

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 13 October 2016

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Roger Clark, Richard Darby, Mike Dendor, James Hall, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Samuel Koffie-Williams, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 6

	Pages
1. Fire Evacuation Procedure	
<p>The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.</p> <p>The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.</p> <p>The Chairman will inform the meeting that:</p> <p>(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.</p>	

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 15 September 2016 (Minute Nos. 879 - 885) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

5. Deferred Item

1 - 32

To consider the following application:

16/504266/FULL Land at Lavender Avenue, Minster

Members of the public are advised to confirm with Planning Services prior to the meeting that the application will be considered at this meeting.

Requests to speak on these items must be registered with Democratic

Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 12 October 2016.

6. Report of the Head of Planning

33 - 222

To consider the attached report (Parts 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 12 October 2016.

7. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following items:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3, 4, 5, 6, and 7.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
See note below.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and any employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes
 - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) To make an order or direction under any enactment.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning

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To consider the attached report (Part 6).

Issued on Tuesday, 4 October 2016

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

Director of Corporate Services, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

PLANNING COMMITTEE – 13 OCTOBER 2016

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 16/504266/FULL

APPLICATION PROPOSAL

Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.

ADDRESS Land At Lavender Avenue Minster-on-sea Kent ME12 3RB

RECOMMENDATION: Grant of Planning Permission subject to:-

- 1) the further views of KCC Archaeology, KCC Ecology, Southern Water and the KCC Flood Risk Project Officer.
- 2) the signing of Section 106 agreement/s for contributions towards:-
 - Education;
 - Libraries;
 - Community Learning;
 - Adult Social Care;
 - Youth Services;
 - Provision of ‘wheelie bins’;
 - Use of local labour / apprenticeships;
 - SPA mitigation;
 - Health care contribution; and
 - An administration charge;

And for the provision of:

- Dedication of land for a reptile receptor area including their management and maintenance;
 - Provision of a financial contribution of £227.00 per dwelling towards an improved play area capacity
- 3) A contribution of £1,006 per dwelling is required towards KCC Highways improvements to the upgrading of the Lower Road/ Barton Hill junction (roundabout scheme)
 - 4) A plan showing amended hard and soft landscaping details.

SUMMARY OF REASONS FOR RECOMMENDATION

The application site is an allocated housing site in the emerging Local Plan ‘Bearing Fruits’ 2031 under Policy A7 and under Policy H9 in the adopted Swale Local Plan 2008.

The development would amount to the provision of new residential dwellings within the defined

built up area boundary, on a site allocated by the Adopted Swale Local Plan 2008 and the Emerging Bearing Fruits 2031 for residential development, and in a sustainable location, without giving rise to any serious harm to amenity, landscape, ecology, archaeology, and the highway network. As such the proposal is considered to be in accordance with Adopted Local and National Planning Policies.

REASON FOR REFERRAL TO COMMITTEE

Application called-in by Development Manager at meeting on 15 September 2016

WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Jones Homes Southern AGENT Britch & Associates Ltd
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DECISION DUE DATE 22/07/16	PUBLICITY EXPIRY DATE 22/08/16	OFFICER SITE VISIT DATE various
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RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): this is set out in the original report, which is appended.

MAIN REPORT

1.0 BACKGROUND

- 1.01 Members will recall that this application was reported to the Planning Committee on the 15th of September 2016 where the Development Manager used his Call-in powers. A copy of the original report, minutes of the planning working group are appended.
- 1.02 The proposed development, and the site and context, including the description of development are described in detail in the original report. The nature of the site (described in paragraphs 1.01 to 1.04 of the original report) will be noted together with the fact that the application site forms part of the wider Thistle Hill development (where Members resolved to grant planning permission under planning application ref SW/13/1455). The relevant part of the minute of the 15th of September 2016 Planning Committee meeting relating to this application is appended.
- 1.03 As set out in the minute, following a detailed discussion of the application, both in terms of its planning merits (or otherwise) and the appropriate procedural arrangements for its determination by Members, a recorded vote was taken on the motion to approve the application, and the motion to approve the application was lost. A motion was moved to refuse the application on grounds relating to the lack of infrastructure to support continual expansion in the area and on unsustainable development. The Development Manager then drew Members’ attention to the history of the site, that outline planning permission was approved by the Planning Committee on 30 June 2016 for up to 431 dwellings to be built on land adjoining the site under planning permission ref SW/13/1455, and that the reasons suggested by Members for refusing the application and whether these could be supported at any subsequent appeal. Following this there was a motion to defer the application until substantial steps had been taken to resolve the traffic issues at the site. This was not seconded. The Chairman then agreed to a short adjournment for officers to receive advice from the Locum Solicitor.

- 1.04 However, at this point the application was called in by the Development Manager to enable officers to prepare a report to Members on the prospects of such a decision if challenged at appeal and if it becomes the subject of an application for costs.
- 1.05 This report deals with the planning merits of such a potential refusal, and the prospects at appeal, while a separate confidential report addresses the potential adverse financial implications if an application for costs were to be made alongside an appeal against the refusal of planning permission.
- 1.06 The key issues raised by Members at the meeting of 15 September 2016 are that (please also refer to the minutes, which are attached as Appendix 2):
- Development is unsustainable
 - The density of development is too high
 - Developer contributions are not enough and Members feel they were being 'robbed'
 - The infrastructure on the Isle of Sheppey cannot support this development
 - There are traffic issues at the site
 - Reptile studies should not be carried out during autumn or winter
- 1.07 The purpose of this report therefore, is to set out the following:-
- remind Members of the starting point for the assessment of this planning application;
 - set out what would not be defensible and legitimate reasons for refusal;
 - set out the Council's chances of being successful at appeal, should the application be refused and;
 - set out the implications of refusing planning permission in this case.

2.0 LOCAL REPRESENTATIONS (update from 15 September 2016 Report)

- 2.01 Since the writing of the report to 15 September 2016 meeting, one further third party letter of concern has been received from a neighbour raising concern regarding the proposed tandem car parking spaces. This neighbour's concern is that the 2 tandem car parking spaces dedicated to one dwelling are not used to park two vehicles but just one vehicle with the other vehicle being parked on the street, and that the car ports are of limited width and a car cannot fit in.

3.0 CONSULTATIONS (update from 15 September 2016 Report)

- 3.01 Since the writing of the report to 15 September 2016 meeting, further consultation responses have been received as follows:-
- The KCC Ecology Officer is satisfied in theory with the submitted Reptile Survey, however, requests further information from the applicant to enable them to recommend a condition. Following this, further detail was received

from the application and forwarded to KCC for further comments. Comments are awaited and Members will be updated at the meeting.

- There are ongoing discussions between the KCC Archaeology officer and the applicants' consultant (Trust for Thanet Archaeology), and it is understood that A Specification and Written Scheme of Works is currently being prepared and will be forwarded to KCC Archaeology for further comments. Members will be updated at the meeting.
- Details of foul and surface water drainage were received from the applicant and forwarded to Southern Water and the KCC Flood Risk Project Officer for further comments. Members will be updated at the meeting.

4.0 ADDITIONAL INFORMATION RECEIVED (update from 15 September 2016 Report)

4.01 Since the writing of the report to 15 September 2016 meeting, additional information has been received from the applicant and is as follows:-

- Schedule of external surfacing materials (materials are to match the adjoining 'Shurland Place' development – drawing no. 3652 2.07B Streetscape and 3653 Materials Schedule).

5.0 APPRAISAL

5.01 The starting point for the assessment of this application is to look at the history of the site. This application site is allocated for residential development in the adopted Local Plan 2008 and the emerging Bearing Fruits 2031 and this is a strong material consideration in the determination of the application. Members will note that the site is part of a wider site that is allocated as a housing development site under Policy H5(4) of the adopted Swale Local Plan 2008, and under Policy A7 of the emerging Bearing Fruits 2031 which carries weight in decision making. This application proposes 9 dwellings, whilst application ref SW/13/1455 proposed 441 units. From the above it is clear that the principle of developing this site for housing is established and that the development is acceptable as a matter of principle. As such, it is not considered wise to refuse this application on sustainability grounds as such a reason cannot be sustained at appeal.

5.02 With regard to the density of development, the provision of 9 dwellings on a site area of 0.20 hectares, would give a gross density of approximately 45 dwellings per hectare. As stated in paragraph 9.02 of the original report presented to Members at the meeting of 15 September 2016 and appended here, the site is subject to a Development Brief that was approved for the wider Thistle Hill site. Development at densities in the range of 40 dwellings per hectare (dph) to 45 dph is anticipated and that between the four parcels of land at the wider Thistle Hill site a total yield of 440 dwellings is anticipated. Given this, it is considered that a density of 45dph is an acceptable form of development and complies with policies. It is not considered wise to refuse this application on grounds of over-development of the site as such a reason cannot be sustained at appeal.

5.03 Turning to issues raised about the capacity of infrastructure on the Isle of Sheppey, it is considered that the Barton Hill Drive/Lower Road junction is a concern for Members, and officers accept that improvements are required to mitigate the impact that the

development will have. It is for this reason that whilst mitigation by way of developer contributions is not normally considered appropriate for developments under 10 dwellings, in this case given that this application site is part of a wider site for the development of houses on the Thistle Hill site, the proposed development is required to provide mitigation measures proportionate to the proposed 9 dwellings. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution.

- 5.04 As such, the applicant is required to make a financial contribution towards an improvement scheme that would wholly address the junction issues here. In this respect, a roundabout scheme is being promoted, and it is envisaged that several funding sources, including other proposed developments, be used to fully fund the scheme. The contribution required from the applicant is £1,006.00 per dwelling (giving a total of £1,006 x 9 = £9,0054.00). This figure is standard for all development sites contributing towards this project having been agreed by KCC Highways and Transportation. It is also worth noting that the Committee has agreed this approach for application ref SW/13/1455 (referred to above), and the application for 97 houses at Plover Road which Members resolved to approve at the meeting of the 30th of June 2016 under reference 15/507059/OUT. The applicants have indicated a commitment to making a contribution towards these offsite highway improvement works, and these contributions will be secured by way of a S106 agreement. Again, for the above reasons it is not considered wise to refuse the application on infrastructure grounds and on grounds that the funds to be contributed are not enough as the applicant is committed to making a financial contribution towards infrastructure provision. Such a reason cannot be sustained at appeal.
- 5.05 Furthermore, given that the site is an allocated site for housing development, that the roads in the immediate vicinity have been designed to accommodate that level of housing, in accordance with the road types and specifications detailed in the Kent Design Guide and Manual for Streets, and that the site is considered to be well located to connect to the existing Thistle Hill development infrastructure, which includes pedestrian and cycle links, and access to other amenities, it is not considered reasonable to refuse the application on traffic issues, and for reasons that infrastructure on the Isle of Sheppey cannot support the proposed houses, as such a reason cannot be sustained at appeal. As set out in the original report, KCC Highways and Transportation raise no objection to this application.
- 5.06 Regarding reptile studies, KCC Ecology confirm that whilst reptile studies should not be carried out in the autumn/winter, it is acceptable to carry out studies in the month of September. Following this, Members will note that a Reptile Study was submitted by the applicants and this survey concludes that the proposed development site *'supports habitat of low to moderate suitability for reptiles and low suitability for slow worms, and that the site provides very little in the way of cover for reptiles due to the sparse vegetation structure and the absence of potential refuge features.'*

6.0 THE COUNCIL'S CASE AT APPEAL

- 6.01 As set out above, it is not considered that refusing this application on sustainability grounds, on density of development, on the lack of infrastructure on the Isle of Sheppey, on traffic issues and on that the financial contribution is not enough, would be justified as the Borough Council would be likely to lose an appeal for a refusal on these grounds.

7.0 IMPLICATIONS OF THE REFUSAL

- 7.01 Any appeal would be likely to be conducted by way of a Public Inquiry given the unusual nature of the application and that it is part of a wider site allocated for a total of 440 houses. A separate report deals with the potential costs implications.

8.0 CONCLUSION

- 8.01 I therefore repeat the recommendation contained in my original report presented to Members at the meeting of 15 September 2016 that planning permission should be granted in this case.

- 9.0 RECOMMENDATION – GRANT** Subject to the agreement of an acceptable package of developer contributions, the signing of a suitably-worded Section 106 agreement, the receipt of final comments from consultees on additional information received, and the resolution of any issues arising, and to conditions as set out below.

- 9.01 With regard to both the wording of the Section 106 agreement and of conditions, authority is sought to make such amendments as may be necessary.

10.0 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.

Reasons: 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:

3653/2.04 Rev A; 3653/2.05; 3653/2.06 Rev A; 3653/2.07 Rev B; 3653/2.08 Rev C; 3653/2.09, and 3653 Materials Schedule.

Reasons: For the avoidance of doubt and in the interests of proper planning

(3) Prior to the commencement of any works hereby permitted samples of all new facing materials and details of all external finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

Reasons: In the interests of high quality design and the amenities of the area, and to ensure that such matters are agreed before work is commenced.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

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

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

(6) Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

(7) The sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations shall be incorporated into the development as detailed on the submitted Sustainability Statement, and thereafter the development shall be maintained as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

(8) A programme for the suppression of dust during construction of the development shall be as detailed in the submitted additional information submitted to the Local Planning Authority. These approved measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

(9) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

(10) The parking for site personnel / operatives visitors shall be provided prior to the commencement of the development as detailed on the additional information received by the Local Planning Authority and shall thereafter be provided and retained throughout the construction of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents, and to ensure that such matters are agreed before work is commenced.

(11) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement or works.

Reasons: In the interests of highway safety and convenience, and to ensure that such matters are agreed before work is commenced.

(12) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015, the dwellings hereby permitted shall not be altered or enlarged.

Reasons: In the interests of the amenities of the area.

(13) No dwelling hereby permitted shall be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved drawings for cycles to be securely parked and sheltered.

Reasons: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of highway safety.

(14) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting that Order, no fences, gates, walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of the amenities of the area.

(15) Prior to the commencement of development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are agreed before work is commenced..

(16) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(17) Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies and localised flooding and to ensure that such matters are agreed before work is commenced.

(18) Prior to first use or occupation, there shall be provision and maintenance of 1.5 metres x 1.5 metres pedestrian visibility splays behind the footway on both sides of each new vehicular access with no obstructions over 0.6m above footway level. Thereafter development shall be maintained as approved.

Reason: In the interest of highway safety.

(19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

(20) Prior to the occupation of any of the dwellings hereby approved the bin and cycle store areas hereby approved shall be constructed and made available for that use at all times.

Reason: to encourage sustainable transport methods and in the interests of visual amenities.

(21) Upon completion, no further development to the dwellinghouse hereby approved whether permitted by Classes A, B, C, D, E, F, G or H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area

INFORMATIVES

1. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
2. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is

therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

APPENDICES

Appendix 1 – report to Planning Committee on 15 September 2016
(page 38 – page 56)

Appendix 2 – extract from minute of Planning Committee on 15 September 2016
(page 914 – page 916)

APPENDIX 1

2.2 REFERENCE NO - 16/504266/FULL		
APPLICATION PROPOSAL		
Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.		
ADDRESS Land At Lavender Avenue Minster-on-sea Kent ME12 3RB		
RECOMMENDATION: Grant of Planning Permission subject to:-		
<p>5) imposition of conditions, the further views of KCC Archaeology, KCC Ecology, LMIDB,KCC Flood Risk Project Officer, Southern Water and Environment Agency and</p> <p>6) the signing of Section 106 agreement/s for contributions towards:-</p> <ul style="list-style-type: none"> • Education; • Libraries; • Community Learning; • Adult Social Care; • Youth Services; • Provision of ‘wheelie bins’; • Use of local labour / apprenticeships; • SPA mitigation; • Health care contribution; and • An administration charge; <p>And for the provision of:</p> <ul style="list-style-type: none"> • Dedication of land for a reptile receptor area including their management and maintenance; • Provision of a financial contribution of £227.00 per dwelling towards an improved play area capacity <p>7) A contribution of £1,006 per dwelling is required towards KCC Highways improvements to the upgrading of the Lower Road/ Barton Hill junction (roundabout scheme)</p> <p>8) A plan showing amended hard and soft landscaping details.</p>		
SUMMARY OF REASONS FOR RECOMMENDATION		
<p>The application site is an allocated housing site in the emerging Local Plan ‘Bearing Fruits’ under Policy A7 and under Policy H9 in the adopted Swale Local Plan 2008.</p> <p>The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site allocated by the Adopted Swale Local Plan 2008 and the Emerging Bearing Fruits 2031 for residential development, and in a sustainable location, without giving rise to any serious harm to amenity, landscape, ecology, archaeology, and the highway network. As such the proposal is considered to be in accordance with Adopted Local and National Planning Policies.</p>		
REASON FOR REFERRAL TO COMMITTEE		
Authority to enter into Section 106 agreement.		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Jones Homes Southern

		AGENT Britch & Associates Ltd	
DECISION DUE DATE 22/07/16	PUBLICITY EXPIRY DATE 22/08/16	OFFICER SITE VISIT DATE various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
SW/95/102	Outline permission for residential development, a village centre, community facilities and open space.	Approved	September 1997
SW/04/1059	This permission effectively extended the deadlines for reserved matters details to be submitted, and for the dwellings to be constructed.	Approved	September 2005
Members will note that in addition to the above permissions, the wider site has been subject to a significant number of planning approvals - predominantly for reserved matters details of the housing layouts, landscaping etc – but these do not warrant specific mention in this instance.			
SW/13/1455	Outline planning application for the residential development (of up to 431 dwellings).	Resolved to approve at the Committee meeting on 18 August 2016.	18/08/2016
15/505670/FULL	Erection of a 1366 sq.m (GIA) foodstore (A1) and four small retail units within Class A1, A2, A3, A5, and D1 (186 sq.m GIA in total) together with associated access, car parking, service yard and plant, click and collect facility, trolley bays and landscaping.	Approved	8/7/2016
15/507059/OUT	Outline application (with all matters reserved other than access into the site) for a residential development with associated landscaping, parking and public open space – Plover Road, Minster. Members will note that the S106 will include a financial contribution of £1006 for each of the 97 dwellings.	Resolved to approve at the Committee meeting on 30 June 2016.	30/06/2016

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located to the south of Minster and comprises part of an undeveloped area of scrub land within the defined built up area of Minster. To the North of the site is a housing association development on Lapwing Close. The application site forms part of the wider Thistle Hill development (being considered under application ref SW/13/1455) and lies to the east of Heron Drive at its junction with Lavender Avenue.
- 1.02 The application site comprises of an L shape parcel of fairly flat land that measures 0.20 hectares . The site lies to the south western corner of Parcel G. Parcels D, E, and F lie to the west of Heron Drive, while Parcel G lies to the east of it. Parcels D, E, F and G form the application site of planning application ref SW/13/1455.

- 1.03 For clarity, this application site was initially part of a wider site for 'up to 440 dwellings', that application was amended and numbers reduced to 'up to 431' in order to reflect the fact this full planning application is for nine dwellings (reference 16/504266/FULL) on land that formed part of the original site area for this scheme. Subsequent to receipt of this planning application, the red edge boundary of the original planning application ref SW/13/1455 was amended to omit the land the subject of this application.
- 1.04 The surrounding area is generally residential in character. Thistle Hill is largely built-out and has a number of facilities, including the Sheppey Community Hospital, a primary school, a community hall, and various areas of open space, including an established Community Woodland. As noted above, planning permission has recently been granted for an Asda supermarket, on land at Plover Road, which would serve Thistle Hill and the wider Minster area.

2.0 PROPOSAL

- 2.01 This application seeks full planning permission for the erection of 9 two-storey, 3 - and 4-bedroom dwellings with a maximum height of approximately nine metres. Eight of the dwellings would be pairs of semi-detached dwellings, whilst one dwelling would be detached. The dwellings have residential gardens, hard and soft landscaping, tandem parking, and direct vehicular access from Lavender Avenue. The walls of the dwellings would be constructed of facing brickwork, render, tile hanging and weatherboard, whilst the roof would be concrete tiles to match properties in the surrounding area, and all windows and doors would be white UPVC or metal.
- 2.02 The proposed development would be in the form of an L Shape with the frontage of the dwellings addressing Lavender Avenue. The application site faces the 'Shurland Place' housing development. The 9 plots would be spaciouly set out over the site, all being served by reasonably sized front and rear gardens.
- 2.03 The proposed dwellings are carefully designed to be sympathetic to the predominant design of dwellings within the Thistle Hill housing development, and all of the dwellings would be two storey dwellings similar to adjoining dwellings. The proposed materials would be sympathetic to the materials in the area.
- 2.04 Each dwelling would have a car port that would provide tandem parking at 2 spaces per dwelling, and there would be space for cycle storage.
- 2.05 With regard to the density of development, the provision of 9 dwellings on a site area of 0.20 hectares, would give a gross density of approximately 45 dwellings per hectare.
- 2.06 The following documents have been provided to support the application;
- Design and Access Statement
 - Sustainability Statement
- 2.07 **Key extracts from the Design and Access Statement read as follows;**
- The Thistle Hill Development Area was granted outline planning permission in 1997. However this permission has expired. An outline planning application is currently being considered for Parcel D, E, F and G of the Thistle Hill development Area under ref SW/13/1455.

