elsewhere in the town.

Discussion

Taking all of the above points into account I consider that the proposal will have a neutral impact on the character of the conservation area, and that purely residential use of the building need not have any adverse impact on the amenities of any adjacent property, including established housing and the new flats in the former training centre. One car parking space is provided per flat. This parking provision is in line with current guidance for such a location.

As such, I consider that the main issue for determination with this application is whether the loss of the new commercial floor space permitted on appeal is acceptable. I do not consider that the provision of 2 flats on the ground floor of this building can, in itself, be said to be contrary to the LP strategy for Faversham, or contrary to the aims of LP policy AAP1.

Therefore, the matter turns more on harm to the strategy of the LP, especially the employment led strategy for Faversham, and particularly on loss of employment land. The applicant makes the point that this building is not and never has been in employment use. However, that is its approved use and I disregard this argument. The proposed change is to my mind a clear loss of good quality employment floor space in an accessible and mixed use location, where the approved use would not be to the detriment of the amenities of the area, but would serve to further the greater good of the town and Borough economies.

Policy B1 seeks to safeguard employment land and sets out tests to prevent its loss when it can continue to serve its current or intended purpose. The policy envisages loss of unsuitable or inappropriately located employment land, or that not needed for employment use. I do not consider that this premises is any of those things. However, despite concerns over the marketing strategy of the applicant I am satisfied that it has been marketed over a prolonged period, and that there is ample evidence that the office market in Faversham is not strong. There is alternative office space with good accessibility and car parking provision available on the former Eurocentre site at Jubilee Way, much of which remains vacant, and where the Council has recently agreed to a degree of residential alternative use. This site cannot compete with that site other than in terms of pedestrian access to the town centre and creekside.

Having taken all matters into account, including the recent information about interest from a possible occupier, I have come to the conclusion that the test at policy B1(c) is met. In the recent enquiry a deal had not been agreed, and if all the evidence in favour of retaining this space for office use is that one person is interested in half the space, I regret that I do not consider that this is going to persuade a Planning Inspector that the space is in high demand.

Accordingly, whilst I very much regret the failure of policy to secure only commercial use of this site, and the failure to see this very attractive building go to any commercial use, I do not find adequate evidence to suggest that refusal of this application will lead to its commercial use. Rather, it may simply mean that the remaining space stays empty still longer, to the detriment of the area.

The Council's original intentions for this site were unsuccessful both at the Local Plan Inquiry and at the planning appeal. The approved scheme has been built and marketed. At no time has the applicant expressed confidence that the commercial element would be successful here, but they have put forward and built a mixed use scheme to support the Council's strategy. They had pre-sold the building to a serious commercial developer, but these investors pulled out incurring substantial costs in doing so, after failing to see the market as likely to support commercial use of the building.

This leaves the question of whether the quantum of development now reached should trigger a need for an element of affordable housing provision. From the overall total of 16 residential units now reached across the original development site, I would normally have wished to see 30% (5 units) provided as affordable housing. This clearly cannot now be achieved, with only 2 units remaining to be completed.

I do not see any real potential to secure these flats as truly affordable housing at below market rates as this would require significant management for such a small number of units but I am disappointed that the applicant has not been flexible enough to agree that they can be retained as rental properties, which would in itself meet an area of particular housing need.

I understand that the applicant considers that the high costs of redeveloping this site (including funding extensive archaeological excavations), and the costs of providing such a high specification for the new building mean that it is not now, and would not originally have been, viable to include any affordable housing here. However, I have asked him to clarify his position before the meeting and will update Members there.

Recommendation

I do not believe that the Council can rely on evidence to show that the proposal is at odds with saved policy B1, or that refusal of this application will serve any useful purpose. Accordingly, and subject to the applicant's response on affordable housing I very reluctantly recommend that planning permission is granted.

Responsible Officer: Graham Thomas (Area Planning Officer)

List of Background Documents

- 1 Application papers and correspondence for application SW/05/0377
- 2 Appeal decision dated 18 October 2006 ref APP/V2255/A/05/1195378
- 3 Application papers and correspondence for application SW/11/0187
- 4 Application papers and correspondence for application SW/11/0715
- 5 Application papers and correspondence for application SW/13/0074

- Location :** Crundalls Wharf, North Street, Queenborough, Sheerness, Kent, ME11 5EL
- Proposal :** Siting of a container with portacabin above with associated staircase to provide a temporary harbour look out facility.
- Applicant/Agent :** Mr Patrick Moore, C/O Mr Patrick Moore, On behalf of Queenborough Harbour Trust, 113 High Street, Queenborough, Sheerness, Kent, ME11 5AQ
- Application Valid :** 2 May 2013
- 8 Week Target :** 27 June 2013

Subject to: The comments of Queenborough Town Council, the Environment Agency and, local residents (closing date 3rd June 2013)

Conditions / Grounds

- (1) The building hereby permitted shall be removed and the site restored to its previous condition on or before 6th June 2016.

Grounds: In order that the position may be reviewed at the end of the period stated 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 condition, 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, E13, E19, B5 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 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.

Description of Proposal

This application seeks retrospective temporary planning permission for the siting of a container with portacabin above for a maximum period of three years. The container/portacabin structure is located on Crundles Wharf overlooking Queenborough harbour. The container is used to store harbour tackle. An external steel staircase is attached to the structure and leads up to the portacabin which is used as a lookout and serves as an office for the Harbour Trust who took over responsibility for the operations of the harbour from Swale Council on 1st April 2012. The container and portacabin are painted grey with the exception of a yellow door to the portacabin. The structure has been in place since 29th December 2012. The Trust have the permission of Aesica Queenborough Ltd to use their land.

The applicant has provided the following information about the structure:

“The harbour has suffered from a legacy of appearing not to be customer focused. The VHF signal (radio) for picking up and responding to visitor queries could not be received at the old office. Harbour staff never knew who was approaching the harbour and who needed advice/ assistance on picking up moorings.

The operation of the temporary harbour lookout has already dramatically improved the perception of the harbour as providing a more friendly and customer focused operation which is starting to reverse the legacy that Queenborough Harbour was an unwelcoming place for visitors to moor.

We are running a trot boat 08.00 to 10.00 and 16.00 to 22.00 Friday, Saturday, Sunday and Monday. Those wishing to use it visit the THL and/or call up on their VHF radio - having a harbour lookout facility enables this and it would be much more difficult to do this without it.

The custom to local businesses in Queenborough from Visitors is significantly increased by having harbour facilities that are welcoming.

A harbour lookout is an essential first step to reverse the under investment and decline of the harbour. It was stated as an essential facility in the trust's bid to take over the harbour operations.”

Relevant Site History and Description

There is no planning history for this particular site.

The site lies within flood zone 3 and is immediately adjacent to the jetty leading to an All Tide Landing. The site is within Medway Estuary & Marshes Site of Special Scientific Interest (SSSI) and is covered by policy E13 - Coastal Zone and Undeveloped Coast.

The site lies 90m to the northwest of Queenborough Conservation Area. Aesica Queenborough Ltd, a pharmaceuticals manufacturer, lies to the east of the

application site on the opposite side of the sea wall. The wider area is therefore made up of a mix of industrial, maritime and historic features.

The area within which the structure is sited consists of a concrete surface and can be accessed with a car. It is relatively sheltered and contained by the sea wall. It was evident from my site visit that people tend to use this area to park their cars and walk along the public footpath (which is adjacent to this site) running along the sea wall or to sit and view the harbour.

Views of Consultees

Natural England have no objections to the proposal noting that the scale and nature of the proposal would limit any impact on the SSSI.

The Head of Service Delivery has no objections.

I am waiting for comments from Queenborough Town Council and The Environment Agency (closing date 30th May) and will report their comments at the meeting.

Other Representations

Two letters of objection have been received. They consider that the structure is an eyesore and takes up parking spaces. It blocks sea views and could be sited behind the sea wall. Access to the harbour for fishing is restricted and a shadow is cast over the surrounding area towards the end of the day. The location of the structure would interfere with the 'Blessing of the Water' ceremony. The structure detracts from the beauty and history of Queenborough and makes it a less desirable place to visit.

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 has expired. 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

Policies E1 (general development criteria); E13 (coastal zone and undeveloped coast); E19 (achieving high quality design and distinctiveness); B5 (existing and new tourist attraction and facilities) and; T3 (vehicle parking for new development) are relevant in the consideration of the application .

Discussion

I consider the key issues to be the principle of the development, the impact on visual amenities and any highway safety implications.

Principle

The structure would be sited on land within the coastal zone where development is restricted to areas within the built-up area boundary. As this site lies within the built-up area boundary, I consider that the development would comply with this policy.

I am awaiting comment from the Environment Agency in respect of flooding but subject to no objection from them, I consider that the proposal would be acceptable in principle.