- Land to the south of Parcel G was developed by Jones Homes in two phases. The final few houses on phase 2 are under construction and are expected to be completed in mid 2016.
- This application has been submitted given that application for the bigger site was pending consideration when the current scheme was submitted. If granted, this will maintain continuity and avoid loss of skilled operatives on site
- The proposed houses will form the entrance to the development along Heron Drive
- Heron Drive contains utilities and is serviced
- The application site is allocated for Housing Development on the adopted Local Plan and the emerging Local Plan Bearing Fruits
- The site is well connected and has ready access to local bus services and train services
- There are a number of existing cycle and pedestrian routes in the immediate vicinity
- A number of reports relating to the Landscape and Visual Impact, Trees and Ecology, Environment and Heritage has been submitted as part of outline planning application ref SW/13/1455
- The site is disused farmland
- Vehicular access to the site is from Heron Drive
- The site has constraints and opportunities
- The site is of low landscape and ecological value and as such does not have important wildlife species
- Pre-application advice was sought for the development
- The application proposes 9 houses at 45 dwellings per hectare.
- The dwellings are designed to overlook the streets and so have active frontages
- Houses to the end of the street form feature buildings with fenestration on their flank walls
- Car ports link the dwellings and provide continuity to the street
- Design of the dwelling take local vernacular in terms of scale, form, materials, and details
- Facing materials would be similar to adjoining development e.g. facing brickwork, weatherboard, render and tile hanging with roofs in plain concrete tiles.
- The scheme will provide a high quality development with a sense of identity and character, would be sustainable development, development would be well connected and legible and would be a safe environment
- Two storey properties are proposed (8 of these would be 3 bedroom houses whilst 1 would be a 4 bedroom house)
- No affordable housing is proposed
- The scheme incorporates the principles of 'Secured by Design'
- Opportunity to provide planting is limited however, the frontages of the properties will have trees, shrubs and grass
- The application site is sustainable and conforms to the 3 strands of development (social, economic and environmental)
- Parking provision would be in the form of car ports in tandem arrangement
- Cycle storage is provided

2.08 Key extracts from the Sustainability Statement read as follows;

- Should planning permission be given the development will incorporate sustainable construction techniques which can be secured via a condition
- The submitted statement details measures included in the proposals that are designed to:-

- Improve the energy performance of the buildings
- Improve the well-being of the occupants and other users of the site
- Improve the environment around the site
- Reduce the use of natural resources
- Reduce emissions and pollution from the buildings

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.20 hac	0.20 hac	0
Parking Spaces	0	20	20
No. of Residential Units	0	9	9
No. of storeys	0	2	2
No. of Affordable Units	ZERO	ZERO	0

4.0 PLANNING CONSTRAINTS

- The application site is located within Flood Zone 1, amounting to an area of low flood risk and being assessed as having a less than 1 in 1000 annual probability of flooding.
- The site is of potential archaeological importance

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) and the Development Plan (saved policies of the Swale Borough Local Plan 2008) are material considerations in the determination of this application:

The national policy position comprises of the National Planning Policy Framework (NPPF), which was released in 2012. It provides national guidance for Local Planning Authorities on plan making and in determining planning applications. A presumption in favour of sustainable development runs throughout the document and this presumption is an important part of both the plan-making process and in determining planning applications stating;

“2.31 There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
- *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural*

resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. (Para 7 NPPF)

Paragraphs 47-55 seek to significantly boost the supply of housing. Para. 49 of the NPPF confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out by NPPF para. 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF.

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

Paragraph 49 also confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out at Paragraph 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to Paragraph 49.

Paragraphs 56 to 68 address ‘requiring good design’, and Paragraph 56 asserts that *“Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*

Paragraph 64 of the NPPF states *“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”*

Paragraph 96 states that in determining planning applications, local planning authorities should *“take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption”*.

Paragraph 100 stipulates that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere.”*

The use of ‘planning conditions and obligations’ are addressed at Paragraphs 203 to 206. To a large extent, these paragraphs advocate the approach set out in Circular 05/ 2005: ‘Planning Obligations’ [which is now cancelled], the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and Circular 11/95 ‘The Use of Conditions in Planning Permissions’.

Paragraph 204 states the following:

“Planning Obligations should only be sought where they meet all of the following tests:
 _ *Necessary to make the development acceptable in planning terms*
 _ *Directly related to the development; and*

_ Fairly and reasonably related in scale and kind to the development."

Paragraph 216 deals with the weight to be given to relevant policies in emerging plans according to:

- *"the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

5.02 Development Plan:

The following policies of adopted Swale Borough Local Plan 2008 have been 'saved' and are considered to be relevant:

SP1 (sustainable development), SP2 (environment), SP3 (economy), SP4 (housing), TG1 (Thames Gateway Planning Area), SH1 (settlement hierarchy), E1 (general development criteria), E9 (character and quality of landscape), E10 (trees and hedges), E11 (biodiversity in the Borough), E12 (designated biodiversity sites), E16 (archaeology), E19 (design), H2 (new housing), H3 (providing affordable housing), H5 (housing allocations), U1 (servicing development), U3 (renewable energy), U4 (placing services underground), T1 (access to new development), T2 (improvements to highway network), T3 (vehicle parking), T4 (cycle parking), T5 (public transport), C2 (developer contributions), C3 (open space on new housing developments), H8 (housing development at Thistle Hill).

Members should note that the wording for Policy H8 (which allocates land for housing at Thistle Hill) reads as follows:

Policy H8

Thistle Hill, Minster

Policy H5(3) states that the remaining land to be developed at the Thistle Hill site (as shown on the Proposals Map) will provide a further 500 dwellings in addition to the 1,000 dwellings (approximately) which already have planning permission, 30% of which will be provided as affordable dwellings. The precise number of additional dwellings to be provided will be determined by a revised Development Brief and Master Plan for the site. This will be prepared by the developer(s) and submitted to and approved by the Council and will supersede the Development Brief already approved in accordance with the terms of the conditions of the original 1997 planning permission, amended and consolidated in 2005.

To ensure that the totality of the completed development makes provision for about 1,500 dwellings across the whole site at a net density of no less than 30dph, the developer(s) shall either obtain a revised planning permission to this effect or enter into an appropriate form of Legal Agreement or Agreements with the Council.

In preparing the revised Development Brief and Master Plan, and in determining the precise number of additional dwellings, particular consideration will be given to:

1. *The capacity of the local highway network, and any improvements to it that may be required resulting from the traffic arising from the additional number of dwellings to be provided*
2. *The capacity of the existing utility structure and any improvements to it that may be required resulting from the demands placed on it by the additional number of dwellings to be provided;*
3. *The need for new or improved social and community facilities*
The Council will only agree to the number of dwellings to be erected on the site to be in excess of the 1,000 (approximately) already permitted after development has commenced on both the Neatscourt and the Ridham and Kemsley employment sites (see [Policy B10](#), [Policy B11](#) and [Policy B21](#)).

5.03 Emerging Local Plan 'Bearing Fruits 2031' relevant policies include:

ST1 (Delivering Sustainable Development in Swale, ST3 (Swale Settlement Strategy), ST4 (Meeting the Local Plan Development targets), CP2 (Promoting Sustainable Transport), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring Good Design), CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure), DM6 (managing transport demand and impact), DM7 Vehicle Parking, DM8 (Affordable Housing: which in respect of the Isle of Sheppey specifies that poor viability means that affordable housing will not be sought on housing developments), DM19 Sustainable Design and Construction, DM21 Water, flooding and drainage, DM24 (Conserving and Enhancing Valued Landscapes), DM28 (Biodiversity and Geological Conservation), DM29 (Woodlands, trees and hedges) and DM31 (Agricultural Land).

Members should note that **Policy A7** relates specifically to Thistle Hill and reads as follows:-

“Thistle Hill, Minster, Isle of Sheppey

Planning permission will be granted for land allocated for housing, as shown on the [Proposals Map](#), at Thistle Hill, Minster, Isle of Sheppey. Development proposals will accord with the approved development briefs and satisfactorily address archaeological issues and provide the infrastructure needs arising from the development, including those identified by the Local Plan Infrastructure and Delivery Schedule (including, if justified by a transport assessment, a financial contribution toward improvements to the A2500). Proposals will also ensure that, through both on and off site measures, any significant adverse impacts on European sites through recreational pressure will be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy.

With regard to Policy DM8, Members will note that in respect of development on the Isle-of-Sheppey there will be ‘no affordable housing requirement’. This policy specifies that in respect of the Isle of Sheppey poor viability means that affordable housing will not be sought on housing developments.

The site is also subject to a Development Brief, which was agreed by the Council pursuant to condition (6) of both SW/95/102 and SW/04/1059, the outline planning permissions granted for the development of the Thistle Hill site, in November 2009.

6.0 LOCAL REPRESENTATIONS

1 No letter of representation received from neighbouring properties.

Their comments can be summarised as follows;

- The proposed rehoming of creatures would be insufficient as the site has developed its own eco-system
- The development will exacerbate existing congestion problems in the area
- Water saturation will be intolerable and the development will exacerbate existing drainage
- The development will exacerbate existing parking problems
- The development will result in noise nuisance from traffic given that the main access is via Lavender Avenue for housing development planned under ref SW/13/1455

7.0 CONSULTATIONS

- 7.01 *Minster-On-Sea Parish Council (PC) 'has concerns about the impact of the proposal on the inadequate local highway network believing this will add to the serious congestion problem along the A2500 Lower Road and other local road networks. In addition, the proposal is not helped by Kent Highway Services' decision to ignore the Parish Council's warnings about its setting of an inappropriate (national) speed limit along the Scocles Road residential route which continues to present serious public safety risks. On more positive note, the Parish Council liked the car port scheme believing it will encourage off street parking.'*
- 7.02 The Lower Medway Drainage Board initially advised that details of the foul and surface water drainage requirements for this development should be submitted for consideration prior to the determination of the application. Subsequent to this, additional information was submitted and comments of the Lower Medway Drainage Board are awaited. Members will be updated about this issue at the meeting
- 7.03 KCC Flood Risk Project Officer advises that details of the foul and surface water drainage requirements for this development should be submitted for consideration prior to the determination of the application. Subsequent to this, additional information was submitted by the applicant and comments of the KCC flood Risk Officer's comments are awaited. Members will be updated about this issue at the meeting
- 7.04 Kent County Archaeology advises that the site has important archaeological remains. Given this, they do not have an objection to the proposed development subject to a condition seeking the securing of an archaeological field evaluation works that would be in accordance with a written specification and timetable which has been submitted to and approved in writing by Swale Borough Council. This is to be done to ensure that features of archaeological interest are properly examined and recorded. Following this, the agent advises that to avoid commencement of development on this site, they recommended that the archaeology condition should be a watching brief condition to enable any excavation to be observed by a qualified archaeologist and approved by the LPA. I have sought advice from the County Archaeologist regarding this, and members will be updated about this issue at the meeting.
- 7.05 Kent County Ecology originally advised that details of the agreed receptor site and the method statement for slow worms should be submitted to the LPA for approval prior to determination of the application. Following this additional information was submitted to support the application. KCC advise that they are not satisfied with the agent's response and still have concerns regarding the impact of the development on the reptile population as a result of the proposed development. They advise that given that this is a full planning application, this matter should be resolved prior to determination.

In addition, they advise that the developer should provide 9 bird bricks or bird boxes into the proposed nine dwellings and not just one and that the proposed landscaping should incorporate native species. The agent has been advised of this concern and Members will be updated about this issue at the meeting.

7.06 Natural England makes the following summarised comments:

- The proposed site is located in close proximity to a European designated site and therefore has the potential to affect its interest features
- The site is close to The Swale Special Protection Area (SPA) and is also listed as the Swale Ramsar Site and also notified at a national level as The Swale Site of Special Scientific Interest (SSSI)
- The Local Authority should have regard for any potential impacts may have
- The application is not supported by a Habitats Regulation Assessment
- Swale Borough Council should determine whether the proposal is likely to have any significant effects on any European site
- The Local Authority should secure contributions towards mitigating impact of the development on the SPA accumulating to £223.58 per dwelling
- The development should provide opportunities to incorporate features into the design which are beneficial to wildlife

7.07 Kent County Council's response in respect of contributions is detailed below:

- Primary education– *'a requirement does arise. However, making a request towards the new Thistle Hill Primary School from such a small development would not be appropriate under CIL Reg 123 (5 obligation limit). If KCC choose another Primary project (which would be at cheaper extension rates towards another Primary School on the Island) this could frustrate KCC collecting the needed funding from the current larger application (SW/13/1455) towards the new Thistle Hill PS. The attached appeal in Bracknell considered a smaller part application of a wider site be dismissed as it failed to contribute to the wider needs of the overall site because of CIL reg 123'*
- Community Learning – *'A contribution of £60.43 per dwelling (A total of £543.87) would be required for the provision of additional community learning centres. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking undermines KCC case upon the wider larger application'*
- Libraries – A contribution of £48.02 per dwelling (total of £432.18) would be required for the provision of additional library books;
- Youth Service – *'A contribution of £37.58 per dwelling (total of £338.22) would be required for the provision of youth service. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking undermines KCC case upon the wider larger application'*
- Adult Social Care – *'A contribution of £60.99 per dwelling (total of £548.91) would be required for the provision of additional adult social care service. Again as for Primary, seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking could undermine KCC/Swale case upon the wider larger application.'*

- Broadband connection - Details are required for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings.
- 7.08 Comments from Southern Water are awaited and Members will be updated at the meeting.
- 7.09 Comments from The Environment Agency are awaited and Members will be updated at the meeting.
- 7.10 The Environmental Protection Team Leader raises no objection to the principle of development subject to conditions restricting hours of construction.
- 7.11 Green Space Manager advises that a contribution of £227.00 per dwelling (a total of £2,043.00) to an improved play area capacity is required for this development.
- 7.12 The Climate Change Officer raises no objection to the proposal subject to a sustainable measures condition.
- 7.13 KCC Highways and Transportation initially raised concerns regarding the proposed tandem parking and advise that it would not conform to their parking guidance for residential development, namely IGN3. Negotiations have taken place, and to address this concern the applicant has been advised to amend the highway layout in front of the proposed properties so as to provide some additional on street parking to mitigate any potential negative impact of the proposed tandem parking spaces. In addition, the agent has been advised to provide a footway on the frontage of the properties on Lavender Avenue given that this will be the through route for a large proportion of the traffic in the later phase of the development. The applicant is currently preparing the required amendments, and Members will be updated about this at the meeting.

In addition, based on current assumptions of the project cost and other funding opportunities, it is considered appropriate to seek a contribution of a total of £1,006.00 per dwelling (a total of £9,0054.00) to facilitate improvements to the upgrading of the Lower Road/Barton Hill Junction. It is anticipated that with similar pro-rata levels of contribution being obtained from further developments proposed and other sources of funding, that the cost of the roundabout can be met.

- 7.14 The NHS CCG [Clinical Commissioning Group] have requested a total of £7,776.00 for expenditure on the upgrading of primary care to serve the increased population for GP surgeries nearest to the site (Shiva Medical Centre, Broadway Minster and Minster Medical Centre). This request is based on their estimate of 2.4 people per dwelling on average and equates to £360 for each of those people.
- 7.15 The Economy and Community Services Manager advises that there should be a requirement for the use of local labour and the provision of apprenticeship places for the construction of the development.

8.0 BACKGROUND PAPERS AND PLANS

Application papers and correspondence relating to planning application reference 16/504266/FULL.

9.0 APPRAISAL

The key issues in respect of this application are as follows:

- Principle of development;
- Design and Visual impact
- Residential amenity;
- Highway Implications;
- Landscaping
- Ecology;
- Surface water drainage / flood risk;
- Developer Contributions

Principle of Development

- 9.01 This application site is allocated for residential development in the adopted Local Plan 2008 and the emerging Bearing Fruits 2031 and this is a strong material consideration in the determination of the application. Members will note that the site is part of a wider site that is allocated as a housing development site under Policy H5(4) of the adopted Swale Local Plan 2008, and under Policy A7 of the emerging Bearing Fruits 2031 which carries weight in decision making. This application proposes 9 dwellings, whilst application ref SW/13/1455 proposed 441 units.

The applicants have not provided affordable units. No objection is raised to this given that the Borough Council's Affordable Housing Policy modifications were put before the Planning Inspector in 2015, and her interim report confirms that the proposed 0% contribution for all sites in the Isle of Sheppey is sound. This change in policy requirement carries weight and can be used in decision making. As such, and in accordance with Policy DM8 of the emerging Bearing Fruits 2031, this site is no longer required to provide affordable housing.

In the light of these points, it is considered that the development is acceptable as a matter of principle.

Visual Impact

- 9.02 The site is subject to a Development Brief that was approved for the wider Thistle Hill site. Development at densities in the range of 40 dwellings per hectare (dph) to 45 dph is anticipated and that between the four parcels a total yield of 440 dwellings is anticipated. The Brief also gives some pointers to guide the detail of the housing development on these parcels of land.

The proposed scheme proposes a development with a density of approximately 45dph. The layout, design and detailing of the proposed development is considered to comply with the Development Brief, and is similar to the dwellings built on land parcels adjoining the site. The proposed materials would be sympathetic to, and match the adjoining development. Overall it is considered that subject to a condition requiring use of appropriate materials, the proposed scheme would achieve a high quality design which would assimilate well with the existing Thistle Hill housing development.

Residential Amenity

- 9.03 As set out above, the application very closely matches in layout, scale and design the adjoining housing development within the wider Thistle Hill site. The scheme has been carefully designed to ensure that both separation distances and positioning of windows would minimise any harm to the surrounding residential properties to acceptable levels. As such, it is considered that no unacceptable impact would be caused to neighbouring properties as a result of the development. With regards to garden sizes,

these all are of an acceptable size, meeting the required minimum standards for family dwellings.

Highways

- 9.04 The proposal involves the provision car ports for each dwelling that would provide tandem parking. KCC Highways and Transportation advise that this is contrary to the provisions of IGN3. However, following negotiations with the applicant, they advise that if the highway layout in front of the properties is amended so as to provide some additional on street parking to mitigate any potential negative impact of the proposed tandem parking spaces, and that if a footway is provided on the frontage of the properties on Lavender Avenue, any impact caused would be mitigated to acceptable levels. As a result of this, there is need to move the frontage of the dwellings by approximately 1 metre into the site. The applicant is currently preparing the required amendments and Members will be updated about this at the meeting.

As set out above, overall KCC Highways and Transportation raise no objection to the application, subject to the recommended amendments detailed above, suitable mitigation in the form of planning conditions and, importantly, a financial contribution (a total of £9,0054.00) towards the provision of the proposed road upgrade to the Lower Road / Barton Hill Drive junction, where this authority is working with KCC Highways and Transportation to deliver a roundabout.

The agent has confirmed, at the outset of the application that they are willing to provide the requested contribution, and as such the development is considered to be acceptable in terms of highway matters.

Landscaping

- 9.05 The landscaping of the site will have a significant impact on the success or otherwise of this scheme. There is limited tree and hedge cover on this site, and clearly this development represents an opportunity to significantly improve the quality and amount of trees on the site. The applicant has submitted a hard and soft landscaping scheme, together with details of biodiversity enhancements to justify the proposed development. Concern is raised regarding this additional information. An amended soft landscaping scheme is awaited and this should incorporate native species. Subject to receipt of the above amendments the proposed development would comply with policies.

Ecology

- 9.06 As noted above, the site is located in close proximity to the Medway and Marshes Special Protection Areas (SPA) and as such it is likely that the future occupiers of the site will be using the SPA for recreational purposes in some instances. It is therefore likely that there will be some impact on the SPA which would need to be addressed through appropriate mitigation measures. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution towards the SPA mitigation (£223.58 per dwelling). *Natural England raise no objection, and subject to the payment of the standard tariff of £223.58 per dwelling to be spent on the mitigation of recreational impacts on the SPA, it is considered that the application is acceptable in this regard.*

The NPPF states that 'the planning system should contribute to and enhance the natural and local environment by '.....*minimising impacts on biodiversity and delivering net gains in biodiversity where possible*'. The applicant has submitted details of

biodiversity enhancements. KCC Ecology advise that proposed one bird box is not acceptable, and that there should be a bird brick or bird box for every dwelling.

In addition, KCC Ecology advise that the receptor site for slow worms may not be created prior to works commencing on site and that the mitigation detailed in the submitted report cannot be implemented. They advise that an updated mitigation strategy for this site should be submitted for comments, and that this mitigation strategy is to be informed by updated reptile surveys. The applicant has been advised of this and the additional information required is awaited. Members will be updated at the meeting.