I am aware that the need for this structure has been questioned by local residents. It has been suggested that alternative accommodation is available for the Trust to carry out its administration. However, need is not a material planning consideration in this case. There is no justification in policy terms to consider its necessity. For members information however, I have provided details above.

Impact on visual amenities

This structure is an incongruous feature within the landscape in my view. Although it is set against an industrial backdrop, when viewed from the water (a view that will greet people mooring up in the harbour), the structure appears awkward, alien and tatty. It is a high structure that stands out from some distance away. This is not helped by the yellow colour of the door to the portacabin. The structure would be seen within the context of the conservation area to the south and would deteriorate the setting of the conservation area to a certain extent in my view.

However, I must give substantial weight to the temporary nature of this structure. The applicant states that they will eventually be acquiring a toilet block from the Council and will apply for a second storey to be added to this in due course. The applicant considers that this project would take three years to complete. The key question here is therefore: is the visual impact of this structure so detrimental to the character and appearance of the area that it would be unacceptable for even a temporary period of three years. The answer to this question must give some consideration to the benefits to the local economy and tourism as a consequence of the improved customer experience that the applicant asserts that the lookout tower provides. I consider that although the structure is detrimental to the visual amenities of the surrounding area, this location is not so sensitive that the harmful visual impact I have identified would have a lasting damaging effect. This is on the strict understanding that the presence of this structure for a period in excess of three

years would be totally unacceptable. I would not therefore expect this Council to receive another application for temporary consent in three years' time and would strongly encourage the applicant to do everything possible to ensure that alternative accommodation is found before the three years expires.

Highway implications

The container/portacabin structure is sited on private land. I am aware that members of the public access this land to park their cars. However, when I visited the site, the presence of the structure did not seem to interfere with the public using the adjoining public footpath or with the parking provision to the extent that there would be overspill onto the public highway and cause a highway safety issue.

Summary and Recommendation

Having considered the comments of consultees and the relevant planning policies, I am of the view that the development would be acceptable in principle. I also consider that there would be no adverse highway impact. Whilst I have significant concerns in respect of the visual impact of this structure, I am of the view that this harm would not be so significant that it should prevent the structure from remaining in situ on a temporary basis only. I have also given some weight to the positive aspects of this proposal i.e. the tourism and economic benefits as put forward by the applicant. However, I conclude that if the three year period were to be exceeded, this would have a very damaging effect on the visual amenities of the surrounding area and would therefore strongly encourage the applicant to ensure that the Trust has alternative accommodation available before the expiry of the three years period.

I recommend, subject to the comments of Queenborough Town Council, the Environment Agency and the receipt of any additional representations (closing date 3rd June) that temporary planning permission is granted.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background Documents

1. Application papers and correspondence for SW/13/0251

- Location :** 38 Ethelbert Road, Faversham, Kent, ME13 8SQ
- Proposal :** Loft conversion and two storey rear extension to residential bungalow.
- Applicant/Agent :** Mr Mark Ward, C/O Mr Patrick Jordan, Wyndham Jordan Architects, 7 Bramley Avenue, Faversham, Kent, ME13 8NL,
- Application Valid :** 22 February 2013 and as amended by drawings ER1305.00B; ER1305.04B; ER1305.05B ER1305.06B and ER1305.07B received 16th May 2013
- 8 Week Target :** 19 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 roof hereby permitted shall match the roof on the existing building in terms of type, colour and texture.

Grounds: In the interests of residential amenity and in pursuance of policies E1, E19 & E24 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 neighbouring amenity. In resolving to grant permission, particular regard has been had to the following policies: E1, E19, and E24 of the Swale Borough Local Plan 2008 and the Borough Council's SPG Designing an Extension - A Guide for Householders.

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 Council suggested an approved design approach as recommended by the Town Council, amended drawings were received. Further amendments were then suggested and again, amended drawings were received. The application was determined on the basis of these.

Description of Proposals

The proposal is for a loft conversion and two storey rear extension to a detached bungalow. As existing, the main part of the dwelling measures 8.4 in width narrowing to 4.95m wide at the rear. The bungalow measures 12.9m in length.

The addition of a rear two storey extension would increase the overall length of the property by almost 3m. The resulting dwelling would be 15.8m in length and 8.4m wide all the way to the rear. The roof was originally shown to be largely flat, but amended drawings now show that the existing multiple roofs would be altered to a simple traditionally designed fully pitched roof with a central ridge line running lengthwise down the plot.

The loft conversion would incorporate a master bedroom with en suite bathroom and a study and store. At the rear of the property a large set of full height sliding windows under a flat canopy create a Juliet balcony serving the new bedroom. However, this does not allow view to the sides which might create privacy problems

The first set of amended drawings removed the large area of flat roof with its horizontal rooflight, and replaced it with a pitched roof featuring two side facing rooflights serving the new rear bedroom. I considered that the new side facing rooflights introduced the possibility of loss of privacy to neighbours on each side. Further amended drawings were then submitted which removed the two side facing rooflights at the rear of the property.

Relevant Site History and Description

38 Ethelbert Road is a single storey bungalow. It is located within the built up area of Faversham. The area is characterised by semi-detached and detached properties of both one and two storeys.

Pre application advice was sought regarding a 5m extension. The applicant was advised that this would be considered acceptable subject to changes to the roof form. It was advised at the pre application stage that a hipped roof would be considered more acceptable.

There have been no previous applications made on the site.

Views of Consultees

Faversham Town Council has raised no objection subject to the roof being pitched to match the roof of the existing dwelling.

Other Representations

When the original application was submitted, four letters of objection were received (one duplicated) which raised the following summarised concerns:

- The large window in the two storey extension will overlook neighbouring properties to the rear in Athelstan Road;
- Other properties in the area will be overlooked;
- If other houses do the same then the character of the street will alter;
- A two storey extension is out of keeping with the area;
- Neighbouring properties will experience loss of light to their side windows;
- Loss of privacy to adjacent properties arising from the second storey.
- A single storey extension would be acceptable

Upon receipt of the first set of amended drawings I re-consulted locally, and four representations were received which re-iterated the concerns above and also raised the following summarised concern:

- The proposed balcony to the rear will increase the issue of overlooking and increase the potential of noise from the property;
- Raising the roof still further will prevent a good deal of light from reaching side windows next door
- Overshadowing from such a large extension will have an adverse effect upon the quality of life for neighbours next door

I have not re-consulted on the second set of amended drawings as these simply delete the side facing rooflights to the rear bedroom and do not introduce new issues.

Development Plan Policies

Saved policies E1, E19 and E24 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.

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

E24 (Alterations and Extensions) states that alterations and extensions will only be granted planning permission when they are of high quality design, in scale to the building and its surrounding, which maintain the character of the streetscene, preserve architectural, landscape or conservation features and protect residential amenity.

The Council's SPG entitled Designing an Extension-A Guide for Householders which was adopted by the Council following public consultation, is a material planning consideration in determining applications, and is referred to in paragraph 3.71 of the Swale Borough Local Plan 2008.

Discussion

The main considerations in the determination of this application are the design of the extension and the impact upon the amenity of the neighbouring properties. Ethelbert Road is located within the built up area so the principle of development is acceptable. There have been two amendments made to the scheme since it was originally submitted.

I note the objections that have been raised and respond as follows. The large full height windows proposed on the rear elevation at first floor level measure 3.5m in width and 2.1m in height. The property at No. 128 Athelstan Road backs onto the proposal site. No. 126 Athelstan Road also sits at the rear of the proposal site, to the north east. At the current time the rear of No.128 Athelstan Road is 44m, and the rear of 126 Athelstan Road is 40m from the rear of 38 Ethelbert Road. As the rear extension would increase the length of the dwelling by 3m, the rear of these two neighbouring properties would be 37m and 41m respectively away from the window. The Council's SPG states at paragraph 6.1 that "*Windows to the rear should be at least 21m from the windows of other houses to the rear.*" As the rear windows are comfortably over the minimum that is allowed by the SPG I am of the opinion that the windows would not have an unacceptable impact upon the privacy of neighbours.

With regard to the concerns regarding the balcony to the rear at first floor level and any issue of overlooking Members should note that there is no projecting balcony proposed, the Juliet balcony railing is built flush against the window and is in place for decorative purposes only.

The rear of the property is being extended so that it will be broadly in line with the neighbouring property at no. 40 Ethelbert Road. The neighbouring property at no.36 Ethelbert Road has a garage / outbuilding built up to the boundary with the proposal site. Therefore I am of the view that the adjoining neighbours' amenity would not be harmed by the proposal.

In terms of loss of light, the dwelling at 38 Ethelbert Road is 3m away from the boundary to the west and 2.1m from the boundary to the east. The rear of the property will have the appearance of a two storey property due to the windows which

are being placed in the loft conversion. The SPG states that “A gap of 2m between a first floor extension and the side boundary is normally required.” As this has been achieved I take the view that the surrounding dwellings retain their sense of openness and as such, due to the distance between the properties, would not experience loss of light to an unacceptable level. Additionally, as the roof is only being increased by 1.6m I do not consider this is enough of a change to impact upon the neighbours’ light in an adverse way and allows for the streetscene to retain its sense of openness.

Faversham Town Council raises no objection but this was subject to the roof being pitched to match the roof of the existing dwelling. This has now been achieved and the proposal now seeks a pitched roof with a ridge running down the centre of the property. In my view this is an acceptable design as it allows two rooflights to be inserted into the side elevations. These will be placed above the study and in turn avoid overlooking.

The principle elevation on the property is the south elevation. The only alteration to this elevation is the slight change in the roof which has been discussed above. Due to this, from the front of the property the dwelling still has the appearance of being single storey. Therefore I am of the opinion that the character of the area is not adversely affected by this proposal.

Recommendation

I consider that throughout the course of this application the applicant has been receptive to amending the scheme to overcome various concerns. Due to this I believe that the proposal is now acceptable in terms of its design, and does not have an unacceptable impact upon the amenities of neighbours. As such I am of the view that the proposal complies with local policy.

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

Responsible Officer: Graham Thomas (Area Planning Officer)

Report of the Head of Planning

PART 3

Application for which **REFUSAL** is recommended

3.1 SW/13/0497 (Case 07508)	Minster
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Location : Land Adjacent to No. 10, Hillside Road, Minster, Kent, ME12 2RY

Proposal : Erection of pair semi detached chalet bungalows with integral garage.

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

Application Valid : 24 April 2013 and as amended by plans received on 30 April 2013

8 Week Target : 19 June 2013

Subject to: The comments of Kent Highway Services, Minster Parish Council and any additional representations (closing date – 27th May 2013)

Reason For Refusal

- (1) The development, by virtue of its scale, roof design and width within the plot, would amount to an overdevelopment of the site leading to the loss of the sense of openness between properties, to an incongruous and bulky flat roof design and a heavily parked frontage that would be detrimental to the character and appearance of the street scene and the visual amenities of the surrounding area. This would be contrary to policies E1 and E19 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 applicant's agent was approached to amend the scheme to address our concerns. However, no amendments were forthcoming.

Description of Proposal

This application seeks planning permission for the demolition of an existing chalet bungalow and the erection of a pair of semi-detached three bedroom chalet bungalows. The new chalet bungalows would be sited within the eastern half of the plot and follows on from a recent planning permission to develop the western half as a three bedroom bungalow (details below).

The proposed chalet bungalows would have integral garages and one parking space each to the front. There would also be two small sections of soft landscaping to the front. The semi-detached chalet bungalows would have a half-hipped pitched roof with a gable ends fronting Hillside Road. Because of the depth of the buildings and to prevent a very high ridgeline, the middle section of the roof would be flat (this would be visible from the side of the dwellings). Four rear dormers would be provided. The rear garden would be a depth of 11.55m.

Internally, the ground floor would provide a 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. Planning permission was recently approved for the erection of a 3 bedroom bungalow on the land immediately to the west of this site SW/13/0055.

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 dwelling on this site had planning permission for an extension and loft conversion in 1982.

Views of Consultees

The Head of Service Delivery has no objection to the proposal but recommends that a condition is imposed that would control the hours of construction.

I am awaiting comments from Minster Parish Council and Kent Highway Services. Any comments received will be reported to Members at the meeting.

Other Representations

Two letters of objection have been received. They comment that putting three, three bedroom dwellings on this site would be too much development. The site used to be full of trees but is now barren. The infrastructure along Hillside Road is at saturation point. The unmade road cannot take any more heavy traffic. This development along with the previous development could lead to 9 more vehicles. Foul and water drainage could cause a problem as drains have been blocked in the past. One local resident asserts that the building work has already started on site.

Nine letters of support have been received. They comment that the clearance of the derelict property would resolve a problem with rats and foxes, long term water leaks and extreme overgrowth of weeds and bramble. The plans would improve the area and benefit the community. The developer has been sensitive to neighbours and has repaired damage to the road. They consider that the development is well proportioned and would be in character with the surrounding properties. They comment that the area would benefit from a mix of 2+ bedroom properties. The proposal would comply with planning policy in their view.

One further comment has been received which notes that the developer has, on previous projects, been very considerate and has repaired the road when necessary.

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 has expired. 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 issues to be the principle of development, the impact on visual and 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 would result in more efficient use of this land than the one dwelling currently occupying the site. I therefore consider that the proposal is acceptable in principle.

Visual amenity

The design of the dwellings would in some respects be consistent with the form of the adjacent dwellings. I also consider that the 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 semi-detached pair would however appear much bulkier than the adjacent bungalow and the bungalow recently approved to the west. The dwellings would only be 1m from the boundaries of the site and the roof design would mean that the sense of openness between the buildings along this part of Hillside Road would be reduced. The depth of the roof has resulted in a flat section in the middle which would be seen from the side of the properties and which in my opinion gives the proposal an awkward and incongruous appearance. The proposal does not amount to appropriate design.

In addition to the above, the plot width of each of these properties would only be 6.95m compared to an average plot width of 10m along this part of Hillside Road. The tightness of this development and the number of bedrooms proposed within each dwelling would potentially lead to a frontage that is heavily parked with

pressure to remove soft landscaping. This adds to my concerns about the impact of this proposal on the character and appearance of the street scene.

All of these factors combined lead me to conclude that this would result in a cramped development that would detract from the appearance of Hillside Road at this point. I therefore consider that the application should be refused on this basis.

Residential amenity

I have some concerns about the impact of this development on the amenities of the occupants of no. 10 Hillside Road. This neighbouring property has three windows within the flank elevation facing the application site. I am seeking confirmation from the owner/occupier of this property as to which rooms these windows serve. If they serve a lounge, dining room or bedroom i.e. habitable room, and if they are the only source of light to these rooms, then I am of the view that the proposed properties would be too close to these windows and would have an unacceptable and significant overshadowing/overbearing effect. Generally, side windows are afforded less protection in the planning process than front or rear facing windows, as the implication is that they rely substantially on light taken across land outside the ownership of the dwelling. However – in this instance there is no development on the adjacent site, and as this potential issue can be addressed at this stage, it is appropriate to do so. I will update Members about the status of the rooms to which the windows serve at the meeting and will recommend an additional reason for refusal if necessary.

The dwellings would have no undue impact on the residential amenities of the future occupants of the recently approved dwelling on the land to the west in my view as this future dwelling has no habitable windows within the flank elevation facing the proposed dwellings.

Had I been recommending approval of the application, I would have suggested imposing a condition to ensure that the first floor bathroom windows within the flank elevation of the dwellings are obscure glazed and fixed shut apart from the top hung fanlight. This would avoid any harmful overlooking of the rear garden of the 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 and there would be a distance of 28m between the rear of the existing and proposed properties. I consider that this is sufficient distance to avoid any undue overlooking.

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. A 1.8m high close boarded fence would be provided between the two proposed dwellings to ensure privacy.

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 one car to park. This would provide adequate parking for the proposed dwellings in my view.

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.

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.

Summary and Recommendation

I am of the view that the proposal would be acceptable in principle and would have no detrimental impact on highway safety/amenities, but would, by virtue of its scale and design, have a detrimental impact on the character and appearance of the surrounding area. It is also possible that the proposal would have a detrimental impact on the residential amenities of no. 10 Hillside Road and I will update Members at the meeting on this issue.

Subject to the comments of Kent Highway Services, Minster Parish Council and any additional representations received (closing date 27th May) I recommend that planning permission is refused.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background Documents

1. Application papers and correspondence for SW/13/0497
2. Application papers and correspondence for SW/13/0055

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, report for information

5.1 SW/12/0677 (Case 22767) – Change of use from grazing to open storage for touring caravans and small boats, Oakwood Orchard, Ruins Barn Road, Tunstall, Sittingbourne ME9 8AA

APPEAL DISMISSED

The Inspector commented as follows;

Main issue

2. I consider that the main issue in this appeal is the effect of the proposed development on the character and appearance of the rural area.

Reasons

3. The appeal site lies in the countryside where Policies E1, E6, E9, RC1 and RC7 of the Swale Borough Local Plan 2008 (LP) deal with general development criteria, the countryside, landscape protection, rural economy and rural lanes.

4. These policies are generally consistent with the aims of the National Planning Policy Framework (NPPF), policies from which have also been considered. The NPPF reinforces the local plan as the main consideration in planning decisions. It requires development not to undermine the quality of life, emphasising the importance of sustainable development, high quality design, attractive places and a good standard of amenity for residents. It expects developments to contribute to the overall quality of the area.

5. The appeal site is located in the countryside and is an irregularly shaped piece of open land forming part of a larger holding known as Oakwood Orchard. It is used for the grazing of horses. To the south it abuts the M2 Motorway, with which it is approximately level, and to the east the embankment leading to the road bridge carrying Ruins Barn Road over the motorway. It has a separate vehicular access from that serving the main buildings at Oakwood Orchard.