Surface water drainage / flood risk

- 9.07 Members will have noted above that the application site is in Flood Zone 1, and therefore is considered to be at low risk of flooding.

KCC Flood Risk Officer and The Lower Medway Internal Drainage Board (LMIDB) Officer advise that a detailed surface water drainage system (SUDS) should be submitted for approval prior to the determination of the application. Following this, the applicant has submitted the additional information required, and views of the LMIDB officer on the additional details are awaited as are the comments of the KCC SUDS Team. Members will be updated at the meeting.

Developer Contributions

- 9.08 Whilst mitigation by way of developer contributions is not normally considered appropriate for developments under 10 dwellings, in this case given that this application site is part of a wider site for the development of houses on the Thistle Hill site, the proposed development is required to provide mitigation measures proportionate to the proposed 9 dwellings. The agent has confirmed, at the outset of the application, that they are willing to provide the requested contribution.

In accordance with the relevant policies of the Local Plan and the guidance set out in the adopted Supplementary Planning Document, 'Developer Contributions' (2009), a range of developer contributions and other S106 items will need to be included in the legal agreement. Discussions with the applicant's planning agent and with some of the consultees are on-going, and I will update members at the meeting. However, the current position is as follows:

With regard to off-site highway works, Members will note my summary of the comments of KCC Highways and Transportation at Paragraph in the consultations section above and that they are seeking a contribution amounting to a total of £9,0054.00, (or £1006 per dwelling) towards the cost of upgrading the Lower Road / Barton Hill Drive junction.

Members will note the comments in respect of contributions made by KCC Developer Contributions (at paragraph 7.07 above), and that KCC advise that *seeking from such a small development creates problems for KCC under CIL Reg 123, but not seeking could undermine KCC/Swale case upon the wider larger application.* However, with regard to libraries they are seeking a contribution of £48.02 per dwelling (or a total of £432.18 in total).

Members will also note the Greenspaces Manager's requirements for a total of £2,043.00 towards an improved play area capacity is required for this development.

Furthermore, the Section 106 agreement will also need to include a requirement for a contribution in respect of wheelie bins. The total amount payable will be £39.47 per bin or £78.94 per dwelling (or a total of £710.46 for 9 houses)

As set out in the consultations section above, the Clinical Commissioning Group are seeking a total of £7,776 to be spent on providing additional capacity at the two nearest GP surgeries which are Shiva Medical Centre Broadway Minster, and Minster Medical Centre on Plover Road..

As set out in the consultations section above, the Economy and Community Services Manager requests the use of local labour and apprenticeship provision during the construction of the development.

As set out at Paragraph 9.07 above, in accordance with the Habitat Regulations and the strategy that the Council has agreed in conjunction with other north Kent local authorities, a payment of £223.58 per dwelling (or £2,012.22 in total) will payable for the mitigation of potential recreational impacts on the quality and integrity of the Swale SPA.

In accordance with Policy DM8 of the emerging Local Plan Bearing Fruits 2031 (Main Modifications June 2016), and as mentioned above, this development will not include a requirement for the provision of any affordable housing units.

Finally, an administration charge to cover, among other things, costs associated with the administration and monitoring of the Section 106 agreement will be sought.

10.0 CONCLUSION

The development would form part of the final part of the Thistle Hill housing development, and accordingly is allocated for housing development in both the adopted Local Plan and the emerging Local Plan, Bearing Fruits 2031 (Proposed Main Modifications, June 2016). As such, the scheme is acceptable in principle.

Overall it is considered that a development as designed will not result in an unacceptable impact upon residential amenities of neighbouring properties. The proposed scheme is of a scale to accommodate acceptably sized units, outside amenity space and parking areas similar to adjoining development. The standard of accommodation proposed is acceptable, and as such it is considered that the development would be reasonably assimilated into existing development. Given this, it is recommended that planning permission is granted.

11.0 RECOMMENDATION – GRANT

Subject to the agreement of an acceptable package of developer contributions, the signing of a suitably-worded Section 106 agreement, the receipt of final comments from consultees on additional information received, amended hard and soft landscaping details, and the resolution of any issues arising, and to conditions as set out below.

With regard to both the wording of the Section 106 agreement and of conditions, authority is sought to make such amendments as may be necessary.

CONDITIONS to include:

- (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.

Reasons: 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:

3653/2.04; 3653/2.05; 3653/2.06; 3653/2.07; 3653/2.08; 3653/2.09, and 1.1250 A3L.

Reasons: For the avoidance of doubt and in the interests of proper planning

- (3) Prior to the commencement of any works hereby permitted samples of all new facing materials and details of all external finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

Reasons: In the interests of high quality design and the amenities of the area, and to ensure that such matters are agreed before work is commenced.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

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

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (6) Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (7) The sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations shall be incorporated into the development as detailed on the submitted Sustainability Statement, and thereafter the development shall be maintained as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

- (8) A programme for the suppression of dust during construction of the development shall be as detailed in the submitted additional information submitted to the Local Planning Authority. These approved measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reasons: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

- (9) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

- (10) The parking for site personnel / operatives visitors shall be shall be provided prior to the commencement of the development as detailed on the additional information received by the Local Planning Authority and shall thereafter be provided and retained throughout the construction of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents, and to ensure that such matters are agreed before work is commenced.

- (11) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement or works.

Reasons: In the interests of highway safety and convenience, and to ensure that such matters are agreed before work is commenced.

- (12) Notwithstanding the provisions of Class A of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015, the dwellings hereby permitted shall not be altered or enlarged.

Reasons: In the interests of the amenities of the area.

- (13) No dwelling hereby permitted shall be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved drawings for cycles to be securely parked and sheltered.

Reasons: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of highway safety.

- (14) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting that Order, no fences, gates, walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of the amenities of the area.

- (15) Prior to the commencement of development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of a programme of

archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are agreed before work is commenced..

- (16) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (17) Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies and localised flooding and to ensure that such matters are agreed before work is commenced.

- (18) Prior to first use or occupation, there shall be provision and maintenance of 1.5 metres x 1.5 metres pedestrian visibility splays behind the footway on both sides of each new vehicular access with no obstructions over 0.6m above footway level. Thereafter development shall be maintained as approved.

Reason: In the interest of highway safety.

- (19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (20) Prior to the occupation of any of the dwellings hereby approved the bin and cycle store areas hereby approved shall be constructed and made available for that use at all times.

Reason: to encourage sustainable transport methods and in the interests of visual amenities.

- (21) Upon completion, no further development to the dwellinghouse hereby approved whether permitted by Classes A, B, C, D, E, F, G or H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area

INFORMATIVES

3. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
4. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Council's approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed, and the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 2

2.2 REFERENCE NO – 16/504266/FULL		
APPLICATION PROPOSAL Erection of 9 no. 2 storey 3 and 4 bedroom detached and semi-detached dwellings and associated works.		
ADDRESS Land At Lavender Avenue Minster-on-sea Kent ME12 3RB		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-on-Sea	APPLICANT Jones Homes Southern AGENT Britch & Associates Ltd

The Planning Officer reported that there had been further discussion with KCC, who had re-evaluated their position and now considered it appropriate and necessary to request contributions towards primary education from this development. The contributions amounted to £4,000 per dwelling (£36,000 total) and would be put towards the Thistle Hill primary school development. This has been included within the terms of the accompanying Section 106 legal agreement.

The Planning Officer further reported that the KCC Flood Risk Officer recommended a condition requiring the submission of the proposed drainage layout and calculations confirming that the discharge from the site was at the rates the existing system was designed to receive.

The Lower Medway Internal Drainage Board had no objection further to the County Flood Risk Officer’s response. The County Archaeologist requested that the standard programme of works and watching brief conditions was attached.

The Planning Officer reported that the County Ecologist advised that a reptile survey and mitigation strategy were required to make the application acceptable. The reptile survey must be submitted and agreed before planning permission can be formally granted to avoid conflict with the advice of Circular 06/2005, which stated that ecological matters must be resolved before granting consent other than in exceptional circumstances. KCC Developer Contributions confirmed that this application can be considered as the 5th site to contribute towards Thistle Hill Primary School project, thus completing the total number of projects that could contribute to that scheme under the Community Levy Regulations. The Environment Agency had no comments. Southern Water raised no objection subject to a condition requiring the position of water and drainage pipes to be determined, and a standard informative.

The Planning Officer reported that further to KCC Highways and Transportation’s initial concerns, a revised drawing had been received (no. 3653/2.08 rev C) showing the highway layout in front of the properties amended, so as to provide additional on street parking. A footway had also been provided on the frontage of the properties on Lavender Avenue.

The Planning Officer sought delegation from Members to approve the application subject to: receipt of an amended landscaping scheme (as referred to at para 9.05

of the report); receipt of the required reptile survey and further comments from the County Ecologist; adding a condition requiring submission of a mitigation strategy and drainage condition; adding a condition requiring submission of drainage layout and calculations; adding the standard archaeological programme of works condition; any further conditions requested by Southern Water; amending the wording of condition (2) to reflect the amended drawings that had been received; and completion of a Section 106 Agreement to secure financial contributions.

A Ward Member welcomed more on-street parking.

In response to queries, the Planning Officer confirmed that the financial contribution to the proposed Lower Road/Barton Hill Drive junction road upgrade was £9,054.00. A condition requiring broadband ducting be installed could be provided, however it was for outside agencies to provide.

Members considered the application and raised the following points: the density of housing was too much; reptile studies should not be carried out during autumn/winter; developer contributions were not enough and feel we are being 'robbed'; and the infrastructure on the Isle of Sheppey cannot support this development.

The Chairman moved the officer recommendation to approve the application and this was seconded.

In response to queries from Members, the Planning Officer referred to paragraph 9.08 of the report which set out developer contributions. He stated that whilst it was unusual to request contributions on small developments in this instance it was necessary so as not to prejudice funding on the wider Thistle Hill development.

In accordance with Procedure Rule 19(2) a recorded vote was taken on the motion to approve the application as follows:

For: Councillors Bobbin, Roger Clark, Mike Dendor, James Hunt, Nigel Kay, Mike Henderson, Bryan Mulhern and Ghlin Whelan.

Against: Mike Baldock, Cameron Beart, Andy Booth, Richard Darby, James Hall, Ken Ingleton, Samuel Koffie-Williams, Peter Marchington and Prescott.

The motion to approve the application was lost.

Councillor Andy Booth moved the following motion: That the application be refused due to the lack of infrastructure to support continual expansion in the area, and unsustainable development. This was not seconded.

The Development Manager drew Members' attention to the history of the site and that outline permission for the application was approved by the Planning Committee on 30 June 2016. He was concerned about the proposed reasons suggested by Members for refusing the application and whether these could be supported at any subsequent appeal.

Councillor Ken Ingleton moved a motion to defer the application until substantial steps had been taken to resolve the traffic issues at the site. This was not seconded.

The Locum Solicitor stated that whilst he had some sympathy with Members' concerns in relation to traffic he was not sure they were sound reasons, given that the application was already approved in outline.

The Chairman agreed to a short adjournment for officers to receive advice from the Locum Solicitor.

At this point, the Development Manager used his delegated powers to 'call-in' the application.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application would be deferred to the next meeting when the Head of Planning would advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject for costs.

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

13 OCTOBER 2016

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PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

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PLANNING COMMITTEE – 13 OCTOBER 2016

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 16/505980/FULL			
APPLICATION PROPOSAL Proposed conversion of detached double garage block to annexe with 2 No front pitched roof dormer windows and 3 No Velux windows to rear. (Resubmission of 16/503457/FULL) as amended by drawings received on 22 September 2016.			
ADDRESS Dornywood 6 Morgan Kirbys Garden Sheldwich Kent ME13 0LG			
RECOMMENDATION Approve SUBJECT TO: Any outstanding representations (Consultation period ends 12 October 2016)			
SUMMARY OF REASONS FOR RECOMMENDATION The development complies with the necessary policies within the Swale Borough Local Plan 2008 and Supplementary Planning Guidance			
REASON FOR REFERRAL TO COMMITTEE Member request			
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Sheldwich, Badlesmere And Leaveland	APPLICANT Mr David Morgan AGENT Essan-K Planning Ltd	
DECISION DUE DATE 26/09/16	PUBLICITY EXPIRY DATE 12/10/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/503457/FULL	Proposed conversion of detached garage block to annexe with front dormer window and 3 No Velux windows to rear	Withdrawn	22.06.2016

1.0 DESCRIPTION OF SITE

- 1.01 6 Morgan Kirby Gardens is a large, traditionally designed modern detached house located on a sizeable plot in a cul-de-sac within the Sheldwich conservation area and the Kent Downs Area of Outstanding Natural Beauty.
- 1.02 The detached double garage that forms part of this application is situated in the far front corner of the plot with the side elevation facing the host property. Another existing double garage on the site would remain for parking purposes and there is ample parking on the drive for approximately five cars.

2.0 PROPOSAL

- 2.01 The application seeks permission to convert the current detached double garage to a one bedroom annexe with living area. As submitted the proposal involved the insertion of two large dormer windows on the front roofslope, three obscure glazed rooflights on the rear roofslope, a new side window, and replacing both pairs of garage doors with glazing and timber panels.
- 2.02 Amended drawings were received on 22 September showing the following changes:
- The garage doors now would be infilled using full height glazing, with an entrance door to the side elevation facing the main property.
 - The annexe would comprise of a downstairs living area, with bedroom and shower room upstairs. The proposed annexe would not have a kitchen area and the occupants of the annexe would be reliant on the host property for any purposes that require a kitchen.
 - The rooflights have been amended to conservation rooflights as per the request of the Council and the dormer windows have been brought down in size and height within the roofslope, so they would be below the ridgeline as per the Council’s SPG regarding alterations.
- 2.03 The Parish Council and contributors were re-consulted on these amended plans on 28 September for 14 days, with the consultation period ending on 12 October. Members will be updated at the meeting on any outstanding representations received.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Potential Archaeological Importance

Conservation Area Sheldwich

4.0 POLICY AND OTHER CONSIDERATIONS

Development Plan – The Swale Borough Local Plan 2008

E1 (General Development Criteria)

E6 (Countryside)

E9 (Protecting the Quality and Character of the Borough’s Landscape)

E15 (Conservation Areas)

E19 (Achieving High Quality Design and Distinctiveness)

E24 (Alterations and Extensions)

RC4 (Replacement of and extensions to dwellings in the rural area)

Emerging Local Plan – Bearing Fruits 2031

DM33 (Development affecting conservation areas)

Supplementary Planning Guidance:

‘Designing an Extension – A Guide for Householders’

‘Conservation Areas’

5.0 LOCAL REPRESENTATIONS

5.01 One letter of objection with photographs has been received from a neighbour concerned about the following summarised points:

- Overlooking from first floor windows looking into their lounge
- Loss of privacy
- Visual impact from the unattractive design and cutting back of a tree that overhangs the garage
- Use of aluminium glazing not in keeping with the area
- Impact on the conservation area and AONB
- Light disturbance
- Cumulative extension bearing in mind that this property has already had an additional double garage and a conservatory added to it.
- Potential use of the annexe, whether for carer or family use, the property already has five bedrooms and the need is doubtful
- Misleading photographs submitted with the application giving a bad impression of the current appearance of the garage

5.02 One further letter was received from a neighbour neither objecting nor supporting the proposal, but which raised the following concerns:

- My property is low lying and would be overlooked by the rooflights to the rear
- The rooflights would detract from the charm of our listed building
- Request that the rooflights be removed from the application or opaque glass used

5.03 This application has been referred to the Planning Committee at the request of Councillor Andrew Bowles.

6.0 CONSULTATIONS

6.01 Sheldwich, Badlesmere and Leaveland Parish Council raises objection stating:

“Parish Council have not altered their objections to this application following the re submission. The 2 dormer windows are too big and clumsy for the small roof and the infill to the garage doors is awkward and unpleasant. The proposal still overlooks the neighbouring properties and this proposal would seriously detract from the pleasant character of the neighbourhood.”

7.0 BACKGROUND PAPERS AND PLANS

7.01 All plans and documentation relating to 16/505980/FULL

8.0 APPRAISAL

8.01 With reference to the objections from the neighbour with regards to overlooking, the minimum distance expected window to window is 21m and the location of the windows of the annexe to this neighbour are far in excess of this distance. In fact the distance from the proposed dormers to the front of the house they mostly closely face would be in excess of 40m. Due to this distance I do not believe that there will be any real loss of privacy or overlooking.

8.02 With regards to the design of the garage infill, amendments have been made to move the door to the side elevation and to infill the garage doors with full height glazing

giving symmetry to the front elevation. The other letter received raised concerns over the rooflights that form part of the application; again these have been amended to flush fitting conservation rooflights and are obscure glazed.

- 8.03 The principle of the garage conversion is acceptable with existing ample parking on the drive way and another double garage on the site that is to be retained for parking. The annexe would not have any kitchen facilities and would share the gas, water and electricity supply of the host property.
- 8.04 I consider the key issues in this case to be whether the proposal meets the aims and objectives of saved policy E15 of the Swale Borough Local Plan 2008 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. It is also the statutory duty of the Council to consider whether the special character and appearance of the conservation area is preserved or enhanced which accords with policy DM33 of the emerging local plan Bearing Fruits 2031. In my opinion, the proposal would sit comfortably within the surroundings and would cause no demonstrable harm to the surrounding area.
- 8.05 The dormer windows are of a pitched roof design that complies with the Council's Supplementary Planning Guidance 'Designing an Extension – A Guide for Householders' and would fit comfortably in to the street scene where other pitched roof dormer windows are evident.
- 8.06 The amended drawings showing full height glazing to the front elevation, and an entrance door to the side elevation which would be less intrusive and create more symmetry to the design of the front elevation. This in my opinion would not have an adverse effect on the conservation area or on the Area of Outstanding Natural Beauty.

9.0 CONCLUSION

- 9.01 The proposal meets the requirements set out within the Swale Borough Local Plan 2008 and Supplementary Planning Guidance. Whilst I note the objections received, I do not believe these to be a reason for refusal. I therefore recommend that permission be granted.

- 10.0 RECOMMENDATION – GRANT** Subject to any outstanding representations and the following conditions:

CONDITIONS

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

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

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

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure that these details are approved before works commence.

- (3) All new windows and doors shall be constructed in timber and detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area and to ensure that these details are approved before works commence.

- (4) The accommodation hereby permitted shall be used only for purposes ancillary to the use of the host property, and not as a separate or self-contained dwellinghouse.

Reason: In the interests of the amenities of the area.

Council’s approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

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

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2.2 REFERENCE NO - 15/505213/FULL		
APPLICATION PROPOSAL		
Part retrospective application for the importation of waste material and engineering operations to form landscaped bunds, construction of a 3 metre high Gabion basket stone wall, change of use of land and construction of van and HGV lorry park, access and construction of a roadside transport café for A3/A5 uses plus 24 hour WC and driver wash and shower facilities.		
ADDRESS Land adjacent to Thanet Way, Highstreet Road, Hernhill, Kent ME13 9EN		
RECOMMENDATION – Application Permitted.		
SUMMARY FOR REFERRAL TO COMMITTEE		
The application is recommended for approval. Members will recall that this item was deferred at the meeting on the 21 July to allow officers to prepare a new report to incorporate the additional information set out in the update report that had been tabled at the meeting.		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT P&S Property Services (South East) AGENT Mr. John Burke
DECISION DUE DATE 13/11/2015	PUBLICITY EXPIRY DATE 10/08/2016	OFFICER SITE VISIT DATE 09/11/2015
RELEVANT PLANNING HISTORY - Enforcement Notice the permanent stationing of a snack wagon – Appeal dismissed Enforcement Notice upheld with amendments		
App No	Summary	
14/500654/OPDEV	Enforcement Notice (as amended): Without planning permission the permanent stationing of a Snack Café and attached ‘lean-tos’ on the land. Appeal dismissed and the enforcement notice upheld as corrected. The period for compliance is 3 months	

1.0 BACKGROUND

As noted above, this application was reported to the Planning Committee on 21st July 2016, and the minute of the meeting included the following resolution:

“Resolved: That application 15/505213/FULL be deferred to allow officers to prepare a new report for a later meeting to incorporate the information in the extensive officer update.”

This report incorporates the key element from the tabled officer update and provides a general update in respect of the application.

2.0 DESCRIPTION OF SITE

The site is located on a vacant parcel of land, located on the south east side of the A299 Thanet Way at Dargate Interchange, north east of Plumpudding Lane and to the north west of the slip road to the A299. The site extends to one hectare and is bounded on the north-west boundary with the A299 by trees and vegetation and trees/hedgerow along part of the south east boundary of the site. The north east part of the site adjacent to the A299 is open and visible from the London-bound carriageway of the A299.