6. The proposed development would change the use from grazing to the storage of 78 caravans and small boats. It would widen the vehicular entrance to facilitate access and construct an earth bank three metres high with tree screen planting along the motorway boundary.

7. The proposed use is not one that is permitted in the countryside by Policy E6, nor one that requires a countryside location. There is thus a fundamental objection in principle to the proposed development.

8. The appellant states that the proposed development is much needed in Swale. However he has not demonstrated that there are no other sites available for this purpose in acceptable locations.

9. While Policy RC1 encourages diversification of the rural economy, it does so subject to criteria addressing (among other matters) the scale of the proposal, the retention of rural and landscape character, and traffic generation.

10. The proposed development would intensify the built environment over an area that is now entirely rural. It would introduce hard landscaping features that would be incongruous in their surroundings and be out of scale with the locality. It would be wholly out of keeping, failing to retain the rural character of the area and adversely affecting the landscape.

11. I acknowledge that the earth bank would provide an element of screening that would shelter the caravans from view from the motorway. However they would still be highly visible from the overbridge to all users of the side road.

12. The proposal would also result in increased traffic along Ruins Barn Lane. This would include a significant number of caravan movements. Having regard to the width of this road I consider that such movements would be detrimental to the character and quiet enjoyment of the lanes leading to the site. While I do not consider this sufficient to warrant refusal on its own, it adds weight to my decision on the main issue.

Conclusion

13. I conclude, therefore, that the proposed development would adversely affect the character and appearance of the rural area, contrary to the policies cited above.

Observations

A decision that fully accords with my original concerns.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background papers

- 1 Application papers and correspondence for application SW/12/0677
- 2 Appeal decision dated 3 May 2013 ref; APP/V2255/A/12/2189778

5.2 SW/12/0180 (Case 16887) – Retrospective application for consent for existing livestock existing agricultural barn to accommodate livestock (miniature donkeys and goats) and associated feedstuffs, bedding and grazing land maintenance equipment, Deans Bank Cottage, Deans Bottom, Bredgar

**APPEAL DISMISSED
APPELLANT’S COSTS CLAIM DENIED**

The Inspector commented as follows;

Procedural matter

3. The barn has been constructed.

Main Issue

4. The Council’s Agricultural Consultant notes that the design and scale of the building appears relatively modest and appropriate for the stated purposes. Having regard to those comments the Council does not dispute the agricultural need for the building. Whilst I note that the Parish Council questions the claimed agricultural justification and considers the building too large, I have been given no substantive reasons to put aside the Council’s view. The Council nonetheless objects to the siting and appearance of the building.
5. The building is located in the countryside within the Kent Downs Area of Outstanding Natural Beauty (AONB). In light of this and the other matters above I consider there to be one main issue, namely; the effect of the building on the character and appearance of the AONB.

Reasons

Background

6. The appeal building is an ‘L’ shaped structure of some 18.5m in overall length and 11m in overall depth set around a concrete hardstanding. It is approximately 3.3m in height with a softwood cladding and a pitched roof of red, mineral finish, bituminous slates. It is cut into the hillside on the north east face of a steeply sloping valley some distance above the group of buildings around Deans Bank Cottage. The Appellant notes that the barn is around 100m from the Appellant’s dwelling and that its location is fully optimised in terms of matters such as access to the surrounding fields, security and its proximity to the logging and hay making areas.

Policy Framework

7. Although the Council has referred to a number of policies in the Swale Borough Local Plan (2008)(LP) I see LP Policy E9 of as being of most relevance to the development. It states that in the Kent Downs AONB the priority is the long term conservation and enhancement of natural beauty (including, amongst other matters, landscape) over other planning considerations. It nevertheless goes on to state that suitably located and designed development necessary to facilitate the economic and social well-being of the area and its communities will be permitted. I see this approach as consistent with that of the National Planning Policy Framework (NPPF) at Paragraph 115 which states that great weight should be given to conserving landscape and scenic beauty in AONBs.
8. LP Policy E1 is a general policy that expects all development proposals, amongst other matters, to be well sited and of a scale, design and appearance appropriate to the location. LP Policy E6 seeks to protect, and where possible enhance, the quality, character and amenity value of the wider countryside of the Borough. Although LP Policy E6 goes on to note that development proposals will only be permitted when they meet certain criteria – one of which is that it is demonstrated to be necessary for agriculture – meeting this criteria does not obviate the need to protect the quality, character and amenity value of the wider countryside. LP Policy E19 notes that development proposals should respond positively to certain criteria that include enriching the qualities of the existing environment by promoting and reinforcing local distinctiveness and sense of place.
9. The Council's Landscape Character and Biodiversity Appraisal Supplementary Planning Document (SPD) notes that Deans Bottom is a highly sensitive area and a unique landscape that has retained many of its traditional landscape qualities. It also notes that a number of scattered farms and residential properties are sited along the narrow hedge lined lanes that follow the valley floor. Many of these properties are said to be traditional buildings in local vernacular styles, clad in weatherboard and brick, generally set well back from the road, well screened and having little impact on the rural nature of the area.
10. The SPD also contains a number of guidelines. These include the conservation and restoration of the distinctive, isolated and tranquil open landscape of the dry valley pastures and the use of local and vernacular materials appropriate to the location. As an SPD, this document should be accorded significant weight.
11. My attention has also been drawn to the Council's Supplementary Planning Guidance (SPG) entitled "The Erection of Stables and Keeping of Horses". This document was adopted by the Council after consultation with the public, local and national organisations and despite its age should be accorded at least moderate weight. Amongst other matters it notes that buildings which are additional to existing barns or stables should be grouped with those

existing buildings as closely as possible to help keep the area of development from sprawling over undeveloped countryside and to minimise the impact of the new buildings.

Character and appearance of the AONB

12. The low profile of the appeal building and the fact that it is cut into the hillside result in it having little presence in the landscape when viewed from the south and west. However, its overall size, its elevated position above the valley bottom and its separation from the other buildings at Deans Bank Cottage mean that when seen from the footpaths on the opposite side of the valley it becomes a highly prominent feature of the landscape. I also saw on my visit that, at least in winter, it is clearly visible from parts of the lane along the valley floor to the north east. Although the Appellant suggests that, in being close to trees and hedgerows, the location of the building is tucked away, the trees and hedgerows have little effect on many of the views from the surrounding area.
13. The building's prominence in the landscape is further amplified by its design and materials. Despite the view of the Council's Agricultural Consultant that the design and scale are in line with what might be regarded as reasonably typical for an equestrian/small animal use with associated storage, the chosen design and materials are in marked contrast to the generally more traditional and vernacular styling of the nearby buildings. In consequence, although the appeal building is set well back from the road, its elevated position and non traditional styling mean that it does have an appreciable impact on the character and appearance of the area.
14. Whilst my attention was drawn at the site visit to other agricultural buildings along the valley, some of which appeared to have flat roofs and be constructed in breeze block, it is not clear as to whether these structures benefit from planning permission. I must in any event consider the appeal proposal on its own merits.
15. The elevated location of the barn means that from certain directions it occupies a particularly prominent position in a highly sensitive landscape, acknowledged by the NPPF to have the highest status of protection in relation to landscape and scenic beauty. In my view it appears, in its setting, as an incongruous addition to the landscape that relates poorly to the other buildings in the area in terms of both its siting and style. As such I find it materially detrimental to the character and appearance of the AONB and the countryside and contrary to LP Policies E1, E9, E19, NPPF Paragraph 115 and the Council's SPD and SPG. Although it is accepted that the development is necessary for agriculture it nonetheless fails to protect or enhance the quality and character of the countryside and is therefore also contrary to LP Policy E6.

Other considerations

The fallback position

16. According to the Appellant's statement the barn was erected in the belief that it constituted permitted development and that Part 6 Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended)(GPDO) should be regarded as providing a fallback position. I have no reason to doubt the circumstances in which the barn was erected. However, the Appellant accepted at the hearing that, as the barn's stated purpose includes the accommodation of livestock and the barn is located within 400m of the curtilage of a protected building, the development would not fall within Part 6 Class A of the GPDO.
17. Although the Appellant also suggested that the barn would constitute permitted development so long as it was not used for livestock it is not my role in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 to determine whether or not planning permission is required. In any event the Council points out that even for development falling within Part 6 Class A of the GPDO, the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether, amongst other matters, the prior approval of the authority will be required to the siting, design and external appearance of the building.
18. In these circumstances I can give very little weight to the possibility of there being a substantive fallback position.

Mitigations

19. The Appellant has expressed a willingness to provide additional landscaping in the immediate vicinity of the building. I have considered this alongside the suggested conditions discussed at the hearing - which included staining the building and altering its roof pitch. However, whilst I accept that such matters could reduce the impact of the building on the landscape and allow it to better integrate with the other buildings in the area, I consider it unlikely that the proposed mitigations would be sufficient to reduce the development's impact on the character and appearance of the AONB to an acceptable level.

Conclusion

20. I have found that the development causes material harm to the character and appearance of the AONB and as such is contrary to both the development plan and national policy.
21. I am conscious that the Appellant has suffered very difficult personal circumstances since this application was lodged and that, in consequence, no appeal was lodged in respect of an enforcement notice that has been issued on the building. However, despite this and the Appellant's concerns over the Council's approach to this matter, advice in The Planning System: General

Principles is that personal circumstances seldom outweigh more general planning considerations. The harm I have identified is likely to remain well into the future and for this reason the personal circumstances of the Appellant cannot weigh heavily in favour of the proposal.

22. Having had regard to all the other considerations, including the suggested fallback position, the various mitigations, the other development plan policies drawn to my attention and the Appellant's views as to the appropriateness of the location, I find nothing to add to or outweigh the development plan conflict identified above. The appeal must therefore fail.

Observations

A very welcome decision that fully accords with my original concerns over the serious impact of this building on the character and appearance of the Area of Outstanding Natural Beauty. This decision now clears the way to pursue removal of the building under the original enforcement notice and I am in contact with the owner regarding this.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background papers

- 1 Application papers and correspondence for application SW/12/0180
- 2 Appeal decision dated 26 April 2013 ref; APP/V2255/A/12/2187154

5.3 SW/12/0077 (Case 09946) – Revocation of the quarrying use and erection of a single dwelling house with detached garage block and associated landscaping, enlarged lake and use of existing access, Winterbourne Wood Quarry, Scoggers Hill, Dunkirk, ME13 9PH

APPEAL ALLOWED FOLLOWING SUBMISSION OF A UNILATERAL UNDERTAKING TO ENSURE CESSATION OF QUARRYING

The Inspector commented as follows;

Procedural Matter

2. The South East Plan was partially revoked on 25 March 2013 and the policies within it referred to by the parties no longer form part of the development plan. I have therefore not taken them into account in reaching my decision.

Main Issues

3. I consider the main issues to be :

- The effect of the proposal on character and appearance of the countryside with particular reference to the Blean Woods Special Landscape Area; and
- Whether having regard to the aims of national and local planning policies which seek to limit new development in the countryside, the benefits of the proposal, including the revocation of the existing minerals consents, would be sufficient to outweigh any intrinsic harm to the countryside and any other harm.

Reasons

4. The appeal site forms part of a larger area of land owned by the appellant. Two separate mineral consents permit the extraction of sand and gravel across the appellant's entire landholding until 2042. The appeal site lies within an area of the previously quarried land which extends to about 4 hectares. The minerals consents allow for a further 20 hectares of land to be quarried.

5. A Unilateral Undertaking under s106 of the Act covenants to surrender the minerals consents, cease mineral extraction with immediate effect, and to manage the remainder of the land owned by the appellant in perpetuity as woodland. It also covenants to restore the appeal site and the other previously quarried land, and to maintain much of the appeal site as a meadow and lake. I have taken the Unilateral Undertaking into account in reaching my decision.

Character And Appearance Of Surrounding Countryside

6. The appeal site is located within the open countryside close to the village of Dunkirk. The remainder of the appellant's land (the quarry site) is predominantly woodland, and much of it is ancient woodland. It would seem that some areas have been cleared in the past and these have since been colonised by silver birch.

7. The appeal site lies within the Blean Woods South Site of Nature Conservation Interest and the Blean Woods Special Landscape Area. The *Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (SPD)* adopted in September 2011 identifies it as part of Blean Woods West. This area is typified by deciduous woodland, particularly on higher ground where it is dominated by ancient woodland. It is part of one of the most extensive areas of semi-natural ancient woodland in south-east England. The SPD states that the ecological integrity of the area is extremely strong with a number of areas designated for their nature conservation value. It seeks to conserve the largely undeveloped and heavily wooded character of the landscape and create stronger ecological networks by linking areas of ancient woodland.

8. The proposal is for a seven bedroom dwelling, with associated garaging, swimming pool and gymnasium. The proposal would also involve the enlargement of an existing lake on the appeal site. The dwelling would take the form of a large, Queen Anne style, country house arranged around a central courtyard. The southern part of the appeal site would be landscaped to provide a semi-natural appearance.

9. The Council do not object to the design or appearance of the dwelling, but consider that a large dwelling in this location would be prominent within the landscape and would harm the appearance of the Blean Woods Special Landscape Area.

10. The site is currently occupied by a single concrete building in poor condition which would be removed as part of the proposal. The previous quarrying operations have left significant scars within the landscape. Although some of these areas have, to an extent, been colonised by gorse and other vegetation, the scars are nevertheless apparent in views from the lower land to the west which forms part of the Hernehill and Boughton Fruit Belt.

11. The appellant submitted a landscape and visual assessment in support of the proposal. The Council questioned the methodology of the assessment which relies upon the appearance of the landscape at present, and fails to take account of its appearance once it has been restored in accordance with the conditions attached to the mineral consents. However, it does not dispute the extent to which the proposed dwelling would be noticeable within the wider landscape. Therefore whilst I acknowledge the Council's concerns in relation to the landscape appraisal, I consider that it nonetheless provides a useful guide as to the extent to which the proposed dwelling would be noticeable within views from the surrounding countryside. I have therefore taken the appraisal into account in so far as it relates to the visual prominence of the dwelling within the surrounding countryside.

12. The surrounding countryside is characterised by sporadic residential development. The appeal site is enclosed to the east and south by the rising wooded land of the quarry site. Views of the dwelling would be largely confined to the adjacent highway and from the more open landscape to the west. Many of these views would be distant views and would be filtered by the undulating landscape and intervening hedgerows. From these viewpoints the proposal would have the appearance of a large country house set against a wooded backdrop and rising ground.

13. The Council consider the proposed wildflower meadow within the appeal site would appear as an alien feature within the Blean Woods Special Landscape Area. However, the open fields that characterise Boughton Fruit Belt extend up to the opposite side of Scoggers Hill. Therefore, having regard to the appearance of this previously quarried area of land, and the open fields within the locality, I am satisfied that subject to a suitable landscape scheme, the proposed meadow would not be an incongruous feature within the surrounding landscape.

14. The removal of the existing concrete building and yard area, and the restoration of the previously quarried land would improve the appearance of the existing despoiled landscape. I consider these benefits would outweigh any harm arising from the limited views of the proposed dwelling. I therefore find that the proposal would not harm the character and appearance of the surrounding countryside and would comply with policy E9 of the Swale Borough Local Plan (2008) which seeks to protect the character and amenity value of the wider landscape.

Whether having regard to the aims of national and local planning policies which seek to limit new development in the countryside, the benefits of the proposal, including the revocation of the existing minerals consents, would be sufficient to outweigh any intrinsic harm to the countryside and any other harm.

15. The appeal site is situated within the open countryside where local and national planning policies seek to strictly control new development. Policy SH1 of the Local Plan sets out the settlement hierarchy for the area. Together with policy H2 it states that new dwellings within the countryside will only be permitted if they accord with the exceptions within policy E6. This aims to safeguard the quality, character and amenity value of the wider countryside and to strictly control new development within the countryside. This approach is consistent with Paragraph 55 of the National Planning Policy Framework (The Framework) which seeks to avoid isolated new homes in the countryside.

16. The appellant acknowledges that the proposal does not constitute a truly outstanding or innovative design. However, he submits that the potential harm that would arise from the extant minerals consents in relation to the ancient woodland and biodiversity of the site, the constraints on the restoration of the site would together with the benefits of the proposal combine to constitute the special circumstances referred to within paragraph 55 of the Framework.

17. The Council considers that it may not be economically viable for the appellant to continue to work the quarry site until the minerals permissions expire in 2042. It suggests that the steeper, more tree covered part of the site is less likely to be commercially viable for extraction. As a consequence, any future damage to the landscape, would be likely to be considerably less extensive than suggested by the appellant.

18. The appellant acknowledges that the minerals on the site are not of high quality, and that in recent years demand has been low due to the considerably greater quantities of recycled materials available. However, at the Hearing, he explained that unlike previous owners of the quarry, he would use the minerals from the site in connection with his construction company which undertakes infrastructure projects within the south-east. He operates another quarry within the county and has the necessary equipment and expertise to ensure that the operation would be both profitable and viable. He also advised that there was a demand for the clay which overlays the sand and gravel deposits, and that this would further reduce his operating costs.

19. There is no certainty as to the extent of the quarry site that will be affected by continued extraction operations. However, the extant permissions do not expire until 2042. On the basis of the submitted evidence, I have no reason to doubt the appellant's evidence that in the absence of any alternative use, the mineral extraction at the site is likely to continue for the foreseeable future.