At present a snack wagon is located at the north eastern end of the site. This is the subject of a confirmed enforcement notice as noted above.

Directly to the south east of the site is a business park and freight terminal. A short distance to the north of the site on the coast bound carriage way of the A299 can be found a petrol filling station and retail shop, a Travelodge hotel and a café. On the London bound carriageway there is also a petrol filling station and a coffee shop premises.

To the northeast of the site are Highstreet Road and a number of residential properties.

3.0 PROPOSAL

The description of the proposal has been amended to more accurately describe the development as follows:

“Part retrospective application for the importation of waste material and engineering operations to form landscaped bunds, construction of a 3 metre high Gabion basket stone wall, change of use of land and construction of van and HGV lorry park, access and construction of a roadside transport café for A3/A5 uses plus 24 hour WC and driver wash and shower facilities.”

Café Building

The proposed café building is a single storey structure which measures 18.6 metres in length by 9.2 metres in width. The building would be designed with a mono pitch roof which measures 3.5 metres high at the front and 2.7 metres high at the rear. The roof projects beyond the front of the building by approximately two metres to create a canopy/overhang which is supported by “Y”-shaped struts. The overall height of the canopy is 3.65 metres above ground level. The building is shown to be constructed with brick to the elevations, but no details of the roof covering have been provided. The principal front elevation will be largely glazed with double doors to the café and a separate door from the outside to the toilets and shower facilities. Access to the toilets and showers will also be provided from the café.

The café will provide seating for 44 persons and includes a large kitchen area and store room. Access to the kitchen/store room is provided by a door in the rear elevation. Four high-level windows are also provided in the rear elevation.

Layout

The proposed layout of the development is shown on drawing PLM 0515-01 C sheet 1. The café building is located at the northern end of the site adjacent to the A299 and the on/off slip road from the A299. Parking for cars, light goods vehicles (vans) and motorcycle is to be provided adjacent to the café. Access to the café site will be via existing access from the slip road.

The HGV parking area is located on the southern part of the site and this will provide parking for 61 HGVs. Access to the parking area again will be via an access from the slip road.

4.0 PLANNING CONSTRAINTS

The application site is located outside of the urban area and village confines and within the defined rural area as defined by the adopted Local Plan, the immediate vicinity is characterised by a range of types of built development that are not typical of rural areas.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 Adopted Swale Borough Local Plan 2008

The following saved policies are relevant to the determination of the application:

Policy E1 - General development Criteria

Policy E6 – Countryside Protection

Policy E9 - Protecting the Quality and Character of the Borough's landscape

Policy E19 - Achieving High Quality Design and Distinctiveness

Policy T3 - Vehicle Parking for New Development

5.2 Bearing Fruits 2031

The emerging Local Plan Bearing Fruits 2031 – Modification Consultation Document June 2016 is at an advanced stage and accordingly it is considered to be a material consideration and weight can be given to the relevant policies.

The following policies are considered to be relevant to proposal:

ST1 - Delivering sustainable development in Swale

CP4 – Requiring Good Design

DM7 – Vehicle parking

DM14 – General development Criteria

DM 19 – Sustainable Design and Construction

DM20 – Renewable and low carbon energy

5.3 Promoting Sustainable Transport

Paragraph 5.2.1 states:

“Transportation will play a key role in the delivery of the Local Plan strategy. An efficient transport network which has good connectivity with the regional and national network is vital in helping the Borough to realise its economic potential. At the local level, easy access to employment, education, shops, services and facilities is important in creating inclusive and prosperous communities. The transport network needs to strike a balance between providing adequate capacity for current and future residents and business needs, whilst minimising any negative environmental, social and health impacts. This can be achieved through improvements to the capacity of the highway network and through provision of an integrated sustainable transport network.”

5.4 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)

National policy comprises the National Planning Policy Framework March 2012 (NPPF). This provides national guidance for Local Planning Authorities on plan making and in determining planning applications. A presumption in favour of sustainable development runs throughout the document and this presumption is an important part of both the plan-making process and in determining planning applications stating;

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural

resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. (Para 7 NPPF)”

One of the core principles of the NPPF is to “encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”.

In addition paragraph 31 states that:

“Local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development, including large scale facilities such as rail freight interchanges, roadside facilities for motorists or transport investment necessary to support strategies for the growth of ports, airports or other major generators of travel demand in their areas. The primary function of roadside facilities for motorists should be to support the safety and welfare of the road user”.

5.5 DfT CIRCULAR 02/2013 The Strategic Road Network and the Delivery of Sustainable Development

Annex B paragraph B9 deals with the matter of road side services and states:

It is for the private sector to promote and operate service areas that meet the needs of the travelling public. New and existing roadside facilities are subject to the provisions of relevant planning legislation and regulation, which together set the framework within which local planning authorities would consider the planning proposals for such developments.

6.0 LOCAL REPRESENTATIONS

Nine letters of objection and one letter of support have been received from local residents/businesses which can be summarised as follows:

6.1 The key points raised by the nine objection letters are summarised as follows:

- Work started on six months ago when the land level was raised. The bund around the site perimeter has been raised causing environmental damage and destruction to habitat and environment.
- There is no access to the site.
- There is no mains drain in the area.
- The site lies in an area of Wealden clay and is notorious for flooding.
- Hedgerows and trees have been removed.
- No opening hours have been specified truck stops operate on a 24 hour seven days a week.
- The slip roads off A299 are dangerous already as speed goes from 60mph to nothing in a short distance. The layout of the roads is unsophisticated and not intended for large trucks on a constant basis.
- The roads leading to the site are unsuitable for HGV's and are already in poor condition additional traffic would exacerbate the problem.
- Unsuitable site with access problems. Will cause 24 hour noise pollution.
- Environmental litter is already a huge problem and is not addressed by the already existing commercial businesses which line the A299 at this junction.
- The surrounding hamlets and villages should be protected from huge trucks manoeuvring around on small narrow roads in the area.
- The site should be reinstated and landscaped.
- This is a retrospective application after a major land raise, strange how similar the shape that was made by the previous owner and that now in the new owner's plans.
- The increase in traffic will overwhelm the local road network.

- Wrong location, the A2 has the lorry problem not the A299.
- There are already two cafes at this junction, neither are trading well if this venture fails we will be left with another mess for the future.
- There continues to be an increasing number of car crashes along this section of the
- A299 and the road infrastructure would require substantial change in order to support such an application.
- The area is already strewn with waste from local food outlets and garages which litter the environment making it extremely displeasing to local residents.
- The environment around Yorkletts is also awash with illegal advertising signs giving the feel of an industrial area.
- The geography of the area has some outstanding beauty and natural richness. This is slowly being eroded by fields of plastic greenhouses and increased traffic continuously trying to make use of Dargate Road as a 'rat run' for lorries.
- Wraik Hill is treacherous with oversized lorries getting stuck and causing chaos and danger for local residents.
- Agreeing to such a sight would exacerbate the problems already in situ. The current owner has already blighted the landscape with his ranch style cafe and bulldozed an area of natural beauty into a flood stricken bog which is now an eyesore to us all.
- Please do not agree to this 'business' being created here. This applicant clearly contravenes the planning laws and any request should be denied on grounds of safety and inappropriateness to the local area.
- There have been a number of pile ups which has occurred on this section of road. The last being a week ago, involving lorries.

6.2 The key points in the one letter of support are as follows:

The proposal will be beneficial to the local area. The truck stop will not only improve the look of the site and local area but will prevent the need for trailers to be left unattended in the road outside KTS which is a danger to motorists.

Trailers are often left unattended too close to the junction with the flyover and lorry drivers' park half on the verges sleeping overnight in their cabs along the exact stretch of road where the truck stop is proposed. The area has no street lighting and these lorries are a danger to motorists having to brake heavily to avoid trailers sticking out into the road with oncoming traffic passing.

Currently drivers leave large quantities of litter including bottles of urine along hedgerows in the local lanes which I see as a larger problem than maybe increased HGV traffic to this already industrial area.

So provided there is a suitable waste management plan in place on the site that is policed by the staff, and suitable signage clearly preventing drivers from going off route through Dargate and Yorkletts villages I have no problem with the worry of HGV traffic.

The truck stop will provide jobs for the local village people.

7.0 CONSULTATION RESPONSES

7.1 Hernhill Parish Council Comments dated 2 August 2015

Objection on the grounds that the road access to the site is not of a suitable width for HGVs and gave the following comments:

“1. It is considered that the slip road access alongside Lychgate Services (Dargate) is not wide enough to enable two HGVs to pass in the same direction. Many HGVs currently park temporarily alongside the service station and there is currently nothing preventing these vehicles from parking in such a way. This slip road would be the main access to the proposed site from the A299 in a London bound direction.

2. The slip road access on the coast bound A299 is potentially too short for HGVs to slow down before taking the sharp left turn Highstreet Road in order to access the proposed site.

3. There are currently no detailed plans for signage advertising the proposed site. If planning permission was granted then the Parish Council would request that there is a requirement for advertising the lorry park at suitable intervals along the main roads (M2/A299/A2) and that local road signs are strategically placed to ensure that HGVs do not try to access the site using the country lanes (which are unsuitable for such vehicles).

4. The current proposal does not appear to have taken account of noise/light pollution to residential properties in the local area. The scale of the proposed site and the intended usage will generate a significant increase in traffic to the area and will therefore increase the noise. There will also be an increase in light pollution from both headlights on vehicles and the fixed lights at the proposed site.

5. The proposed site has been of concern to locals in recent years as the land level at the site has been raised and the neighbouring roads (Plumpudding Lane & Highstreet Road) have both been affected by flooding. Previously the site was at the same level as the existing neighbouring roads.

6. The Parish Council is not welcoming of the fact that the application is part retrospective after there has been a considerable amount of land-raising with no prior consent from any of the relevant authorities including Swale Borough Council and The Environment Agency.

7. If the Parish Council's objection is contrary to that of Swale Borough Council, then the Parish Council would like to request that this application be discussed at Swale Borough Council Planning Committee at a future date”.

Parish Council comments on revised proposal:

The Parish Council continue to maintain objection to the application, based on the reasons set out in their correspondence dated 2nd August 2015.

7.2 Environmental Protection Team Leader:

The potential noise issue was the only one of EH significance. As I am satisfied this is no longer an issue, there is nothing else of concern from my viewpoint.

In terms of the imported waste material, Mid Kent Environmental Health Service has advised that a Waste Acceptance Criteria (WAC) testing assessment and test analyses has been submitted in support of the application. To ensure there is no risk to human health from the imported waste material, no further development shall take place until a human health risk assessment has been submitted to and approved by the Local Planning Authority which demonstrates the suitability for use of the imported waste material for the end use.

Condition (4) below is proposed to address this matter.

7.3 Environment Agency:

Comments dated 16th July 2015

We have assessed the application as having low environmental risk. Therefore we have no comments to make.

The Environment Agency has been re-consulted on the proposal in light of the importation of waste material and the following comments dated 10 June 2016 have been received:

As explained, the East Kent Waste Team are not concerned with the final use of the site. However:

“Our concerns regard the importation of waste soils, stone and other construction demolition waste to the site without the required environmental permit, which is an offence. A notice has also been served on the land owners to remove the waste imported to site but this has not been complied with, which is also an offence. A case file is with our Legal Team awaiting assessment at this time.

The application proposals that you have supplied include retrospective application for the importation of waste material, and whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations.

The new proposals also seem to include further importation of possible waste (crushed concrete). Unless this material is produced in line with the Aggregates Protocol it will remain a waste and be subject to waste regulation, i.e. require an environmental permit or exemption to be used.

Our team would also be interested if waste has to be removed from site, as disclosed previously there may have been too much waste imported to site initially, and some may need to be removed. The Environment Agency would have an interest in the movement and disposal of this material”.

Further comments have been received from the Environment Agency as follows:

“that it is an offence to import waste material without a licence and as a consequence a Removal Notice has been served on the land owners to remove the waste imported to site. We are advised that the Notice has not been complied with, which is also an offence and the matter is with the Environment Agency Legal Team awaiting assessment.

Whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations”.

The Environment Agency has been contacted to seek clarification on their Legal Team’s assessment. The following response was received on 24 August 2016:

There has been no progress with the case file regarding the importation of waste at Pit Stop, the file sits with our legal team awaiting review.

Further contact was made with the Environment Agency on the 21 September 2016 to establish if any progress has been made in respect of the outstanding Removal Notice which was issued by the Environment Agency on the 11 June 2015. Clarification was also sought concerning the issue of the importation of waste material without the necessary Environmental Permit.

The Environment Agency responded by email dated 27 September 2016 as follows:

“The failure to comply with the removal notice is only a summary offence, this gives the prosecution 6 months after the act to prosecute, this time has now lapsed.

However the act of carrying out a waste activity without a suitable environmental permit is a statutory offence and not time limited. The case still sits with our legal team.”

7.4 Kent Police:

“I recommend that the café also be covered by CCTV and be adequately alarmed. Security shutters or internal security grilles could also be considered as an added layer of security, particularly if high levels of food stocks (for example) or monies taken for parking etc will be stored. It is unclear if the café will also be a 24 hour operation, if so, the staff may act as capable guardians for the site from a security aspect.

The inclusion of female and male changing and shower facilities is to be commended, it is unclear however if these will also be available 24 hours and how these facilities will be accessed and secured.

Good site management practices and processes should be in place to ensure safety and security to the site. The applicant may also wish to consider the use and standards of the British Parking Association Safer Parking Scheme.

I would welcome the opportunity to meet with the applicant to discuss security for this site, should the application proceed and I recommend that such a meeting become a planning requirement”.

Appropriate measures to minimise the risk of crime can be secured by condition.

7.5 Kent County Council Highways and Transportation:

“No objections in principle to this proposal since the access arrangements off the A299 are existing and suitable for all traffic movements. The new accesses to the site will need to secure 120m x 2.4m x 120m sight lines between heights of 1.05m and 2m.

The applicant will also need to liaise with KCC's District Manager for Swale to determine measures for verge protection outside of the site to prevent lorries and cars parking when the facility is full. I am satisfied with the internal layout and welcome the fact that spaces for disabled users and motorcycles have been considered.

Any gate or barrier should be set back a minimum of 17m from the public highway. The following conditions should also apply:

Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.

Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

Provision of measures to prevent the discharge of surface water onto the highway.

Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Use of a bound surface for the first 5 metres of the access from the edge of the highway. Subject to the above being appropriately addressed I do not wish to recommend the application for refusal.

KCC Highways and Transportation have provided further comments dated 30th June 2016 and they advise that *“they have no further comments to make”*.

7.6 Highways England: No objection.

7.7 Kent County Council SUDS Team:

“We are satisfied that the surface water generated by this proposal will be able to be accommodated within the site’s boundaries and discharged at a controlled rate without exacerbating the flood risk to the surrounding area.

At the detailed design stage we would expect to see further detail on how the system has been designed and how the flow rate will be controlled. It is likely that a series of baffles will be required throughout the filter trench system to slow the linear flow, and that a final flow control structure will be required at the point of discharge. It should be ensured that the system is designed to be able to discharge via gravity alone.

In light of the intended end-use of the site, a means of isolating the site’s drainage from the receiving watercourse network should also be provided to prevent any on-site spillages causing problems off-site.

We would therefore recommend that the following conditions are attached should your Authority be minded to grant permission to this development”

The condition suggested would read as follows:

(i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based on the recommendations within the report prepared by (RMB Consultants – October 2015), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted, critical, 100yr storm) can be accommodated on site before being discharged at an agreed greenfield rate.

(ii) Development shall not begin until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

Amended Proposal

“The advice provided in our previous response applies equally to this application although we made no objection to the original proposal (15/505213/FULL), we look forward to receiving the detailed drainage design”.

7.8 Lower Medway Internal Drainage Board

The site of this proposal is outside of the IDB's district but is thought to drain eventually to the Graveney/Seasalter marshes, and therefore has a potential to affect IDB interests. Other than to state on the application form that surface water runoff will be disposed of by means of soakaways there is no further information available. Should the Council be minded to approve this application it is requested that details of site drainage be made subject to a condition requiring separate LPA approval in direct consultation with Kent County Council. Should the use of soakaways prove impracticable I would be grateful to receive details of any alternative proposal.

7.9 Natural England

"Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Statutory nature conservation sites – no objection.

We have not assessed this application and associated documents for impacts on protected species".

Comments on revised proposal:

"the advice provided in our previous response applies equally to this proposal although we made no objection to the original proposal".

7.10 Southern Water:

"There is no public sewer in the vicinity of the site. The applicant is advised to examine alternative means of foul sewage disposal".

7.11 Kent County Council Environment, Planning and Enforcement Division

Kent County Council has been consulted on the proposal and has responded by letter dated 14th July 2016 as follows:

"We are making this response given the potential for the pre-imported material, in the absence of a planning application to the Borough Council, to be considered as a waste management activity. The enforcement lead on this occasion however, has been taken by the Environment Agency in the form of a Waste Materials Removal Notice.

Informal officer level views were given on the first submission, reinforcing the need (as pointed out by a number of consultees) for the surplus and imported bulk materials on site to be either:

- (a) included and justified within the scheme in terms of land-raising and perimeter earth-bunding; or*
- (b) excluded from the set of proposals, with the scheme re-drafted at the original ground level*

The applicants have chosen option (a), which includes retention and incorporation of the surplus material, within an all embracing development package. This falls to Swale Borough Council to determine. However, there are aspects which KCC Planning Enforcement, as endorsed by the County Council's Regulation Committee, would wish to be considered in the balance at the Borough Council's Planning Committee on 21st July 2016.

Our initial officer level views were designed to assist in the shape, content and processing of the application. Foremost amongst these were the need for more explicit 'before and after' contours; detailed cross and long sections; land drainage profiles and the modelling of surface water run-off, particularly from the enhanced site boundary profiles, with water being directed

onto the adjoining and encircling public highway (owned by the County Council), with a water-handling capacity designed at the original (lower) site level, along with land encroachment, stability and related technical issues. It is understood that these have been raised with the applicant(s) and addressed through the help and advice of technical consultees.

A key material consideration in determining the revised planning application is the existence of the Environment Agency's (EA) Waste Materials Removal Notice, under section 59 of the Environmental Protection Act 1990 (as amended). This requires the imported material on site (within given parameters) to be taken off the land. The works were carried out in an uncontrolled way, with no apparent or prior ground work studies; pre-stripping / storage of available soils; control over the types of materials brought in; a placement regime (including compaction rates) and overall Waste & Resources Action Programme ('WRAP') compliance. All of these matters, including land drainage concerns have contributed to the EA action.

In support, it is clear that the proposed development is in no way dependent upon the materials imported before submission of the application. It could equally be carried out in practical terms, at the original ground level. This questions the need in the first place to elevate the landform, using imported and unspecified materials. There is also the convenience of ready primary / secondary road access for removal of the imported bulk materials in compliance with the EA's Notice.

The EA action to require the materials on site to be removed has been supported in principle by the County Council's Regulation Committee and is reinforced by Planning Enforcement Policy DM22 of the Kent Minerals & Waste Plan 2016 (as adopted by the County Council on 14th July 2016). This seeks to uphold the integrity of planning law. Members in particular are concerned that alleged contraventions should not unfairly advantage any land interests or prospective developer(s). It is recognised however that the overall planning determination is a matter for Swale Borough Council.

In determining the above and revised set of proposals, the County Council would request the Borough Council to fully consider the presence and purpose of the imported material on the site and satisfies itself that the material is reasonably necessary for the development to take place and that its retention represents sustainable development.

The County Council also recommends that you consider the potential impact of the EA pursuing its Material Removal Notice and the implications for the implementation of any grant of planning permission.

Should the Borough Council on balance decide to grant planning permission, the County Council (Planning Enforcement) would be available to assist in the drafting of technical conditions, covering amongst other matters, those areas itemised under paragraphs 05 and 06 above. In addition, we would appreciate being re-consulted on any further details and schemes required to be submitted by the applicants under any pre-commencement conditions.

Could you also please advise us of the outcome of the Committee Meeting and any progress in the case, particularly given our commitment to work more closely together along with the EA. This was agreed at our recent meeting in your offices, which was chaired by the leader of your Council in this and in his further capacity as the Chairman of the County Council's Regulation Committee".

7.12 Economy and Community Services Manager

No comment, from an economic development perspective.

7.13 Canterbury City Council

Canterbury City Council has been consulted on the application. No response has been received.

8.0 APPRAISAL

8.1 The key material considerations in assessing this application are as follows:

- Principle of the development;
- Importation of waste material;
- Impact on the character of the countryside;
- Design and layout;
- Impact on amenity;
- Highways Impacts; and
- Other matters.

8.2 Principle of Development

As stated above, the site is located outside of the urban area and village boundary and within the countryside wherein Policy E6 of the adopted Local Plan applies. This seeks to restrict development in the countryside to a limited number of categories, but none of these apply in this case. Furthermore, none of the other policies of the Local Plan are relevant to this proposal.