Revocation

20. The quarry site comprises about 20 hectares of land, much of which is ancient woodland, including the higher land to the north and east. Even if some parts of the site prove not to be economically viable for extraction, the extant permissions would undoubtedly give rise to a substantial loss of woodland, including several hectares of ancient woodland. Ancient Woodlands are believed to have had a continuous woodland cover for at least 400 years. They are particularly important because they are exceptionally rich in wildlife, and include many rare species and habitats. They are an integral part of England's historic landscapes, and act as reservoirs from which wildlife can spread into new woodlands.

21. Amongst other matters, Local Plan policy E9 prioritises the long term protection and enhancement of the Blean Woods Special Landscape Area. Policy E12 states that development likely to have an adverse effect on ancient woodland will not be permitted unless the need for the development outweighs the interest of the site and any adverse effects have been adequately mitigated.

These policies are consistent with the Framework which states at paragraph 118 that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

22. The loss of the woodland, and in particular the ancient woodland, would have a significant effect on the flora and fauna of the quarry site and the appearance of the

Blean Woods Special Landscape Area in which it is located. The northern part of the quarry site is a high point within the locality and is visible from the A2 which is located about 1 km to the north. The extraction of minerals from this area of woodland would also reduce ground levels and permanently alter the appearance of the Blean Woods Special Landscape Area.

23. The Council suggest that the woodland could be replanted as part of the restoration scheme, and in the longer term the habitats could be re-established. For this reason it considers that any harm arising from the continued extraction of minerals would be short term and would be significantly outweighed by the permanent harm that would arise from the proposed dwelling. However, it would take many decades for any significant tree cover to establish, and any replanting is unlikely to occur until after the minerals consents expire in 2042. Moreover, ancient woodland is an irreplaceable resource, and the seed bed and ecology associated with it would be permanently lost.

24. In my view, the potential harm arising from the continued use of the quarry site for the extraction of minerals would be permanent. Moreover, the biodiversity of the site would be unlikely to recover within the foreseeable future, if at all. Therefore the continued extraction of minerals would be contrary to the aims paragraph 118 of the Framework and Local Plan policy E12 in that it would result in the loss of an irreplaceable landscape. No evidence has been put forward by the Council to suggest that either the need for, or the benefits of mineral extraction would outweigh the harm that would arise from the further loss of ancient and other woodland.

25. The revocation of the extant minerals consents would allow the permanent retention of the ancient woodland on the appeal site and the existing topography would remain largely undisturbed. These would be significant benefits of the proposal, particularly in relation to biodiversity and the effect on the Blean Woods Special Landscape Area. Therefore the revocation of the minerals consents would be consistent with Local Plan policies E9 and E12 and the Framework, as well as the aims of the SPD.

Restoration Scheme

26. The minerals permissions were originally granted in 1950, with a further permission allowing an additional area to be quarried in 1953. These permissions (SW/97/579/MR76 and SW/97/580/MR75) were reviewed in 1997 and conditions were imposed in relation to access, traffic movements, working hours and the restoration of the site. A restoration scheme was submitted in 1997 to comply with conditions 21 and 20 of the above consents. The County Council confirm that the conditions were not discharged. Therefore there is no approved restoration scheme in relation to the minerals permissions.

27. The parties agree that although the restoration scheme has not been approved, this does not affect the validity of the minerals consents or the appellant's entitlement to continue to extract minerals on the site. The appellant considers that due to the passage of time the County Council is unable to enforce the conditions requiring the restoration of the site. However, even if this view is correct, the County Council

would have an opportunity to reconsider the conditions, including those in relation to the restoration of the site when the minerals permissions are reviewed in 2015. I have therefore considered the proposal on the basis that unless the quarrying operations cease prior to 2015, in which case the extent of any damage to the landscape would be much reduced, the County Council would be able to require the restoration of the site once extraction ceases.

28. The restoration scheme submitted to the County Council in 1997 is reliant on the removal of the top soil from the wooded areas within the quarry site. This would be spread throughout the site to a depth of 150mm in order to facilitate tree planting. It would require the removal of most of the trees on the quarry site, including significant areas of ancient woodland and other woodland. Conditions 24 and 23 of the consents prohibit the importation of top soil onto the site. At the Hearing, the Council acknowledged that these conditions effectively prevent any alternative approach to the restoration of the site.

29. Although the conditions will be reviewed in 2015, any modification would need to take account of a number of factors, including the economic viability of the existing mineral extraction, the cost of restoration, and traffic movements associated with the importation of additional material. Therefore, on the basis of the available information, I am not convinced that the review of the extant consents in 2015 would facilitate a less damaging restoration scheme in relation to the trees on the site.

30. Following the cessation of extraction, it would be many decades until effective tree cover on the quarry site is restored, and the ancient woodland and biodiversity associated with it would be permanently lost. In addition the loss of the woodland and the resultant changes in level on the site would significantly harm the character and appearance of the Blean Woods Special Landscape Area.

31. Therefore the restoration scheme submitted in 1997 would not adequately mitigate the harm arising from the continued extraction of minerals, and would itself give rise to further significant harm. In these circumstances, the restoration scheme that forms part of the appeal proposal would be a considerable benefit of the proposal and would comply with policies E6 and E9 of the Local Plan.

Unilateral Undertaking

32. The Unilateral Undertaking provides for the revocation of the minerals permissions with immediate effect. Therefore the ancient woodland on the site would remain. It also covenants to manage the quarry land as woodland using an appropriate management body such as the Kent Wildlife Trust or the RSPB.

In addition, it provides for the restoration of the previously quarried land. In the absence of the undertaking it is unlikely that the site would be restored prior to 2042. The obligations within the undertaking would prevent further damage to the landscape and would provide for the restoration of the site. It would therefore safeguard the woodland and landscape of this part of Blean Woods Special Landscape Area in perpetuity and would be a significant benefit of the appeal proposal.

Other Considerations

33. The ecological survey submitted on behalf of the appellant found that the appeal site had low botanical interest and found no evidence of bats, dormice, great crested newts, toads or reptiles within the appeal site. The proposal would provide an opportunity to enhance the biodiversity of the appeal site, and through the retention of the ancient woodland, would secure the preservation of the varied habitats within the quarry site as a whole. This would be a further benefit of the proposal.

34. The County Council state that the Winterbourne Quarry has not contributed significantly to the supplies of land won construction aggregates for some years, although its reserves are currently included in the construction aggregate landbank. The emerging Kent Minerals and Waste Plan 2013-2030 includes the need for a sustainable supply of minerals, and seeks to identify the best and most suitable supply of minerals for the next 20 years. In view of the rural location of the appeal site, and the poor access due to the narrow rural lanes, combined with the relatively low quality of the deposits, the County Council support the revocation of the existing minerals permissions. On the basis of the available evidence, I am satisfied that the proposal would not harm the supply of minerals within Kent.

Conclusions on Benefits of Proposal

35. Although I have found that the proposed dwelling would not harm the character and appearance of the surrounding countryside, I nonetheless attach significant weight to the intrinsic harm that would arise from the provision of an isolated new home within the countryside.

36. The revocation of the extant minerals consents would enable the preservation of the ancient woodland and other woodland on the quarry site in perpetuity. This would preserve the appearance of the Blean Woods Special Landscape Area and the rich habitat provided by the ancient woodland. The proposal would therefore accord with Local Plan policies E9 and E12 and paragraph 118 of the Framework which resist the loss or deterioration of irreplaceable habitats, including ancient woodland. I therefore attach substantial weight to these benefits, particularly given the decline in the extent of ancient woodland in recent decades.

37. For the reasons given above, I am doubtful that following the cessation of mineral extraction, that the site could be restored without further significant and permanent damage to the existing landscape including the loss of additional areas of ancient woodland. I therefore attach considerable weight to the benefits that would result from the restoration of the previously quarried land.

38. The proposal would also result in a reduction in the number of large lorries using the narrow country lanes surrounding the appeal site. This harm would cease once the site is restored following the cessation of mineral extraction. Therefore unlike the other harm identified above, it would not be permanent in nature. Nonetheless, it could well continue until 2042, and during this period could continue to cause a significant nuisance to local residents and congestion on the narrow lanes within the local area. I therefore accord this matter moderate weight.

39. The Council considers that the short term harm from the continued extraction of minerals would be outweighed by the permanent harm arising from the proposed dwelling. However, for the reasons given above, the loss of ancient woodland and the damage to the landscape and biodiversity would represent permanent and substantial harm to the countryside. Therefore whilst the proposal would represent a new dwelling within the countryside, it would nevertheless comply with the aims of Local Plan policy E6, namely to protect the character and amenity value of the wider countryside. I therefore conclude that the benefits of the proposal, including the revocation of the extant minerals consent and the restoration of the previously quarried land, would considerably and significantly outweigh the intrinsic harm to the countryside arising from the proposal.

Conditions

40. I have considered the conditions put forward by the Council, in the light of the advice in Circular 11/95. Details of materials together with constructional details should be submitted in order to ensure the dwelling is satisfactory in terms of appearance. A landscape scheme, showing hard and soft landscaping is necessary to ensure that the dwelling is assimilated into the surrounding landscape. Due to the variation in levels on the site details of the proposed levels should be submitted for approval. In the interests of sustainability the dwelling should achieve at least Level 4 rating under the Code for Sustainable Homes.

41. In the interests of highway safety further details of the access should be submitted for approval, and the entrance gates should be set back from the highway by at least 5.5 metres. Details of measures to keep mud off of the roads should be submitted for approval. An assessment to establish the extent of any soil contamination should be submitted, together with measures for its remediation, in order to protect the health of future occupants. In the interests of sustainability details of drainage proposals should be submitted for approval.

I agree that the garages should be retained for parking in order to minimise the effect of the proposal on the surrounding landscape.

42. In the interests of the visual amenity of the surrounding area the existing store building on the site should be demolished. For the avoidance of doubt and in the interest of proper planning the proposal should be implemented in accordance with the approved plans.

Conclusion

43. For the reasons given above, and taking account of all material considerations, I conclude that the appeal should be allowed.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings, hereby permitted, including joinery, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until constructional details of the ridge, the roof eaves and verges, dormer windows, glazed roof elements, rainwater goods, window reveals, cills, brick plinth, brickwork bond and paving, chimney detailing, brick arches and the orangery/sunroom have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development, full details of both hard and soft landscape works and boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include a planting specification noting species, plant sizes and numbers where appropriate, hard surfacing materials, and a programme of implementation. The landscaping scheme shall be implemented in accordance with the approved details and the programme of implementation. Any trees or shrubs that fail within 5 years shall be replaced on a like for like basis, or as otherwise first agreed in writing with the Local Planning Authority.
- 5) Prior to the commencement of development details of the existing and proposed site levels, in the form of cross-sectional drawings through the site, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) The dwelling shall achieve at least a Level 4 rating under the Code for Sustainable Homes. The dwelling shall not be occupied until after a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
- 7) Prior to commencement of development, further details of the vehicular access to the site at a scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and completed prior to the first occupation of the dwelling hereby permitted.
- 8) Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum of 5.5 m from the carriageway edge.
- 9) Prior to commencement of development details of measures to prevent mud or other debris on the highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as agreed shall be implemented in full

prior to the commencement of development and retained for the duration of construction works.

10) Prior to the commencement of development a contaminated land assessment (and associated remediation strategy if relevant), shall be submitted to and approved in writing by the Local Planning Authority. It shall comprise:

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 and analysis methodology. consultant/contractor in accordance with a Quality Assured sampling.

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 nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

11) Before the dwelling is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. 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.

12) Upon completion of the works identified in the contaminated land assessment and before the dwelling is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

13) Prior to the commencement of development hereby approved, details of the method of disposal of foul and surface water shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the dwelling.

14) The garages shown on the approved drawings 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 in such a position as to preclude vehicular access thereto.

15) The existing concrete building on the appeal site shall be demolished and all materials removed from the site prior to the first occupation of the dwelling.

16) The development hereby permitted should be carried out in accordance with the following plans DHA/6696/01, DHA/9235/01, DHA/9235/02, DHA/9235/03, DHA/9235/04, DHA/9235/05, DHA/9235/06 and DHA/9235/07.

Observations

An extremely disappointing and, in my view, short sighted decision entirely contrary to my view and to the decision of Members. The Inspector has concluded at paragraph 14 that the removal of a small concrete building and yard area, and the restoration of the quarried land would outweigh harm arising from limited views of the dwelling, so that the proposal would not harm the character and appearance of the countryside, and the character and amenity of the wider landscape, so complying with policy E9. She has then given great weight to the protection of ancient woodland on the wider land, and has decided that the loss of any further woodland would result in permanent harm to the character of the area, despite the potential review of restoration requirements that would apply to the quarry which the Inspector sees as inevitably harmful to the woodland.

The effect of the Unilateral Undertaking is that the act of issuing of the appeal decision means that all further minerals extraction is now prohibited until and unless the owner formally gives up the permission or the house and confirms his wish to restart quarrying; preventing any uncertainty about if and when either the quarrying or the house will be progressed. However, it does not (contrary to the Inspector's comments at paragraph 32) prevent future quarrying or safeguard the ancient woodland for ever; this would only be achieved if the house permission is implemented.

Responsible Officer: Graham Thomas (Area Planning Officer)

Background papers

1 Application papers and correspondence for application SW/12/0077

2 Appeal decision dated 16 May 2013 ref; APP/V2255/A/12/2186021

5.4 SW/12/0772 - erection of 1 no. 4 bedroom detached house with integral garage, together with access and amenity on land formerly used as stables at rear of 95 Borden Lane, Sittingbourne

APPEAL ALLOWED

FULL COSTS AWARDED AGAINST THE COUNCIL

Appeal decision

Main Issue

3. The site lies within the defined built up area boundary of Sittingbourne where new housing is acceptable in principle. The main issue therefore is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

4. The new residential cul-de-sac comprising six detached properties, now known as Copper Beech Close, was allowed on appeal in 2009 following earlier dismissed appeals in 20081. The development has taken place on land which previously formed part of the long back gardens of Nos 83 and 93 Borden Lane, with the access road passing through a gap between Nos 93 and 95. Four of the houses at the end of the cul-de-sac (plots 3 – 6) face towards the rear elevations of Nos 83/93 at some distance. However, two further houses in the middle of the site (plots 1 and 2) front onto the access road with their outer flank elevations facing the rear of No 93 and the front of plots 5 – 6 respectively.

5. The appeal proposal is to construct a further 4 bedroom detached house at the end of the cul-de-sac immediately alongside plot 6 to create a row of five detached houses. The extra house would be built in a new plot at the end of the long rear garden of No 95 Borden Lane where there are some former stables, but the remaining rear garden of that property would still be a generous 30 metres in length.

6. The proposed four bedroom house would occupy a plot very similar in size to the adjacent houses on plots 3 – 6 and would be very similar in design, mirroring in many ways plot 6 next door. It would therefore not adversely affect the character or appearance of the new cul-de-sac development, simply comprising one additional house. In terms of the character and appearance of Borden Lane as a whole a further relatively small section of rear back garden land behind the properties would be lost to development but this would not be apparent from Borden Lane itself.

7. The proposal would only add a single property to the backland development which was allowed in 2009 and is now well established. The extra property would only be seen in the context of the rest of the cul-de-sac. I agree with the following comments of the 2009 Inspector which apply as much to the extra house as the existing cul-de-sac of six houses:

“Views of the new houses from Borden Lane would generally be limited by the frontage housing. The new development would be readily apparent in views along the proposed access road and could be seen from nearby properties. However, I consider that the new houses would be set well back from Borden Lane and would not be unduly prominent. The mere fact that they would be visible does not, in my opinion, amount to harm given the residential nature of the locality.”

8. The proposed house was part of an application for two further houses on the cul-de-sac which was dismissed on appeal in 2012. The proposal was for two houses to be built on plots subdivided from the long rear garden of No 95 Borden Lane, with the remaining rear garden of that property only being about 10 metres in length. It is quite clear the Inspector only dismissed the appeal because of the impact of the proposed house nearest to No 95. The relationship between that house and No 95 would be “cramped and crowded” and the house would be “an abrupt contrast” with the remaining long gardens to the south. By contrast there was no criticism of the second house, furthest from No 95, which is the subject of the current appeal:

“Plot 2 at the eastern extremity of the appeal site would continue the line of houses under construction on a plot similarly orientated and configured. Like them it would be well away from the existing houses in Borden Lane. It would make a transition from the new more intensive development to the remaining garden land by having its single storey garage positioned against the boundary with the undeveloped land to the south.”

9. The Council maintain that the proposed dwelling would amount to an over intensive development of the site, but it would only be one further dwelling at the same plot density as the others on the cul-de-sac. Copper Beech Close is said to be an anomaly within the area of long, spacious gardens to the rear of the properties on Borden Lane but the principle of a backland development in this area was established in 2009 and planning decisions now have to be taken in the light of that decision. A further unit on the cul-de-sac will only have a very marginal further impact on the character and appearance of the area. The extra house would not make the area appear cramped or overdeveloped as it would be very similar to the other six properties with sufficient space between it and nearby properties.

10. The Inspector’s comment in 2008 that houses “would result in an intensive, urban feel” related to a scheme for nine three storey houses arranged in 3 terraces with bulky roof forms, not the reduced scheme for six two storey detached houses which was allowed in 2009. The appeal decision from Guildford3 can be distinguished from the current case because it relates to the introduction of a backland development into an area of long rear gardens whereas the current appeal relates to one further house in a location where the principle of a backland development has already been established.