Having inspected the site, it is evident that the land has not been returned to agricultural use after the completion of the road works. The site is now isolated and is bounded to the north by the A229, to the south by the slip road to the A299 and the south west by Plumpudding Lane and is not connected to nor does it adjoin agricultural land.

Although the site is located within the countryside it is understood the land was used as depot site in connection with the widening of the Thanet Way. In the circumstances, the site is considered to be previously developed land in the context of Annex 2: Glossary of the NPPF.

As noted above the site is located immediately close to a cluster of transport related development including petrol filling stations, hotel, café and coffee shops which serve passing traffic on the A299 Thanet Way. Directly opposite the site to the south is a small business park/commercial. In the circumstances, and taking into account the general support for road side facilities as set out in paragraph 31 of the NPPF where the roadside facilities would support the safety and welfare of the road users it is considered that this site is a suitable location for this type of facility.

It should also be noted that the emerging Local Plan at paragraph 5.2.1 notes that transportation will play a key role in the delivery of the Local Plan strategy. An efficient transport network which has good connectivity with the regional and national network is vital in helping the Borough to realise its economic potential.

The provision of a transport facility as proposed can be considered to help improve the main highway network and help to contribute to the provision of an integrated sustainable transport network.

Notwithstanding the above, the importation of waste material to the site to facilitate the development in the absence of planning permission is an important and significant consideration in the determination of this application. This matter is considered in detail below.

8.3 Importation of Waste Material

A large volume of waste material including soil and hardcore has been imported to the site and it is understood that the waste material was first brought onto the site in late 2014 and work continued on the site through to Spring 2015. The matter has been the subject of investigation by the Environment Agency, Kent County Council and officers of this Council.

The original application submitted in June 2015, was for a truck-stop facility including a café but it did not include the importation of waste material or engineering operations in respect of the formation of earth bunds. This matter has been raised with the applicant and as a consequence the description of the proposal has been amended to include these elements as set out above.

Discussions with officers and the Environment Agency have continued and the concerns of the Environment Agency relate to the importation of waste material to the site without the required environmental permit. The Environment Agency has advised:

‘that it is an offence to import waste material without a licence and as a consequence a Removal Notice has been served on the land owners to remove the waste imported to site. We are advised that the Notice has not been complied with, which is also an offence and the matter is with the Environment Agency Legal Team awaiting assessment’.

The Environment Agency has commented further on the revised description of the application and have stated:

The proposals that you have supplied include retrospective application for the importation of waste material, and whilst the Local Authority may grant retrospective permissions, the Environment Agency cannot grant retrospective permits for recovery operations.

Members will note at section 7.3 above that the Environment Agency has advised that the period for prosecution in respect of the failure to comply with the Notice has expired and cannot now be pursued. The matter of the importation of waste material without an environmental permit is, however, still under consideration by the Agencies legal team.

In terms of the suitability of the imported waste material, Members will note that the applicant has submitted a WAC (Waste Acceptance Criteria) report in support of the application.

The report concludes that:

“Elute analysis takes into account Heavy Metals and Organic compounds by analysing them through a simple leaching test. The tests show Elution on a ratio of 2:1 mg/l, 8:1 mg/l and cumulative 10:1 mg/kg. From the results displayed in appendix A, the samples collected and analysed show that they are well within the acceptable limits for inert waste, non- reactive hazardous waste landfill and hazardous waste landfill.

To conclude, the WAC Testing completed by Jack Thompson at Edge-Enviro Services was to the required British Standard, with all correct procedures followed. The results (Appendix A) for loss of ignition in the soil tested revealed to be well within the acceptable waste criteria. Furthermore, the Elute analysis for the heavy metals and organic compounds revealed that the soils tested were well within the acceptable waste criteria”.

The WAC report has been considered by Mid Kent Environmental Health Service and they have advised that subject to the imposition of a condition (see number 4 below) to require the submission to details to demonstrate the suitability of the imported waste material for the end use and public health, no objection is raised to the development in this respect.

Notwithstanding the fact that the Environment Agency has not taken any action following the service of the Removal Notice in June 2015, nor has any action been taken to date in respect of the importation of waste material without an environmental permit, the matter for consideration by the Borough Council concerns whether or not the principle of the development including the importation of waste material comprised in the engineering works (formation of the bunds and site levelling) is acceptable.

From the information available it is unclear whether or not that the proposed development is wholly dependent upon the importation of materials or whether or not it could be carried out at the original ground level. If it is assumed that the development or at least the vehicle parking area could have been constructed and carried out at the original ground level with relatively minor land raising/levelling works, it would not be unreasonable to assume that some material, albeit a relatively small quantity may need to be imported. However, it does appear to be reasonably clear that that a much larger quantity of material would need to be imported to the site to create the landscaped bunds to enclose and screen the site.

The enclosure of the site through the construction of landscape bunds is considered to be an appropriate means of mitigating visual impact arising from the development. Members will be aware that the creation/formation of landscaped bunds is a tried and tested method of creating effective means of landscaping, thereby ensuring a development assimilates in a positive way with its surroundings, particularly in the case of larger scale or more sensitive forms of development.

The importation of waste material by the applicant cannot be condoned in any sense by the Borough Council. However, having regard to the above, and on the basis that the location of the development is considered to be acceptable, the principle of the importation of inert waste material to facilitate the construction of landscaped bunds is on balance acceptable. Notwithstanding the above, precise details of the height and width of the bunds and the existing and proposed site levels are required before any further development commences. Details of which will be secured by conditions as set out below.

8.4 Impact on the character of the countryside;

It is clear that the proposal will result in a change to the character of the site and the immediate surrounding area, but as already noted, the site is located close to a cluster of transport related development including petrol filling stations, hotel, café and coffee shops which serve passing traffic on the A299 Thanet Way. Also directly opposite the site to the south is a small business park/commercial site.

The site is contained and bounded by highways on all of its boundaries and it is also partly enclosed from the London bound carriage way of Thanet Way by the existing vegetation and the trees on the boundary with the highway, and also by the earth bunds which have been created. The north eastern part of the site is more open and can be seen from the Thanet Way.

Whilst it is clear that there would be change to the character of the area, it can be argued the site is well related to the highway network and this facility would add to the existing cluster of transported related developments. Furthermore due to constrained nature and location of the site it would not encroach out on open countryside and would not cause harm to the rural character of the area.

External lighting can have a significant impact, not only in the immediate locality but also from some distance from the site. In this case the Thanet Way and the Dargate interchange are illuminated by street lighting and there is also illumination at many of the transport and business developments in the area. The area therefore is already subject of highway and other lighting and it is considered that any additional lighting arising from the development will not have such a harm impact to justify refusal of planning permission on this ground. However,

notwithstanding the lighting shown on the submitted drawings it is recommended that the precise details of external lighting is secured by condition to ensure that the development does not add unnecessarily to the level of lighting in the area or cause harm to residential amenity.

8.5 Design and Layout

The design and layout of the scheme is functional and practicable and is considered to be acceptable in these terms. The submitted drawings include sections through the site and the landscaped bunds and proposed Gabion basket stone wall. The general details are considered to be acceptable, but further details of the existing ground levels, proposed finished ground levels including the existing bunds and the proposed bunds and Gabion basket stone wall are required. It is suggested that the above details can be secured condition and an appropriate condition is suggested.

The design of the café building is simple and functional. Subject to the use of appropriate materials for the external surfaces of the building it is considered that the design is acceptable and there will be limited impact on the character of the area.

The landscaping of the site/development is a fundamental issue and will help ensure that the development assimilates with its surroundings in such a way that the rural character of the area is not harmed. The submitted drawings include illustrative landscaping proposals which suggest that the site will be screened and have limited impact on the character of the area. In order to secure a high standard of landscaping and to ensure that the development has a minimal impact on the character of the area, full details of landscaping are required. This can be secured by appropriate condition as suggested.

Members will note that a gatehouse is shown on the submitted site layout drawings, but no details of the gatehouse have been submitted. It is appropriate therefore to require details of the gatehouse to be secured by condition.

8.6 Impact Residential Amenity

The site is located approximately 160 metres from the closest neighbouring residential properties in Highstreet Road and the site is generally screened from view from those properties by the existing trees and hedgerows.

Having regard to the location of the residential properties relative to the existing commercial facilities on the A229 Thanet Way, which are approximately 60 metres distance from the closest houses in Highstreet Road it is considered that the proposal will have no additional impact on the residential amenity of the residential properties in Highstreet Road such to justify the refusal of planning permission on this ground.

As set out at paragraph 7.2 above, the Environmental Health Manager raises no objection.

8.7 Highway Impacts

Local concern has been raised regarding traffic generation and in particular HGV movements. The application has been assessed by Kent County Council Highways and Transportation and it has been confirmed that no objection is raised in principle to the proposal since the access arrangements off the A299 are existing and suitable for all traffic movements subject to conditions. It is also confirmed that the internal layout is acceptable and it is noted that spaces for disabled users and motorcycles have been considered.

Highways England has also advised that they raise no objection to the proposal and Members will note that the A299 is not a key network, which is limited to strategic roads such as the A2 and M2.

8.8 Other Matters

Matters relating to surface water drainage and foul drainage are capable of being resolved by conditions and Members will note that appropriate conditions have been recommended.

9.0 CONCLUSION

9.1 This is clearly a case that has generated a significant amount of public interest and objection, much of which appears to some extent to have resulted from the importation of waste material to the site in advance of the submission of this application. This action cannot be condoned in any sense, however, having regard to all of the above and taking into account the general support for road side facilities as set out in paragraph 31 of the NPPF, where the roadside facilities would support the safety and welfare of the road users, it is considered that this site is a suitable location for this type of road side facility.

9.2 For the reasons set out above and subject to the suggested conditions, it is considered that the development will not cause significant harm to the character of the area and the wider countryside.

10.0 RECOMMENDATION Grant Planning Permission subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) No further development shall take place until details of the existing ground levels and proposed finished ground levels including the existing bunds and the proposed bunds and Gabion basket stone wall have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (3) No further development shall take place until the details and quantity of any material to be removed from the site as required by condition (2) have been submitted to and approved by the Local Planning Authority and any such material to be removed from the site shall be disposed of at a Licenced waste site.

Reason: To ensure a satisfactory appearance to the development and in the interests of public health and to ensure that these details are approved before further works commence.

- (4) No further development shall take place until a human health risk assessment has been submitted to and approved by the Local Planning Authority, which demonstrates the suitability for use of the imported waste material for the end use. The Soil Guideline Values for commercial use shall be referred to. In the event of the human health risk assessment failing, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority and the remediation shall be completed to the satisfaction of the Local Planning Authority before the development commences. This condition shall not be discharged until the approved remediation scheme has been implemented and a closure report has been submitted to the Local Planning Authority.

Reason: In the interests of public health and to ensure that these details are approved before further works commence.

- (5) No further development shall take place until written details and samples of the materials to be used in the construction of the external surfaces of any buildings including window details have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (6) No further development shall take place until written details and samples of the materials to be used in the construction of the hard surface landscaped areas have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved materials.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (7) No further development shall take place until details to secure 120m x 2.4m x 120m sight lines between heights of 1.05m and 2m have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the approved details and maintained at all times thereafter.

Reason: In the interests of highway safety and to ensure that these details are approved before further works commence.

- (8) Any gate or barrier should be set back a minimum of 17m from the public highway.

Reason: In the interests of highway safety.

- (9) Notwithstanding the details shown on drawing PLM 0515-01 C Sheet 1 and 2 no external lighting of any description shall be erected or installed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

- (10) No further development shall take place until details of the gatehouse have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: No such details have been submitted and to ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

- (11) The areas shown on drawing number PLM 0515-01 C sheet 1 as vehicle parking and turning space shall be surfaced, including a bound surface for the first 5 metres of the access from the edge of the highway, and drained before the use is commenced or the premises occupied. Thereafter these areas shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that

Order), shall be carried out on that area of land or in such a position as to preclude its use for these purposes.

Reason: Development without provision of adequate accommodation for the loading, off-loading and turning of vehicles is likely to lead to such activities inconvenient to other road users and detrimental to highway safety and amenity and to ensure that these details are completed before further works commence.

- (12) No further development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based on the recommendations within the report prepared by (RMB Consultants – October 2015), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted, critical, 100yr storm) can be accommodated on site before being discharged at an agreed greenfield rate.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions and to ensure that these details are approved before further works commence.

- (13) No further development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions and to ensure that these details are approved before further works commence.

- (14) No further development shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter at all times.

Reason: To ensure a satisfactory appearance to the development and to ensure that these details are approved before further works commence.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

- (16) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- (17) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (18) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (19) During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reasons: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety.

- (20) No further development shall take place until details of parking for site personnel/ operatives/visitors have been submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.

Reasons: To ensure provision of adequate off-street parking for vehicles in the interests of highway safety and to protect the amenities of local residents and to ensure that these details are approved before further works commence.

- (21) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of highway safety and convenience.

- (22) No further development shall take place until adequate precautions and details have been submitted to, and approved in writing by the Local Planning

Authority to guard against the deposit of mud and similar substances on the public highway and shall be retained throughout the construction of the development.

Reasons: In the interests of amenity and road safety and to ensure that these details are approved before further works commence.

- (23) No further development shall take place until details of foul drainage have been submitted to and proved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of public health and to ensure that these details are approved before further works commence.

- (24) The development hereby permitted shall incorporate measures to minimise the risk of crime. No further development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of Security, Crime Prevention and Community Safety and in accordance with the guidance within The Kent Design Initiative (KDI) and protocol dated April 2013.

- (25) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

INFORMATIVES

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact Kent County Council Highways and Transportation to progress this aspect of the works prior to commencement on site.

The applicant will also need to liaise with Kent County Council's District Manager for Swale to determine measures for verge protection outside of the site to prevent lorries and cars parking when the facility is full.

2. Any feature on this site capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' (unless it shown by the EA's mapping to be a designated 'main river'). The applicant should contact KCC prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require the formal written consent of either KCC.

3. Southern Water's current records do not show any public sewers to be crossing the site. However, due to the changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2 SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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2.3 REFERENCE NO - 16/506601/FULL		
APPLICATION PROPOSAL Front elevation improvement works to replace the existing aluminium double glazed windows with sash PVCu units to replicate the original look of the dwelling		
ADDRESS 69 Ospringe Road Faversham Kent ME13 7LG		
RECOMMENDATION – Approve – Subject to: any outstanding representations (consultation period ends 11 October 2016)		
SUMMARY OF REASONS FOR RECOMMENDATION The replacement windows are an improvement to the existing		
REASON FOR REFERRAL TO COMMITTEE Town Council Objection		
WARD St. Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Roy Trute AGENT
DECISION DUE DATE 25/10/16	PUBLICITY EXPIRY DATE 11/10/16	

1.0 DESCRIPTION OF SITE

1.01 The property is a semi-detached two storey dwelling fronting the street. Ospringe Road is typical Victorian residential street featuring an eclectic mix of building styles. The property lies in the Faversham conservation area and is subject to an Article 4(2) Direction. The property currently features replacement aluminium double glazing that is not sympathetic to the character of the property or its surroundings.

2.0 PROPOSAL

2.01 The application seeks planning permission to replace the existing inappropriately designed aluminium double glazed windows with UPVC sash units that would more closely replicate the traditional look of the property.

2.02 The application is accompanied by a well researched and well presented Design and Access Statement that explains the applicant’s wish to enhance the appearance of the property and its surroundings, and that whilst timber windows would be ideal the sash boxes have been removed making replacement timber sashes extraordinarily expensive; hence the suggestion of slimline UPVC imitations.

3.0 PLANNING CONSTRAINTS

- Article 4 Faversham Conservation Area
- Article 4 Swale Article 4 directive
- Conservation Area Faversham

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Development Plan – Swale Borough Local Plan 2008 Saved policies:
E1 (General Development Criteria)
E15 (Conservation Areas)
E19 (Design Criteria)

Emerging Local Plan - Bearing Fruits 2031:
DM33 (Development affecting a conservation area)

Supplementary Planning Guidance: 'Conservation Areas'

5.0 LOCAL REPRESENTATIONS

- 5.01 No representations have been received. However the closing date for representations is 11 October and Members will be updated at the meeting.
- 5.02 The Faversham Society Planning Committee state that as the site is within the conservation area and subject to an Article 4 Direction it would be preferable if the windows were replaced with timber.

6.0 CONSULTATIONS

- 6.01 Faversham Town Council have objected to the application stating that upvc windows would have a harmful effect on the character of the conservation area and that the adjoining property has original timber windows in good condition.

7.0 BACKGROUND PAPERS AND PLANS

All plans and documents relating to 16/506601/FULL

8.0 APPRAISAL

- 8.01 I consider the key issue in this case is whether the proposed replacement windows meet the aims and objectives of the Article 4(2) Direction in preventing development that does not preserve or enhance the special character or appearance of the conservation area.
- 8.02 Policy E15 of the Swale Borough Local Plan 2008 states that for an application within a conservation area to succeed, it must be demonstrated that the proposal will preserve or enhance the character and appearance of the area.
- 8.03 Whilst the use of timber windows in a conservation area is preferable I believe the proposed use of the proposed upvc sash windows is acceptable for the following reasons:
- The present windows are not original, appropriate to the style of the property, or aesthetically pleasing and detract from the character and appearance of the property and the street scene
 - The proposed replacements are of a more appropriate design with regard to the age, style and character of the property

- The proposal satisfies the requirements to ‘preserve or enhance’ the character and appearance of the conservation area
- Policy E15 states that one of its objectives should be to “*remove features that detract from the character of the area and reinstate those that would enhance it*”. The proposed windows, albeit upvc, are clearly, by their traditional design, an improvement on the existing windows which are completely out of character with this traditional building

8.04 The applicant has submitted a detailed and well-presented application setting out the reasons for the application and why upvc is their preferred option. The applicant has shown with the application case studies of properties within the Faversham Conservation Area that have had upvc windows approved in instances where they are of a better design than those existing, which is the case with this application.

8.05 It is therefore my opinion that the replacement of the existing windows albeit with upvc but with a better design would be an improvement to this property and the area in terms of design and appearance, complying with the requirements of policy E15, making the proposal acceptable. The proposal also accords with policy DM33 of the emerging local plan Bearing Fruits 2031 that also expects development within a conservation area to preserve or enhance the areas special character and appearance.

9.0 CONCLUSION

9.01 As stated above I am of the opinion that this proposal would enhance the character and appearance of the conservation area, in accordance with policy E15. I therefore recommend that permission should be granted, subject to any outstanding representations and also subject to the conditions below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

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

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

Reason: In the interest of preserving or enhancing the character and appearance of the conservation area.

- (3) Detailed drawings showing the principal window section at a suggested scale of 1:1 or 1:2 shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving the character and appearance of the surrounding area and so that these details are approved before works commence.

Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

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

2.4 REFERENCE NO - 16/503847/FULL		
APPLICATION PROPOSAL Alterations and part first floor and new second floor extension to provide 13 residential apartments with new residential access. New timber shop front to existing ground floor retail premises.		
ADDRESS 10 - 11 Market Street Faversham Kent ME13 7AA		
RECOMMENDATION: Approve SUBJECT TO: Views of the Environmental Health Manager and completion of a Section106 Agreement		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is broadly in accordance with national and local planning policy		
REASON FOR REFERRAL TO COMMITTEE Town Council comments and Section 106 Agreement		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Classicus Estates AGENT Taylor Roberts Ltd
DECISION DUE DATE 16/08/16	PUBLICITY EXPIRY DATE 17/06/16	

1.0 DESCRIPTION OF SITE

- 1.01 The property is the former ‘Woolworths’ store at numbers 10 to 11 Market Street, situated within the Core Shopping Area of Faversham and within the Faversham conservation area. Since not long after the Woolworth store closed, the ground floor of the property has been used as a housewares store. The first floor has been partially used as a stockroom.
- 1.02 The configuration of the building is extremely unusual. It is single storey at the northern end, facing on to Market Street, but with a dummy front creating the impression of a floor above, but this is a false façade only. Approximately halfway along the depth of the building, a first floor is created, which runs to the rear of the building. Both the single storey and the two storey element are flat roofed. The rear of the building faces onto a service road which in turn faces the central car park in Faversham. The west elevation faces Back Lane and towards Leslie Smith Drive.
- 1.03 The roof of the two storey element houses a range of telecommunications equipment, masts, etc. There is a continuing obligation under an existing lease for the equipment to remain in situ.
- 1.04 The present building is a distinctly unsympathetic architectural example, dating from the 1960s and inserted in a somewhat unfortunate manner within the Faversham conservation area.

2.0 PROPOSAL

- 2.01 The proposal is to leave the ground floor as A1 Retail Use, but to restyle the shopfront to the building; to convert the first floor from storage to residential use to provide 8 flats; to extend same and to add a further floor to the building to provide 5 flats. This would provide space for 13 flats, of one or two bedroom configuration (8 one-bedroom, 5

two-bedroom). All of the flats would be fairly compact but still of a practical size for comfortable living.

- 2.02 The proposed change of shopfront would consist of a completely new traditionally designed shopfront, of a design which would be much more sympathetic to the conservation area. A mansard roof would top the front elevation of the proposed building, similar in design to that found on the nearby former HSBC building at no.1 Preston Street. The front elevation would be of two and a half storeys and would extend to a height of 10.9 metres.
- 2.03 To the sides, the proposed windows would overlook the existing service areas to the shop building. Although there is no question of any overlooking, a number of windows on the eastern elevation will look onto a blank wall, with one proposed window being situated 6.2 metres from that blank wall. Part of the side elevation is higher than the rear part, as the rear part of the building includes a flat roofed section on which is situated a collection of telecoms boxes and equipment which cannot be removed, as their position on the roof is part of the present lease to the building.
- 2.04 As noted above, the central Faversham car park lies to the rear of the site. Three off – road parking spaces (to serve the shop unit) are shown on the submitted drawings, to the rear of the site. Space for cycle storage is also shown to the rear of the building. Internal bin storage space is also shown at ground floor level.
- 2.05 In general, a scheme of ten properties or more would include provision for affordable housing. However, the applicant has made a case to suggest that this would make this particular proposal financially inviable. This matter is further discussed later within this report.
- 2.06 In addition to the information referred to in the previous paragraph, the application is also accompanied by a Planning Policy Statement and a Heritage Statement. These combined state that the proposal would bring an architecturally awkward building, in need of repair and redevelopment, back into an acceptable use, providing lower cost housing and maintaining and supporting the existing retail use at ground floor level, whilst presenting a significant visual improvement on the existing building, which is a prominently located building in the town centre.
- 2.07 Due to the position of the building, and its ongoing retail use at ground floor level, it would not be possible to demolish the building and re-build.
- 2.08 The Council’s Supplementary Planning Guidance entitled ‘The Conversion of Houses into Flats and Houses in Multiple Occupation’ is not strictly relevant to a proposal to create new purpose built flats but it gives good advice which appears to have been taken on board when submitting this application, particularly with reference to parking where public or on-street parking is readily available, and with regard to amenity space, which is encouraged within the SPG; Flats 2, 3, 5, 10 and 12 all would have private amenity space, and there are communal amenity spaces on some flat roofed areas of the proposed development.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	10m (max)	12.6m (max)	+2.6m
Approximate Depth (m)	57.5m	57.5m	-

Approximate Width (m)	11m – 18.5m	11m – 18.5m	-
No. of Storeys	2	3	+1
Parking Spaces	Nil	Nil	-
No. of Residential Units	Nil	13	+13
No. of Affordable Units	Nil	Nil	-

4.0 PLANNING CONSTRAINTS

Conservation Area Faversham
Core Shopping Area

5.0 POLICY AND OTHER CONSIDERATIONS

Swale Borough Local Plan 2008: Saved Policies FAV1 (General Development Faversham Area), E1 (Development Criteria) E15 (Conservation Areas), E19 (Design Criteria), E24 (Extensions and Alterations), B1 (Existing Employment Land and Businesses), B3 (Vitality and Viability of Town Centres) and H2 (New Housing).

Bearing Fruits 2031: The Swale Borough Local Plan Main Modifications June 2016: Policies ST1 (Sustainable Development), CP4 (Requiring Good Design), CP8 (The Historic Environment), DM1 (Viability and Vitality of Town Centres), DM2(Town Centre Uses), DM8 (Affordable Housing), DM14 (Development Criteria), DM15 (New Shopfronts), DM16 (Alterations and Extensions) and DM33 (Conservation Areas).

The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 9 (Quality of built environment), 14 (presumption in favour of sustainable development), 23 (Vitality of town centres), 49 (presumption in favour of sustainable housing development), 51 (Housing need) and 129 (Heritage Assets).

6.0 LOCAL REPRESENTATIONS

6.01 One local resident has commented on the proposal. His comments may be summarised as follows:

- Retention of retail on ground floor acceptable
- Concern over residential amenity – views out of windows over service yards
- Concern over lack of parking provision
- Concern over proposed height of south elevation (which would be three storeys in height and extend to 12 metres in height)

7.0 CONSULTATIONS

7.01 Faversham Town Council comment as follows:

‘No objection in principle.

Comments:

1) The Town Council welcomes the proposed improvements to the facade on Market Street and has no objection to raising the height of this part of the building or the use of upper floors for residential accommodation.

2) The Town Council welcomes the opportunity to improve the NW facade of the building facing the NatWest Bank as this is an important approach to the town centre.

3) The area is characterised by generally 3 storey buildings in this part of Market Street and Preston Street falling to lower 1 and 2 storey buildings in the back land behind the main streets. What is effectively a third storey on that part of the building facing the NatWest Bank would disrupt that historical pattern of development.

4) Flats facing the service yard to the SE of the rear part of the building would have poor amenity in terms of outlook and location and residential use within the service yard to the SE of the building is likely to conflict with business uses in Market Street and Preston Street.

5) Whilst the Town Council has no objection to the principle and welcomes residential use on upper floors within the town centre in the particular case because of the scale of the proposed development and provision of 2 bed flats it considers the development is likely to put unacceptable pressure on parking provision.

6) For the reasons set out above the Town Council would recommend that the number of residential units is considerably reduced to perhaps 6 or 7 and that only 1 bed flats are provided.'

7.02 The Police Crime Prevention Design team raises no objection, subject to a condition which is included below.

7.03 Kent County Council Highways and Transportation have commented as follows:

'Although the development proposes very little on-site parking for the new residential units, it is recognised that the proposed development is located within the town centre, close to all amenities, where reliance on car ownership and use is not essential. Public car parks are close by, and parking controls are present in the surrounding roads to manage on-street parking in line with the Borough Council's town centre parking strategy. Therefore, I would not wish to raise objection to this application.'

7.04 Southern Gas Networks have advised that there are gas pipelines which run outside the perimeter of the site but not within the site itself. They have requested the inclusion of Informative (2) below.

7.05 Southern Water raises no objection, subject to conditions and informatives included below.

7.06 Developer Contribution Requests:

- KCC Contributions Team has requested contributions of £624.21 towards library funding, but have not sought contributions for education or other items for which KCC often request contributions.
- SBC's Waste Team requests a contribution of £3,480 to allow eight 1,100 litre wheeled bins to serve the entire development (four waste, four recycling)
- The Greenspaces Manager has requested contributions of £11,203.40 (£861.80 per dwelling) towards play equipment to be provided outside in the nearby swimming pool play area to meet the need arising from this scheme.
- Developer Contribution to mitigate impact on the nearby Special Protection Area would be £2,906.54 (£223.58 per dwelling)
- SBC administration fee (5% of £18,214.15) - £910.71
- Total = £19,124.86

7.07 Housing Services initially requested that five units be designated as affordable housing, but in the light of figures submitted by the developer which prove that such provision would make the scheme economically inviable, have now withdrawn this request. This issue is further discussed later in this report.

7.08 The comments of the Environmental Health Manger are awaited. I will update Members at the meeting.

8.0 APPRAISAL

- 8.01 The key issues to consider here are the principle of development; residential and visual amenity, the implications for car parking, highway safety and convenience, the development's effect on the character and appearance of the conservation area; and the question of whether provision of affordable housing units is justified or whether an exception to policy is justified on viability grounds.
- 8.02 In terms of the principle of development, the proposed development is fully in accordance with the provisions of saved Local Plan policies B1 and B3, and paragraph 23 of the National Planning Policy Framework (NPPF), in that the existing retail and employment use will be retained, thus continuing to contribute to the vitality and viability of the town centre.
- 8.03 With regard to the residential development aspect of the proposal, this part of the proposal is also acceptable in principle, providing new housing on previously developed land within the built-up area boundaries and within an extremely sustainable location. As such, I am of the opinion that the proposal is acceptable in principle, and indeed that it would enhance the level of activity and viability in this key location
- 8.04 Concerns have been raised with regard to the residential amenity of future occupiers of the flats, if permitted. As has been noted a number of the flats (namely flats 5, 7 and 9) will overlook one or other of the adjacent service yards and the building behind to the east, and one window serving flat 9 will be only a little over six metres away from a blank wall. Faversham Town Council has noted the poor visual aspect from these proposed windows. Officers have discussed the matter with the developer, his agent and architect, and they have submitted drawings which show that views from these windows is still possible, as is the provision of light and sun, and I have therefore reached the conclusion that the relationship between the existing and proposed structures is acceptable.
- 8.05 With regard to the question of visual amenity, the proposal represents an improvement to this at present very stark and uninspiring building. Clearly, the proposed shopfront and upper floors proposed above it are a massive improvement on that existing, and I would contend that the architect has done a good job with regards to design; taking a very ugly building, and much improving its design. I note concerns regarding the rear of the building, but would suggest that this is also an improvement on what is at present on site, and as such would 'preserve or enhance' the character and appearance of the conservation area, in accordance with saved policy E15 of the SBLP 2008.
- 8.06 I also note the concerns raised over the lack of parking provision, but I note that central Faversham car park is less than fifty metres away, and I accept the expert advice received from Kent Highways and Transportation which states that a lack of parking provision is acceptable in this highly sustainable location. This approach is in line with KCC's adopted guidance on car parking for residential development, namely Kent Design Guide Review: Interim Guidance Note 3: Residential Parking.
- 8.07 With regard to affordable housing provision, pre-application advice was given in regard to this application. The ten-unit threshold for affordable housing provision was in the draft of 'Bearing Fruits 2031', but was not expected to be adopted so quickly; the previous threshold for affordable housing in the SBLP 2008 was of course for fifteen units or more. With the acceptance of the figures contained within Bearing Fruits 2031 in May 2016, this figure became ten or more, with 35% of the scheme required to be affordable housing within the Faversham area; 5 homes in this case. As such, the

applicant has put together figures which demonstrate that if five of the proposed dwellings were to be required as affordable, rather than market housing, the proposal as a whole would not be economically viable (i.e. the profit margin would be less than 20%). My Officers and I have studied these figures at some length, and conclude that the case has been compellingly made in this instance. That conclusion has been discussed with Housing Services who confirm that they would raise no objection to the lack of affordable housing within the proposal.

- 8.08 It should further be noted that all of the proposed flats are relatively small, and, whilst not falling with the planning criteria for 'affordable homes' it should be noted that such relatively inexpensive properties would be more affordable for first time buyers, etc. As such, it could be argued that an element of 'affordability' is still contained within the proposal.

9.0 CONCLUSION

- 9.01 Taking into account all of the above, I am of the opinion that the renovation and improvement of the existing retail site, together with the provision of thirteen smaller, more affordable housing units within a sustainable location would significantly enhance this prominent town centre location, and the benefits would outweigh any concerns raised. I consider that the concerns raised by the Town Council and the one objector do not amount to reasons sufficient for the application to be refused. I therefore recommend that the proposal be approved, subject to conformity with the conditions listed below and the completion of a satisfactory Section 106 Agreement for the developer contributions outlined above.

- 10.0 RECOMMENDATION – GRANT** Subject to the following conditions and the signing of the Section 106 Agreement:

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved drawings: 16-04-10 Rev B; 16-04-11 Rev B; 16-04-12 Rev C; 16-04-13; 16-04-14- Rev B; 16-04-15 Rev A; 16-04-16; 16-04-18; and 16-04-19

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

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

Reason: In the interest of promoting energy efficiency and sustainable development, and to ensure that these details are correct before development commences.

- (4) Prior to the commencement of development, 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.

Reason: In the interest of visual amenity, and to ensure that these details are correct before development commences.

- (5) No development shall take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority

Reason: In the interests of residential amenity, and to ensure that these details are correct before development commences.

- (6) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (7) No development shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies; and to ensure that these details are correct before development commences.

- (8) Detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the conservation area, and to ensure that these details are correct before development commences.

- (9) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of Security, Crime Prevention and Community Safety and to ensure that these details are correct before development commences.

INFORMATIVES

- (1) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW, (Tel: 0330 303 0119 or www.southernwater.co.uk).
- (2) Safe digging practices, in accordance with HSE publication HSG47 “Avoiding Danger from Underground Services” must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.

Council's Approach to the Application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- o Where possible, suggesting solutions to secure a successful outcome.
- o As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this case the application was approved following the submission of additional information received on 8th September 2016.

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

REPORT SUMMARY

2.5 REFERENCE NO - 16/505653/OUT			
APPLICATION PROPOSAL Outline application for the erection of 2 no. 3 bedroom Semi-detached houses with all matters reserved for future consideration			
ADDRESS 82 Church Lane Newington Kent ME9 7JU			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the dwellings and their parking demands. The impact on residential amenity would be minimal and acceptable.			
REASON FOR REFERRAL TO COMMITTEE Newington Parish Council objects.			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mrs Deborah Greene AGENT	
DECISION DUE DATE 20/10/16	PUBLICITY EXPIRY DATE 30/08/16	OFFICER SITE VISIT DATE 23/8/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/505663/OUT	Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration	Also on this agenda.	Na

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site is located to the north of the Railway bridge in Newington. It is accessed via a private road which leads to a small garage court. The site forms part of the rear garden of 82 Church Road and extends to the rear of 80 Church Lane. It is flat with typical domestic landscaping in place.
- 1.02 The site fronts on to the private access road. There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of the dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.

2.0 PROPOSAL

- 2.01 This is an outline planning application with all matters reserved for future consideration for the erection of 2 no. 3 bedroom semi-detached houses The indicative plan shows two attached rectangular dwelling footprints each measuring 8m deep by 5.6m wide. Each dwelling would have two side by side car parking spaces to the front. The rear

gardens would be between 8 and 9m long. The remaining garden for 82 Church Lane would be 12m long.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.03ha	0.03ha	0
No. of Storeys	0	2	+2
Parking Spaces	0	4	+4
No. of Residential Units	0	2	+2

4.0 PLANNING CONSTRAINTS

4.01 The site is located within the built up area boundary of Newington.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF);

“Achieving sustainable development

14

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

For decision-taking this means:10

- approving development proposals that accord with the development plan without delay; and*
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*

- specific policies in this Framework indicate development should be restricted.9”*

“6. Delivering a wide choice of high quality homes

48

Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.

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

53

Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."

- 5.02 Development Plan: Policies SP1, SP4, TG1, SH1, E1, E19, H2 and T3 of the Swale Borough Local Plan 2008.
- 5.03 Policies ST1, ST3, CP3, DM7, DM14 and DM19 of the Council's emerging Local Plan entitled Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016.
- 5.04 Supplementary Planning Guidance entitled 'Designing and Extension: A Guide for Householders' which sets out the Council normally expects a rear to rear separation distance between dwellings of 21m.

6.0 LOCAL REPRESENTATIONS

- 6.01 18 letters of objection have been received from local residents which are summarised as follows;
- The proposal will exacerbate existing traffic, road safety, congestion and parking problems on Church Lane and the A2. Church Lane reduced to 1 lane by parking.
 - It is not in keeping with neighbouring houses.
 - The proposal will interfere with parking in garage court.
 - The proposal does not have the legal right to access the driveway.
 - Development in residential gardens is not allowed under the NPPF as should be avoided by the Council as it causes harm to the local area.
 - The proposal will result in loss of light, overlooking and noise issues for neighbouring dwellings.
 - Construction traffic will cause problems.
 - Objectors concur with the applicants own objections to previous proposals in the area which highlighted problems with shortfalls in infrastructure, sewerage capacity, utilities and traffic. For the applicant to apply for planning permission when he has objected to so many applications in Newington is hypocritical and the Council should look at the wording of his objections on highway grounds to nearby proposals.
 - Will exacerbate lack of school places.
 - Lack of public transport i.e. buses and trains are crowded and infrequent.
 - There are problems with air quality that will be exacerbated.
 - Nowhere for children to play on the north side of Newington.
 - Council should consider improvements to road safety and parking facilities.
 - Newington has no job opportunities.
 - The development is too dense.
 - Dust and smell issues will arise from construction near our dwelling.
 - Loss of property value.

7.0 CONSULTATIONS

- 7.01 Newington Parish Council objects for the following summarised reasons;
- The application site is an appropriately sized garden for 82 Church Lane. Such gardens are popular with homebuyers.

- The NPPF is clear Council's should resist windfall sites in domestic gardens.
- The proposal will exacerbate traffic, congestion and parking problems on Church Lane.
- There is confusion as to whether the applicant has the right to access the development via the shared driveway to the side of 82 Church Lane and who is responsible for maintenance of the road.
- This is a very sketchy outline application and the lack of detail makes it impossible to make detailed comments.
- Not possible to judge scale of building and the effect on its setting/ room sizes/ loss of light/overlooking.
- NPC reserves the right to make further comment should a full application be submitted.

7.02 The Council's Environmental Health Manager raises no objection subject to an hours of construction condition.

7.03 KCC Highways and Transportation notes that as the access is via a private road it has no record of rights of access and suggests that residents investigate their property deeds which may contain more information.

7.04 Southern Water requires a formal application for connection to the public foul sewer. There are no public surface water sewers in the area therefore the development should find an alternative means of draining surface water, not via the public foul sewer. A condition securing the means of foul and surface water sewerage disposal is requested.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application includes a hand drawn proposed development layout plan, proposed block plan and site location plan.

9.0 APPRAISAL

Principle of Development

9.01 I note the objections of local residents and Newington Parish Council, some of which state that garden development is contrary to paragraphs 48 and 53 of the NPPF as quoted above. However, it is clear from the wording of paragraph 48 that residential gardens should not form part of a windfall allowances in calculating a five year supply of housing land as required by the NPPF. This does not mean a planning application for the development of dwelling houses in a residential garden is unacceptable as a matter of principle. With regard to paragraph 53, the NPPF makes clear Council's should consider the case for setting out policies to resists inappropriate development of residential gardens, for example where development would cause harm to the local area. The Council has not adopted such a specific policy but it does have several other policies such as E1 and E19 of the adopted Local Plan that require all developments not to cause harm to amenity. This is discussed in full below but in my opinion the proposal would not cause harm to the local area sufficient to warrant the refusal of planning permission.

9.02 The site is located within the built up area boundary of Newington as defined by the Proposals Map of the Swale Borough Local Plan 2008. As set out in policy H2 the

principle of development is acceptable. Whilst residential gardens have been removed from the definition of brownfield land it remains preferable to make efficient use of land within built up areas instead of developing greenfield sites in the countryside. The site is considered to be located in a sustainable central location with access to the services, facilities and transport options Newington has to offer. For these reasons, the principle of the proposal is acceptable in my opinion.

Residential Amenity

- 9.03 This outline application does not provide details of the scale, appearance or layout reserved matters of the two dwellings. Whilst no indicative elevations have been provided it is reasonable to assume that for the dwellings to provide 3 bedrooms apiece, each would need to be two storey with rooms in the roofspace. This requires careful consideration of the potential overlooking arising. The ground floor would create little overlooking as it would be surrounded by standard residential fencing that would largely prevent overlooking. The indicative plan submitted with the application demonstrates that it is possible for the site to accommodate two dwellings that secures a 25m separation distance between the rear elevation and that of 5 St Matthews Close, noting only 21m is required by the Council's SPG on domestic extensions. The proposal would be a minimum of 9m from the side elevation of 4 St Matthews Close and the proposal is positioned in such a way in relation to this neighbouring property that there would be no harm to residential amenity. It is noted that the dwellings would be located adjacent to the boundary with the garden of 4 St Matthews Close but there is not considered to be harm arising from overbearing of the garden or the dwelling itself. The front elevation of the proposal would be 24m from the main two storey rear elevation of 7 St Stephens Close to the north which is sufficient distance to prevent harm to residential amenity. The proposal would be 20m from 92 Church Lane and set at an angle to it which would result in no harm to residential amenity. There would be a gap of approximately 13m between the side elevation of the proposal and the rear elevation of the host property, 82 Church Lane which is sufficient distance to prevent harm to residential amenity. The separation distance to 80 Church Lane is 22m which again prevents harm to residential amenity.
- 9.04 The potential scale and position of the proposed dwellings combined with the proposed gaps between it and the application site boundary, including an 8-9m long rear garden, serve to further reduce any potential impact from loss of light, overshadowing and overbearing, contrary to the objections received. The proposal entails accommodation that would provide an acceptable level of amenity for future occupants. The remaining garden space serving 82 Church Lane is acceptable. The resulting impact on residential amenity would be acceptable in my opinion.