11. Finally the Council maintain that the new house would be prominent in views from Nos 95 and 97 Borden Lane. The new house would be clearly visible from first floor rear facing windows, but it would be over 40 metres away, at a lower level, and would be seen alongside the existing plot 6 of Copper Beech Close. There would therefore only be a marginal impact on the view from these properties given the context of the existing cul-de-sac. The concerns of the 2012 Inspector regarding the impact on Nos 95 and 97 related solely to the nearest of the two houses which does not form part of this appeal.

12. For these reasons the proposal would not harm the character and appearance of the area and thereby complies with policies E1 and E19 of the Swale Borough Local Plan 2008 which requires development to reflect the characteristics of the locality and be appropriate to the location and its context. The proposal also complies with paragraph 56 of the National Planning Policy Framework which place great importance on the design of the built environment.

Other matters

13. Nearby residents have raised a number of concerns regarding the proposal. Many relate to the construction of the existing cul-de-sac development but this is not a matter before me. Some noise and disturbance during the building works should the house go ahead is an inevitable temporary consequence of development and not in itself a reason to reject the scheme. The property would not be so close to existing houses to cause a significant loss of privacy.

14. The scheme would comprise a house on existing garden land but there is no presumption against such developments if they do not cause any significant harm. The proposal includes two parking spaces and an integral garage which is sufficient to meet likely parking requirements and the highway authority have no objections in respect of traffic generation or road layout.

15. House prices are not something that can be considered as part of a planning appeal and any further proposals in the area would be considered on their own merits. There is evidence of a five year housing supply shortfall in the district. Finally a single housing unit does not justify an element of affordable housing. None of these issues, either individually or collectively, are, therefore, of sufficient importance to warrant dismissal of the appeal. The effect of the partial revocation of the Regional Strategy for the South East has been considered but in the light of the facts in this case the revocation does not alter my conclusions.

Conditions

16. The Council has suggested a large number of conditions should I be minded to allow the appeal. I have no comments on these from the appellant but have considered them carefully against the tests set out in Circular 11/95: Use of conditions in planning permission. Since the proposal is for a single dwelling a construction method statement, programme for dust suppression and restriction on the hours of construction are unnecessary. There is no evidence that habitat of

particular ecological importance is involved or site contamination is likely so the conditions dealing with these matters are not included. Pedestrian visibility splays are unnecessary in this cul-de-sac location. I have also amended the wording in some places for clarity and combined some conditions to avoid overlap and duplication.

17. In addition to the standard implementation time limit it is necessary to define the plans with which the scheme should accord. Condition 3 is necessary to control the materials to be used and condition 4 to ensure the development meets an appropriate sustainability standard. Conditions 5-6 are needed to secure and maintain satisfactory landscaping on the site and condition 7 to reduce the risk of flooding to the house and its occupants. Condition 8 is necessary to prevent pollution of water supplies and condition 9 to ensure sufficient car parking is provided. Condition 10 is to protect the residential amenity of the area and finally condition 11 is required to protect the privacy of neighbouring occupiers.

Conclusion

16. For the above reasons I conclude the appeal should be allowed subject to the attached schedule of conditions.

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the approved plans 1222/PL.01, 1222/PL.02, 1222/PL.03, 1222/PL.04, 1222/PL.05 and 1222/PL.06 dated May '12.

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) The development hereby approved shall not commence 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.

5) 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 and these works shall be carried out as approved. 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. The hard landscape works shall be carried out prior to the first occupation of the development hereby permitted.

6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

7) Notwithstanding the submitted details, the finished floor level shall be a minimum of 22.25m AOD, and all flood resilience measures as outlined in the submitted Flood Risk Assessment ref 3971/2.3F dated May 2011 are to be agreed in writing with the local planning authority and subsequently incorporated into the finished dwelling.

8) The development hereby approved shall not commence until full details of the method of disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented before the first occupation of the development hereby permitted.

9) The dwelling hereby approved shall not be occupied until the vehicle parking spaces shown on the submitted layout shall be provided, surfaced and drained and the spaces shall not thereafter be used for any purpose which would preclude the parking of vehicles.

10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no fences, gates or walls shall be erected within the curtilage of the dwellinghouse hereby approved forward of any wall of that dwellinghouse which fronts onto a road.

11) No additional windows, roof lights, voids or other openings shall be inserted in the southern flank elevation or roof slopes of the dwelling hereby approved, unless otherwise agreed in writing by the local planning authority.

Costs Decision

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Circular 03/2009: Costs Awards in Appeals and Other Proceedings (the Circular) 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.

3. The application for a full award of costs was made by letter on 8 February 2013 shortly after receipt of the local planning authority's statement on the appeal.

This amounts to a timely application so the issues before me for consideration are whether the Council has acted unreasonably in this case and whether the applicant has incurred unnecessary or wasted expense because it should not have been necessary for an appeal to have been made.

4. The Planning Committee on 13 September 2012 decided to refuse the application contrary to the advice of their professional officers. Paragraph B20 of the Circular advises that, whilst planning authorities are not bound to accept the recommendations of their officers, in such circumstances it is necessary to show reasonable planning grounds for taking a contrary decision and produce relevant evidence to support the decision.

5. The one reason for refusal stated that the proposed dwelling would amount to an “over intensive development” of the site and would be “harmful to the visual amenities of the area”.

6. The basis of the council’s evidence is that the predominant character of the Borden Lane area is that of frontage development with long, spacious back gardens. The recent development on land adjacent to the appeal site, a cul de- sac comprising six detached properties, was said to be an anomaly with little in common with the surrounding area. An additional house on the cul-de-sac built on further rear garden land would consequently be harmful to the character and appearance of the area.

7. This argument falls short of a respectable basis for the authority’s stance. It fails to accept the reality of the cul-de-sac which has now been built and unreasonably disputes the conclusion of the Inspector who allowed the development on appeal in 2009. He stated in paragraph 15 that “the design and layout (of the cul-de-sac) would reflect the positive characteristics of the locality and would be well sited and of a scale, design and appearance appropriate to the site context” and concluded “the scheme would not be harmful to the character and appearance of the area”.

8. The Council quote in their evidence a previous Inspector’s comment in 2008 that houses on the cul-de-sac site “would result in an intensive, urban feel” but this related to a scheme for nine three storey houses arranged in 3 terraces with bulky roof forms, not the reduced scheme for six two storey detached houses which was allowed in 2009. The council also submitted an appeal decision from Guildford but this can clearly be distinguished from the current case because it relates to the introduction of a backland development into an area of long rear gardens whereas the current appeal relates to one further house in a location where the principle of a backland development has already been established. These appeal decisions did not therefore comprise significant supporting evidence.

9. Most significantly the appeal proposal was part of an application for two further houses on the cul-de-sac which was dismissed on appeal in 2012. The proposal was for two houses in the rear garden of No 95 Borden Lane, but it is quite clear the Inspector only dismissed the appeal because of the impact of the proposed house nearest to No 95. The relationship between that house and No 95 would be “cramped and crowded” and the house would be “an abrupt contrast” with the

remaining long gardens to the south. By contrast, in paragraph 7 there was no criticism of the second house, furthest from No 95, which is the subject of the current appeal. The officer's report to the Planning Committee recognised that the omission of the second dwelling resolves the overlooking concerns raised by the 2012 Inspector and no evidence on this matter was put forward in this appeal.

10. Paragraph B29 of the Circular states that a planning authority persisting in objections to a scheme which an Inspector has previously indicated to be acceptable may lead to an award of costs. This describes the situation in this case.

11. Ten letters of objection from local residents were reported to the Planning Committee raising various concerns but there is no evidence that suggests these objections led, in themselves, to the refusal of planning permission. The letters raised a wide range of concerns that did not form part of the Council's case against the proposal which demonstrates the Council took a discriminating approach to resident's views in this case even though one concern, the effect on the character and appearance of the area, did form the Council's case. In its evidence the Council did not rely on resident's concerns but produced their own appraisal and simply passed on the resident's letters without comment. Although I have found the Council's appraisal wanting, it seems to me that there was no undue reliance on local opposition from third parties.

12. I fully accept the Council's explanation that the aerial photograph submitted in evidence was provided as a location plan and was not intended to illustrate the current condition of the surrounding area. I also find no fault with the Council's lack of reference to the National Planning Policy Framework as their evidence was clearly based on policies E1 and E19 of the Swale Borough Local Plan 2008 notwithstanding that I have disagreed with the interpretation of these policies in relation to this case.

13. The Council has not adequately substantiated its reason for refusal and has persisted in its objections to the proposed dwelling which an Inspector had previously indicated was acceptable. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Costs Order

14. In exercise of the powers under section 250 (5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to Greenspan Properties (Borden Lane) Ltd the full costs of the appeal proceedings described in the heading of this decision.

Observations

A very clear decision from the Inspector. Members will note that full costs have been awarded to the appellant, and may recall that I had recommended approval of the application.

Responsible Officer: Rob Bailey (Area Planning Officer)

List of Background Documents

1. Appeal Papers and Correspondence for APP/V2255/A/12/2187256
2. Application papers and correspondence for SW/12/0772