Highways

- 9.05 I note the significant level of objection to the impacts of the development on highway safety and convenience. KCC Highways and Transportation no longer provides advice on such small scale proposals. The current vehicle parking standards entitled 'Kent Design Guide Review: Interim Guidance Note 3: Residential Parking' require that a three bedroom dwelling in a village location has a minimum of 2 independently accessible car parking spaces. The proposal provides 2 car parking spaces for each dwelling in accordance with these standards. There is sufficient space on the site for the car parking spaces to be of an appropriate size i.e. 5m long by 2.5m wide or 2.7m wide if up against a boundary. The position of the dwellings and visibility splays is such that should the vehicles parked in the proposed car parking spaces enter the private access road in a forward or reverse gear, there would be no harm to highway safety

and convenience in my opinion. It is important to note the very slow vehicle speeds on the private access.

- 9.06 The spaces are sufficiently removed from the existing garages and parking spaces to the front that there would be no interference with the spaces. The proposed parking arrangement is likely to leave very little scope for landscaping to the front of the dwellings to soften its visual impact. However, the character of the immediate setting is that of a parking and garaging court with no soft planting within it. I consider it would be extremely difficult to defend a reason for refusal based on the visual impact of the parking arrangement given this character.

Other Matters

- 9.07 I note the objections regarding the legal right to access the development via the private road. It is well established that the Council is free to grant planning permission for a development and it is the applicant's responsibility to ensure that they have the legal right to access the development. Should these rights not exist there would effectively be a ransom strip around the site, but this is for the applicant to overcome outside of the planning system and Members should be aware that the legal right to access a proposal is not a material planning consideration.
- 9.08 The hours of construction and foul and surface water drainage conditions recommended by consultees are attached to prevent harm to amenity and flooding.

10.0 CONCLUSION

- 10.01 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the proposal for two dwellings and their parking demands. The impact on residential amenity would be minimal and acceptable.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) Details relating to the layout, scale and appearance of the proposed building, the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(4) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

(5) Prior to the commencement of development, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

(6) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

(7) The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking of 2 cars per dwelling (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

(8) The sight lines shown on the approved plans shall be provided prior to the occupation of the dwellings hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

(9) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

(10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-
Monday to Friday 0800 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(11) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

INFORMATIVES

The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Habitat Regulations Assessment Screening

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 2km south of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which

are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Where possible, suggesting solutions to secure a successful outcome.
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required. The applicant/agent was provided formal pre-application advice. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

REPORT SUMMARY

2.6 REFERENCE NO - 16/505663/OUT			
APPLICATION PROPOSAL Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration.			
ADDRESS 82 Church Lane Newington Kent ME9 7JU			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the dwelling and its parking demands. The impact on residential amenity would be minimal and acceptable.			
REASON FOR REFERRAL TO COMMITTEE Newington Parish Council objects.			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mrs Deborah Greene AGENT	
DECISION DUE DATE 20/10/16	PUBLICITY EXPIRY DATE 30/08/16	OFFICER SITE VISIT DATE 23/8/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/505653/OUT	Outline application for the erection of 2 no. 3 bedroom Semi-detached houses with all matters reserved for future consideration	Also on this agenda.	Na

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site is located to the north of the Railway bridge in Newington. It is accessed via a private road which leads to a small garage court. The site forms part of the rear garden of 82 Church Road and extends to the rear of 80 Church Lane. It is flat with typical domestic landscaping in place.
- 1.02 The site fronts on to the private access road. There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of the dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.

2.0 PROPOSAL

- 2.01 This is an outline planning application with all matters reserved for future consideration for the erection of a detached 2 bedroom bungalow. The indicative plan shows an 'L' shaped bungalow measuring a maximum of 9.5m deep by 10m wide. It would have two side by side car parking spaces to the front. The rear garden would be 10m long. The remaining garden for 82 Church Lane would be 12m long.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.03ha	0.03ha	0
No. of Storeys	0	1	+1
Parking Spaces	0	2	+2
No. of Residential Units	0	1	+1

4.0 PLANNING CONSTRAINTS

4.01 The site is located within the built up area boundary of Newington.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF);

“Achieving sustainable development

14

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

For decision-taking this means:10

- approving development proposals that accord with the development plan without delay; and*
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted.9”*

“6. Delivering a wide choice of high quality homes

48

Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.

49

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

53

Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

- 5.02 Development Plan: Policies SP1, SP4, TG1, SH1, E1, E19, H2 and T3 of the Swale Borough Local Plan 2008.
- 5.03 Policies ST1, ST3, CP3, DM7, DM14 and DM19 of the Council’s emerging Local Plan entitled Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016.
- 5.04 Supplementary Planning Guidance entitled ‘Designing and Extension: A Guide for Householders’ which sets out the Council normally expects a rear to rear separation distance between dwellings of 21m.

6.0 LOCAL REPRESENTATIONS

- 6.01 15 letters of objection have been received from local residents which are summarised as follows;
- The proposal will exacerbate existing traffic, road safety, congestion and parking problems on Church Lane and the A2. Church Lane reduced to 1 lane by parking.
 - It is not in keeping with neighbouring houses.
 - The proposal will interfere with parking in garage court.
 - The proposal does not have the legal right to access the driveway.
 - Development in residential gardens is not allowed under the NPPF as should be avoided by the Council as it causes harm to the local area.
 - The proposal will result in loss of light, overlooking and noise issues for neighbouring dwellings.
 - Construction traffic will cause problems.
 - Objectors concur with the applicants own objections to previous proposals in the area which highlighted problems with shortfalls in infrastructure, sewerage capacity, utilities and traffic. For the applicant to apply for planning permission when he has objected to so many applications in Newington is hypocritical and the Council should look at the wording of his objections on highway grounds to nearby proposals.
 - Will exacerbate lack of school places.
 - Lack of public transport i.e. buses and trains are crowded and infrequent.
 - There are problems with air quality that will be exacerbated.
 - Nowhere for children to play on the north side of Newington.
 - Council should consider improvements to road safety and parking facilities.
 - Newington has no job opportunities.
 - The development is too dense.
 - Dust and smell issues will arise from construction near our dwelling.
 - Loss of property value.

7.0 CONSULTATIONS

- 7.01 Newington Parish Council objects for the following summarised reasons;
- The application site is an appropriately sized garden for 82 Church Lane. Such gardens are popular with homebuyers.
 - The NPPF is clear Council’s should resist windfall sites in domestic gardens.

- The proposal will exacerbate traffic, congestion and parking problems on Church Lane.
- There is confusion as to whether the applicant has the right to access the development via the shared driveway to the side of 82 Church Lane and who is responsible for maintenance of the road.
- This is a very sketchy outline application and the lack of detail makes it impossible to make detailed comments. NPC reserves the right to make further comment should a full application be submitted.

7.02 The Council's Environmental Health Manager raises no objection subject to an hours of construction condition.

7.03 KCC Highways and Transportation notes that as the access is via a private road it has no record of rights of access and suggests that residents investigate their property deeds which may contain more information.

7.04 Southern Water requires a formal application for connection to the public foul sewer. There are no public surface water sewers in the area therefore the development should find an alternative means of draining surface water, not via the public foul sewer. A condition securing the means of foul and surface water sewerage disposal is requested.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application includes a hand drawn proposed development layout plan, proposed block plan and site location plan.

9.0 APPRAISAL

Principle of Development

9.01 I note the objections of local residents and Newington Parish Council, some of which state that garden development is contrary to paragraphs 48 and 53 of the NPPF as quoted above. However, it is clear from the wording of paragraph 48 that residential gardens should not form part of a windfall allowances in calculating a five year supply of housing land as required by the NPPF. This does not mean a planning application for the development of dwelling houses in a residential garden is unacceptable as a matter of principle. With regard to paragraph 53, the NPPF makes clear Council's should consider the case for setting out policies to resists inappropriate development of residential gardens, for example where development would cause harm to the local area. The Council has not adopted such a specific policy but it does have several other policies such as E1 and E19 of the adopted Local Plan that require all developments not to cause harm to amenity. This is discussed in full below but in my opinion the proposal would not cause harm to the local area sufficient to warrant the refusal of planning permission.

9.02 The site is located within the built up area boundary of Newington as defined by the Proposals Map of the Swale Borough Local Plan 2008. As set out in policy H2 the principle of development is acceptable. Whilst residential gardens have been removed from the definition of brownfield land it remains preferable to make efficient use of land within built up areas instead of developing greenfield sites in the countryside. The site is considered to be located in a sustainable central location with access to the services, facilities and transport options Newington has to offer. For these reasons, the principle of the proposal is acceptable in my opinion.

Residential Amenity

- 9.03 This outline application does not provide details of the scale, appearance or layout reserved matters of the bungalow. Notwithstanding the above, the impact of a bungalow is inherently less significant than a two storey dwelling. Single storey development surrounded by standard residential fencing creates very little overlooking. The indicative plan submitted with the application demonstrates that it is possible for the site to accommodate a single bungalow that secures a 27m separation distance between the rear elevation and that of 5 St Matthews Close, noting only 21m is required by the Council's SPG on domestic extensions. The proposal would be a minimum of 9m from the side elevation of 4 St Matthews Close and the proposal is positioned in such a way in relation to this neighbouring property that there would be no harm to residential amenity. The front elevation of the proposal would be 21m from the main two storey rear elevation of 7 St Stephens Close to the north which is sufficient distance to prevent harm to residential amenity. The proposal would be 20m from 92 Church Lane and set at an angle to it which would result in no harm to residential amenity. There would be a gap of approximately 15m between the side elevation of the proposal and the rear elevation of the host property, 82 Church Lane which is sufficient distance to prevent harm to residential amenity. The separation distance to 80 Church Lane is 25m which again prevents harm to residential amenity.
- 9.04 The small footprint and low profile of the bungalow combined with the proposed gaps between it and the application site boundary, including a 10m long rear garden, serve to further reduce any potential impact from loss of light, overshadowing and overbearing, contrary to the objections received. The proposal entails accommodation that would provide an acceptable level of amenity for future occupants. The remaining garden space serving 82 Church Lane is acceptable. The resulting impact on residential amenity would be acceptable in my opinion.

Highways

- 9.05 I note the significant level of objection to the impacts of the development on highway safety and convenience. KCC Highways and Transportation no longer provides advice on such small scale proposals. The current vehicle parking standards entitled 'Kent Design Guide Review: Interim Guidance Note 3: Residential Parking' require that a two bedroom dwelling in a village location has a minimum of 1.5 car parking spaces. This is rounded up to two spaces for single dwelling proposals. The proposal provides 2 car parking spaces in accordance with these standards. There is sufficient space on the site for the car parking spaces to be of an appropriate size i.e. 5m long by 2.5m wide or 2.7m wide if up against a boundary. The position of the dwelling and visibility splays is such that should the vehicles parked in the proposed car parking spaces enter the private access road in a forward or reverse gear, there would be no harm to highway safety and convenience in my opinion. It is important to note the very slow vehicle speeds on the private access.
- 9.06 The spaces are sufficiently removed from the existing garages and parking spaces to the front that there would be no interference with the spaces.

Other Matters

- 9.07 I note the objections regarding the legal right to access the development via the private road. It is well established that the Council is free to grant planning permission for a

development and it is the applicant's responsibility to ensure that they have the legal right to access the development. Should these rights not exist there would effectively be a ransom strip around the site, but this is for the applicant to overcome outside of the planning system and Members should be aware that the legal right to access a proposal is not a material planning consideration.

9.08 The hours of construction and foul and surface water drainage conditions recommended by consultees are attached to prevent harm to amenity and flooding.

10.0 CONCLUSION

10.01 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the dwelling and its parking demands. The impact on residential amenity would be minimal and acceptable.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) Details relating to the layout, scale and appearance of the proposed building, the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(4) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

(5) Prior to the commencement of development, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

(6) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

(7) The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking of 2 cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

(8) The sight lines shown on the approved plans shall be provided prior to the occupation of the dwelling hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

(9) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

(10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-
Monday to Friday 0800 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(11) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

INFORMATIVES

The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Habitat Regulations Assessment Screening

This HRA has been undertaken without information provided by the applicant.

The application site is located approximately 2km south of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species.

Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer

contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The application was acceptable as submitted and no further assistance was required.

The applicant/agent was provided formal pre-application advice.

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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2.7 REFERENCE NO - 16/505709/FULL			
APPLICATION PROPOSAL First floor & single storey extensions.			
ADDRESS 89 Scarborough Drive, Minster-on-Sea, Kent, ME12 2NQ			
RECOMMENDATION – Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would not give rise to unacceptable harm to residential amenity and would not seriously harm the character and appearance of the street scene.			
REASON FOR REFERRAL TO COMMITTEE At the request of Councillor Andy Booth.			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-on-Sea	APPLICANT Mr & Mrs McKinley AGENT Alpha Design Studio Limited	
DECISION DUE DATE 31/08/16	PUBLICITY EXPIRY DATE 04/08/16	OFFICER SITE VISIT DATE 23/08/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/79/1276	Renewal of temporary permission for siting of a caravan for a two year period	Approved	20/11/1979
SW/78/1340	Siting of a caravan for a two year period	Approved	18/12/1978
SW/78/1232	Demolition of existing bungalow and erection of new bungalow	Approved	29/11/1978

1.0 DESCRIPTION OF SITE

- 1.01 89 Scarborough Drive is a detached, modest sized bungalow situated close to the junction with Seaside Avenue. The building itself is in a rather poor condition at present.
- 1.02 The property is set significantly back from the main road and general building line, and has a large garden and driveway to the front.
- 1.03 There is much smaller private amenity space to the rear, which has boundaries with properties in Augustine Road and Seaside Avenue. The gardens, and in particular the rear, have become quite overgrown.
- 1.04 There is a small cluster of bungalows in this part of Scarborough Drive and Seaside Avenue; however the street scene as a whole is particularly mixed with dwellings of considerably varying designs and sizes.

2.0 PROPOSAL

- 2.01 The proposal seeks planning permission for both single storey and first floor extensions, as part of the overall refurbishment of the property. There is a small outbuilding to the side which would be demolished.

- 2.02 The overall footprint of the property would increase by a maximum of 7m in width and 1.6m in length. The maximum height of the property would be 7.6m, although the bulk of the dwelling would be approximately 6m in height, reducing to 3.1m at single storey level.
- 2.03 The proposal would introduce 2 bedrooms at first floor level, both with en-suite bathrooms. There would be an integral garage with 2 parking spaces to the front.
- 2.04 The refurbished dwelling would be of a modern design, finished in white painted render, with light grey coloured composite weatherboarding at first floor level and slate tiles on the roof.

3.0 PLANNING CONSTRAINTS

None relevant

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and The National Planning Practice Guidance (NPPG): The NPPF and NPPG are relevant in that they encourage good design and seek to minimise serious amenity concerns.
- 4.02 Development Plan: Saved policies E1, E19, E24 and T3 of the adopted Swale Borough Council Local Plan 2008 and policies CP 4, DM 7, DM 14 and DM 16 of the emerging Swale Borough Council Local Plan Bearing Fruits 2031 are relevant in that they relate to general development criteria and design, alterations and extensions, and parking considerations.
- 4.03 Supplementary Planning Documents: The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant, and remains a material consideration having been through a formal review and adoption process. The Adopted SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.
- 4.04 National Planning Policy Framework (NPPF)
- 4.05 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."
- 4.06 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.
- 4.07 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Saved policies E1, E19, E24 and T3 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.

5.0 LOCAL REPRESENTATIONS

5.01 The surrounding neighbours were sent letters notifying them of the application. Five representations objecting to the proposal were received within the consultation period. As a result, I contacted the Ward Members for Minster Cliffs, and Cllr Andy Booth requested that the application be called in to Planning Committee. The comments are summarised below:

- Loss of privacy if front balcony looks into number 89
- It is not clear if the flat roof garage/study would be used as a terrace – objection if it would be
- A two storey building, and the proposed use of materials is not in keeping with the surrounding properties and would ruin the aesthetic look and character of the area
- Are there any proposed improvements to the boundary fencing and landscaping?
- It would overlook/overshadow the surrounding properties and gardens
- The issue of overlooking should be specified in any consent granted
- Would foundation be dug within 3m of neighbouring property?

6.0 CONSULTATIONS

6.01 Minster-on-Sea Parish Council support the application subject to no serious harm being found to neighbouring amenity.

7.0 BACKGROUND PAPERS AND PLANS

7.02 The application reference to which this proposal refers to is 16/505709/FULL.

7.03 The applications listed in the history above are for reference, and are not particularly relevant to this case.

8.0 APPRAISAL

8.01 The application site is located within the defined built up area boundary of Minster in which the principle of development is acceptable subject to amenity and other relevant policy considerations. I believe the main considerations here to be the impact of the proposal upon the residential and visual amenities of the area, including the impact upon residential parking.

Residential Amenity

8.02 The dwelling would extend approximately 7m past the rear of number 87. However in this case, the building is already set significantly to the rear, and there would remain a 5m gap separating them. Additionally, this part of the extended dwelling would be single storey and flat roofed, and so I do not consider that there would be significant additional harm in terms of overshadowing or an overbearing impact here.

8.03 There would remain at least 9.4m between the rear of numbers 32 and 34 Seaside Avenue and the south eastern flank elevation of the dwelling. This would be a flat roofed, single storey element and there would be an additional 2m to any first floor element, for a total gap of at least 11.4m. There is no currently adopted guidance on the specific relationship between rear and flank elevations, however 11m at first floor level has historically been considered acceptable. As such, I do not consider that there would be significant harm in terms of overshadowing or an overbearing impact here.

- 8.04 The dwelling is already set significantly rearwards of number 91. The gap between them would remain at least 9.2m (just 0.3m shorter than existing). The height of the dwelling at this point would increase by just 1.7m. Given this, and the fact the application site is set to the south west of number 91, I do not consider that there would be significant additional harm in terms of overshadowing or an overbearing impact here.
- 8.05 There would remain over 21m to any other surrounding property, and so I consider that there would be no serious harm in terms of overshadowing or an overbearing impact in this regard.
- 8.06 I have considered the objections raised by surrounding properties in terms of overlooking. There would be minimal fenestration in the flank elevations and those that are proposed at first floor would be high level. The 2 roof lights to the rear would also be high level. The remaining first floor windows to the rear would serve a bathroom, which would be conditioned to be obscure glazed, and a landing/stairway. There would be over 21m to any dwelling directly to the rear in Augustine Road. There are no properties directly to the front. Although number 91 is set forwards of the site, they do not directly face each other. In any case, the closest first floor window here is a small, triangular gable window and designed in such a way as to minimise the potential for any sideways overlooking, in my opinion. As such, and despite the concerns raised, I am of the view that the design and arrangement of fenestration proposed would cause no serious harm in terms of overlooking (concern regarding the balcony discussed below).
- 8.07 There would be a balcony to the front, forming part of the flat roof above the garage and study. Concern was raised by number 87 about the potential for overlooking from it, and from the whole flat roof if it were to be used as a terrace/balcony. I do not consider there to be the potential for significant overlooking in terms of the balcony itself as shown. In terms of the remaining flat roof, a condition would be imposed to prevent its use as an additional balcony/terrace area. Overall, I do not consider that there would be significant harm to residential amenity in terms of overlooking.

Visual Amenity

- 8.08 Concern has been raised regarding the property being out of keeping with, and dwarfing, the surrounding bungalows, in terms of its introducing a first floor, and its design and use of materials. Whilst I acknowledge that many of the immediately neighbouring properties are bungalows, properties in Scarborough Drive and indeed Minster as a whole are considerably varied in design and size featuring large two storey dwellings down to bungalows of this size, and traditional to modern designs. The use of materials is particularly varied with different brick types, rendering and weatherboarding used. As such, I consider that the design would not seriously alter the character and appearance of the street scene.

Parking

- 8.09 The parking requirement for a 3 bed dwelling in a suburban location is 2 spaces per unit. This is sufficiently accounted for in this case, and would therefore not give rise to significant additional on street parking, in my view.
- 8.10 Although the provision of parking to the front of a dwelling is generally discouraged, I note several examples in Scarborough Drive in which this is the case. Given this, and the fact that it would be set significantly further back from the main road than in most

cases here, I do not consider that the proposed parking would significantly harm the street scene.

Other Matters

8.11 A query was raised regarding the proximity of the foundations to the neighbouring property. This would not be a planning matter.

8.12 A query was raised asking whether there were any proposed improvements to the landscaping/fencing. Landscaping schemes would not usually be sought in minor applications such as this, and while I would expect that the overgrown gardens would be tended to and improved, I consider the proposal to be acceptable in its own right.

9.0 CONCLUSION

9.01 I do consider this to be a finely balanced application. However overall, and due to the existing footprint already being significantly rearwards of the general building line, the proposal would not in my view give rise to harm to residential or visual amenity, or to highway safety and convenience. I therefore recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) The development hereby approved, including the specification of materials to be used in the construction of the external surfaces, shall be carried out in accordance with the approved drawing numbers 1369/3 and 1369/4.

Reason: For the avoidance of doubt and in the interests of visual amenity.

- (3) As shown on approved drawing number 1369/4, the proposed roof lights shall have a sill height of at least 1.7m above inside finished floor level, and the proposed window in the first floor south eastern flank elevation shall have a sill height of at least 2m above inside finished floor level.

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

- (4) Before the development hereby approved is first used, the window serving the first floor rear bathroom shall be obscure glazed and shall be kept as such in perpetuity.

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

- (5) The flat roof area above the garage and study shall not be used as a balcony or sitting out area and there shall be no other use of the roof area unless for maintenance.

Reason: In order to prevent overlooking and to safeguard the privacy of neighbouring occupiers.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

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

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

2.8 REFERENCE NO - 16/504460/FULL		
APPLICATION PROPOSAL Change of use from Care Home (Class C2) to House of Multiple Occupation (C4) with minor internal alterations		
ADDRESS Mill House, Salters Lane, Faversham Kent ME13 8ND		
RECOMMENDATION: Approve		
SUMMARY OF REASONS FOR RECOMMENDATION: Town Council objection		
REASON FOR REFERRAL TO COMMITTEE: TOWN COUNCIL OBJECTION		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Renuha Francis AGENT Lusher Architects
DECISION DUE DATE 29/07/16	PUBLICITY EXPIRY DATE 12/07/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): All previous applications relate to the use of the building as a care home		

1.0 DESCRIPTION OF SITE

- 1.01 The site is located to the south of the A2 on the outskirts of Faversham. To the north are the gardens and residential properties of Westwood Place; to the east is Faversham Town Football Club and its ground. It is sited adjacent to a KCC Highways Depot and a Household Waste Recycling Centre is located to the south of the site further along Salters Lane.
- 1.02 Mill Cottage is the closest residential property located approximately 12m to the west of Mill House, this property sits between the application site and the KCC depot.

2.0 PROPOSAL

- 2.01 The application is for the change of use of a currently empty Residential Care Home to a House of Multiple Occupation (HMO).
- 2.02 The proposal will only require minimal internal alterations to effect this change of use, it will provide 20 bedrooms and communal kitchens, living area and bathrooms.

3.0 SUMMARY INFORMATION

The applicant provided additional information regarding the site and stated:

Mill House first began to face difficulty with CQC just over a year ago. During this period of time the former operators invested tens of thousands of pounds into the renovation of the building and business. As this was still not good enough, the business was in the process of a sale, one that was stopped by CQC. CQC stopped the sale as they had place a NOP on the home, which is when they begin the process of removing the license for the home thus shutting the care home. During this period of time Carport was placed as the management of the building. During the

last 12 months of the trading Care Home, operational losses exceeded £15,000 a month. Due to the large operational losses of the home, it was deemed nonviable, with all lenders and investors pulling funding for the care home.

This is when Urban London Developments came on board and offered the chance for the building to serve the community in another form. Urban London Developments experienced team decided the best option would be for the building to become a home for 24 persons. This would be in line with the former registration that CQC granted for 24 persons to live on the premises. We must also remember that along with the residents, there was over 8 staff working on a shift.

The development is aimed to be cycle friendly and to promote the use of public transport. We will be installing new cycle racking and have personally tested the public transport links to London. With the station just a 5 minute walk away with a High speed train to St Pancras and two trains every hour to London Victoria.

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance
Conservation Area Preston-next-Faversham
Landfill Waste Disposal Site PRESTON FORGE

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: Saved policies E1 and T3 of the Swale Borough Local Plan 2008
Supplementary Planning Document (SPG): The Conversion of Buildings into Flats or Houses in Multiple Occupation.

The Council's SPG on HMOs acknowledges that HMO's provide a useful means of housing for a growing number of single person households. Its states that properties suitable for conversion are ones with a floor area above 110m² with their own off street parking facilities and outside amenity area. Additionally if the location of the proposed HMO is an area of predominantly single family houses the property would need to be a detached house in substantial grounds. A more suitable location would be streets where a significant proportion of the properties are no longer in single family use. In considering an application the use of properties either side of that proposed for conversion is an important material consideration.

6.0 LOCAL REPRESENTATIONS

6.01 None.

7.0 CONSULTATIONS

7.01 Faversham Town Council deferred the original decision stating that no Design and Access statement has been provided and that no description of the new use or reasons for change of use has been provided. Upon second consultation with additional information and clarification regarding the information, they objected to the application as they consider that no proper description of the proposed new use has been provided. Members should note that the relevant regulations do not require a Design and Access Statement for a change of use application like this one.

- 7.02 Kent Highway and Transportation has commented that the application does not meet the criteria to warrant involvement from the Highway Authority
- 7.03 The Council's Environmental Health Manager has considered potential concerns over increased noise from use of the building as a House in Multiple Occupation (HMO) in this location.

He has noted that the building is located adjacent to a KCC Highways Depot and opposite Faversham Football Ground together with a Household Waste Recycling Centre nearby. The existing use as a Residential Care Home will generate noise from vehicle movements to and from its existing car parking area.

He notes that there is no evidence to support an argument that individuals occupying a HMO will produce an unacceptable impact in terms of noise compared to the existing use. This together with the background noises associated with existing nearby uses has led me to the conclusion that he has no adverse comments or objections to this application.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers for application 16/504460/FULL

9.0 APPRAISAL

- 9.01 The site is located on the outskirts of Faversham and is accessible to the town and the variety of facilities, services and public transport it offers, the application requires minimal internal alterations and as such the main consideration is the potential impact on residential amenity of the proposed change.
- 9.02 There will be no additional visual impact as the building is to retain its current external appearance and only minimal internal changes are required to implement this change of use.
- 9.03 I note the property Mill Cottage is located as the nearest residential property to the site and advice was sought from the Environmental Health manager. He advises that given the location of the site surrounded by high use facilities and services he considers that there is no evidence to suggest that the individuals occupying the property would produce an unacceptable impact in terms of noise compared to the existing use. This is in line with the SPG which states that the use of properties either side of the HMO is an important consideration. Here, given they are predominantly uses other than residential I consider it to be an acceptable location.
- 9.04 I am conscious that the property is shown to accommodate 20 bedrooms and as such I do consider it necessary to attach a condition to ensure that the number of residents is restricted. I note the previous care home had permission for 24 residents; however the circumstances of the care home are different to the HMO proposed here and as such I consider 20 to be a reasonable number given this is the same number of bedrooms, and that is likely to accord with relevant licensing criteria.
- 9.05 I am also mindful of the amenity of the future occupiers of the building and note there is amenity space around the property, in line with the requirements of the SPG and I consider that its close proximity to the facilities and amenities of Faversham is of benefit.

9.06 Off street parking exists on the site, in line with the SPG and I note the site is very well situated in terms of pedestrian access to the facilities and services in Faversham and to public transport links locally and to places further afield. There is also sufficient space on the site to accommodate additional parking

9.07 I note the objection from Faversham Town Council, but the applicant has provided all the information necessary for this change of use application. However whilst it is not entirely clear what they mean by “no proper description of the proposed new use has been provided” I consider it to be clear as to what is being proposed.

10.0 CONCLUSION

10.01 The property has historically been used as a care home and this application is for its change of use to a HMO, the required information has been submitted and, with the attached condition restricting the number of inhabitants, I consider the change of use to be acceptable in accordance with the Council’s published SPG guidance.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) No more than 20 people shall reside in the property at any one time.

Reason: In the interests of residential amenity

Council’s approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council’s website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

2.9 REFERENCE NO - 16/505747/FULL			
APPLICATION PROPOSAL Demolition of existing garage and front boundary wall, removal of existing ash tree and erection of a one bedroom dwelling with integral garage and associated external works as amended by drawings received on 27 September 2016			
ADDRESS 184 - 186 The Street Boughton Under Blean Kent ME13 9AL			
RECOMMENDATION: Approve			
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection and local representations			
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Boughton Under Blean	APPLICANT Mr & Mrs Payne AGENT Edgington Architectural Services Ltd	
DECISION DUE DATE 14/09/16	PUBLICITY EXPIRY DATE 19/08/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/502409/FULL	Demolition of existing pre fabricated garage and front boundary wall, erection of new building with large garage and annex above	Withdrawn	18/05/2016
SW/13/1141	LDC existing kitchen/dining room extension	Granted	13/11/2013
SW/86/0768	Replacement double garage and annex above	Approved	28/01/1987

1.0 DESCRIPTION OF SITE

- 1.01 The site is located on the corner of a junction on The Street and School Lane in the centre of the village, adjacent to an existing lay by, public toilets and bus stop. The location is within the Boughton Street conservation area. The host property as a whole is set on the street frontage with commercial use on the ground floor (No.186) and extends to the back of the site where the main entrance to the house is located (No.184). There is existing vehicular access off The Street, directly adjacent the commercial property with a pre-fabricated garage and raised garden beyond.
- 1.02 The site is set on two levels, firstly the street level where the main property 184/186 The Street, the driveway and garage are sited and then beyond a raised garden level, which accommodates the change in level from the street frontage to the northern boundary and the properties beyond in School Lane. To the south of the site on The Street is a lamp post and a sign posted bus stop with a lay-by. Public WCs within a single storey building with a rather grand Kent peg tiled roof and some off street parking bays entranced off School Lane sits to the east of the site.
- 1.03 The site boundary steps up with the change in levels and comprises a mix of brick walling and fencing above. There is a 1.4 -1.6m high brick wall on the street frontage, with a painted metal vehicular gate and drop kerb adjacent the main building. The

driveway is block paved with drainage provided to the front boundary. This leads to a few steps leading up to the house entrance and then a separate set of steps accesses the rear garden area, which is set 1.5 – 1.8m higher than the driveway level. There is an existing rendered masonry retaining wall to the garden along the driveway edge and then a separate retaining structure made with railway sleepers that supports the raised garden along the edge with the existing garage.

- 1.04 The garden is laid to lawn, with established planted borders and a secluded sunken patio terrace in the northeast corner with a timber pergola structure over. In the border alongside the existing garage there is an existing ash tree. Due to the nature of the levels and the proximity of the existing retaining structures, the existing tree has developed a lean whereby its root growth can only effectively spread in one direction.

2.0 PROPOSAL

- 2.01 This application is submitted following the withdrawal of application 16/502409/FULL which proposed the almost identical submission to the previous approval (SW/86/768) for a new garage with an annex above. However, that scheme was never implemented and upon resubmission was felt not to be appropriate given its proximity to the listed building and its location within the conservation area as such officers were not able to support the proposal. Discussions were subsequently held with officers regarding a more appropriate design for the new dwelling.
- 2.02 Following consultations, an amended scheme was proposed that re-orientated the proposed house so the gable end faces onto the street. It remains a similar size to the previously approved scheme. During the application process, discussions continued and amended drawings were received on 27 September 2016 to address some concerns raised during the consultation period, namely design detailing on the scheme which now shows a Kent peg tiled roof and the necessary increase in the pitch to 45 degrees; the inclusion of 3 small roof lights on the west facing elevation and the removal of three dormer windows and external shutters; the replacement of the rear window/door arrangement to just a pair of French style glazed doors - these to be repositioned towards the east side of the rear elevation; and the rearrangement of the front elevation first floor fenestration to the bedroom and shower room.
- 2.03 The proposed dwelling is a modest detached one bedroom property with a garage, entrance hall and utility room on the ground floor and the majority of the living accommodation of the first floor to offer one bedroom and a living/kitchen area. It will have red stock brick and painted timber weather boarded elevations with a Kent peg tiled roof and timber casement fenestration and a solid timber front door and conservation rooflights, with cast iron rainwater goods.
- 2.04 The building will replace a large and unattractive pre fabricated flat roofed double garage building which measures 5.6m by 4.8m and lies immediately adjacent to the street frontage.
- 2.05 The agent has commented that *“The orientation and proportions have been altered to preserve and enhance the character and appearance of the Conservation Area and also to be subservient to the surrounding buildings. Concerns have been raised by local residents as to the impact that a two storey dwelling will have on the immediate neighbours, in particular The Oast in School Lane. Whilst the proposal is for two storey, there is a significant change in ground levels from the driveway and road level in The Street to the ground levels for The Oast in School Lane. From the existing garden level, the new building is only single storey with the pitched roof and will have*

no impact in terms of overlooking or overshadowing on the garden of The Oast. Further concerns have been raised that the new building will obscure views of The Oast. This simply is not the case. Referring to the Location Plan, it is clear that The Oast in School Lane is significantly further to the east of the application sites eastern boundary and so will still be visible from The Street. The existing public WC building impedes the view far greater than any proposal on our site."

- 2.06 The application is supported by a Design and Access Statement and a Tree Report. The tree report confirms that the ash tree to be removed is healthy, and that it can be replaced elsewhere within the application site to mitigate its loss.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Boughton Street

Listed Buildings MBC and SBC Ref Number: 459/SW

Description: G II POST OFFICE, 184 THE STREET, BOUGHTON UNDER BLEAN, ME13

Listed Buildings MBC and SBC Ref Number: 376/SW

Description: G II 188 THE STREET, BOUGHTON UNDER BLEAN, FAVERSHAM, ME13 9

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

Development Plan: Swale Borough Local Plan Adopted 2008: Saved policies E1, E14, E15,

Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016 Policies DM14, DM32, DM33

Supplementary Planning Documents (SPG): Conservation Areas, Listed Buildings

5.0 LOCAL REPRESENTATIONS

- 5.01 Nine residents have objected to the proposal, with some submitting more than one comment, a summary is below:

- The proposal will in fact completely change the character of this beautiful main village street, despite what the applicants suggest.
- The current building is single storey, replacing it with a two-storey building will change the street view completely.
- The existing wall is an asset to the street in that it obscures the view of dwellings behind it. Adding the frontage of another house changes the street entirely.
- I do not think there is any logic in creating a two-storey dwelling. The living accommodation is planned for the first floor. Is this suitable for an elderly gentleman?
- Why is extra car parking needed downstairs when there is already space for 4 cars on the property?
- Object to the needless destruction of a healthy and mature tree, just because it is growing in an inconvenient direction.
- Urge the planning committee to look very carefully at the response of all neighbours before making their decision. This is a picturesque village with a wealth of historic features the length of the main street. We have a responsibility to preserve this.
- The dwelling will look straight into my garden the front door and balcony will be able to look into my bedroom window.

- The front door and windows will look over the whole of my garden giving me no privacy.
- The new building will obscure my home, the only round oast in the village from the main street.
- Will create a limited view when pulling out of the junction. Making it very dangerous, It's difficult at times now.
- The lovely view of the Ash tree will be lost, it's a beautiful tree and a fine healthy specimen.
- This will make the school entrance and exit even more difficult.
- It will use up space that the bus needs to pull off main carriage way.
- The proposed building will completely change the landscape of this part of the street.
- It's a nice open space and this will all change blocking out most of my light, there's quite enough dwellings in this road
- This is one of the few open spaces between buildings that leads upward to the curve of the oast roundel and the school beyond
- The existing mature tree in the garden with sky beyond is a welcome feature in a street dominated by terraced or close packed houses.
- One south facing upper window shows a set of shutters, something not commonly seen in the area, but its neighbour does not. Either shutters for both or no shutters, preferably none.
- Will the wall of the building overhang the property boundary, or be jettied?
- Keeping those usable on site parking spaces must also be a condition imposed if consent is given

5.02 One letter of support has been received (from 186 The Street, but not from the applicants), summary is below:

- Boughton under Blean has an eclectic mix of properties dating back as far as the 1400 and up to and including the 21st Century, this building looks very similar to properties found up by Thatch hairdressers.
- The tree is massive and far too big for the small garden in which it stands. Looking at the position from inside the premises it looks quite dangerous and is only being held upright by a small wall/bank. The owners have agreed to replace it with another tree which will sit further into their garden and in a safe location. This is reasonable.
- It is clear from the plans that there will be no change to the bus layby or the pathway.
- There will be no change to the current open space as this development is inside the owner's property boundary.
- This property already has space for at least five vehicles off road. There are properties on The Street with no off road parking provision. It is unreasonable to suggest that they should have more parking added.
- It appears the proposed build is far enough away from any property for this not to be an issue and will stand further back from those opposite than most in the village due to the lay-by. The removal of the massive tree will add light to the area.
- The new building would be a welcome replacement to a current prefabricated garage which is definitely not in keeping with other village properties
- The placement of a new tree will maintain the garden type view for villagers. If the roof were to be Kent 'peg' then it would be in keeping with other properties. - I would like to see Kent 'peg' tiles instead, but there is a new property extension further along the Street that has slate tiles and there is merit in adding difference.
- Cannot see how this build would make a problem for access to the school, the new build is within the curtilage of the resident's property. There is already a clear view up the street for vehicles turning out of School Lane due to the current lay-by.

- Concerns that have been expressed regarding who should be living in the property (the owner's father) should not be considered as meaningful objections. People should be allowed to occupy their houses/properties in whichever way they feel fit, so long as they do not cause a nuisance.
- Suggestions have also been made regarding closing down a thriving business at the premises (hairdressers), this is completely unacceptable as this business employs local workers and adds favourably to the life of the village community.
- Some of the negative personal comments made should be disregarded as they are not points that 'planning' should consider

6.0 CONSULTATIONS

- 6.01 Boughton Under Blean Parish Council object to the proposal and state that the current proposals would be detrimental to the visual amenity of the surrounding conservation area and there are significant concerns about the removal of a healthy ash tree in the conservation area for the purpose of building a new dwelling. The Parish Council would also like to comment that whilst they do not support the application, should planning permission ultimately be granted, it would request that the permission include the following grounds: that the new dwelling remain ancillary to the main dwelling, that the roof be Kent peg tile and not slate, that the brickwork be in keeping with the main dwelling and that the tree to replace the ash tree be of a native species
- 6.02 The Council's tree consultant has commented that whilst the submitted tree report was basic in content it appears to give an accurate assessment of the ash tree that is currently growing on the site. The ash is of early maturity attaining a height of approximately 10m and an average radial crown spread of 6m. Growing on an elevated part of the garden the tree is a prominent feature within the street scene particularly as there is very little else in the way of vegetation growing nearby. Being a forest type tree, ash are not always suited to growing in such confined areas although in this case it has adapted well to its growing position although he accepts that it has the ability to double its size as it matures.

Whilst in principle he does not have an objection to the redevelopment of the site, the loss of the ash will have a detrimental impact on the amenity of the area. He appreciates that a replacement tree is proposed as part of this scheme, but its planting position towards the rear of the new elevated dwelling will screen it from the road so it would in no way replace the long-term amenity that the ash currently provides.

7.0 APPRAISAL

Principle of Development

7.01 The site is located within the Local Plan defined Built-Up Area Boundary for the village and as such the principle of the development is acceptable. However what needs to be considered if the proposal is acceptable in terms of its impact on the nearby listed buildings and serves to protect and enhance the conservation area and whether it, including loss of the existing tree, adversely impacts on the residential or visual amenities of the area.

Visual Impact

- 7.02 The impact on visual amenity of this proposal can be split into two parts, firstly the impact of the new building and secondly the impact of the removal of the large ash tree currently on the site.
- 7.03 The proposed building is of a design and style to be appropriate to the area, and is the result of negotiations with officers. It will stand subservient in height and scale to the neighbouring buildings. With a Kent peg tiled roof, red stock bricks, painted timber weatherboarding and timber casement windows uses materials which are also appropriate it will blend in well with its historic surroundings.
- 7.04 Whilst the proposal will certainly involve a change to the current appearance of the site I do not consider this change to be harmful in itself, particularly given the design and materials to be used on the property. Additionally the new lower wall and gate will open up the site and emphasise the view through to the established trees and vegetation to the west of the site. A central village location is the ideal position to locate a new property due to the accessibility to amenities and services of the village.
- 7.05 The ash tree is indeed a large and prominent feature in this section of the high street. However, as a forest tree it is not always suited to growing in such a confined space and it potentially could double its current size.
- 7.06 I do consider the amenity value this tree does provide to the street in general however I am mindful of its current impact, in terms of the shading the expansive canopy provides over the private garden of the applicants and the level it blocks direct sunlight to the neighbouring property, The Oast to the rear, and its potential to double in size and how the health of the tree could be affected by this in its current confined space.
- 7.07 A replacement tree is proposed and I have included a condition that the species shall be agreed with the Council to ensure it is the most suitable given the constraints of the site and in the most appropriate position, and I consider this to mitigate the loss of the existing tree.
- 7.08 I also note that the view of the large trees to the rear of the site, from the road and pavements will remain uninterrupted.

Residential Amenity

- 7.09 The closet dwelling is to the rear, The Oast, and I note the comments from the occupiers in particular as to their perceived impact of this development. However, having viewed the site from this property, I consider that whilst the roof and part of the gable end would be to some degree visible I don't believe it to be harmful. The French door entrance to the dwelling, to enable access to the garden, has been moved to the other side of the gable and thus any overlooking is prevented by the roof of the toilet block.
- 7.10 The scheme also proposes a replacement tree which will screen the rear of the proposed new building but will be of a reduced height to prevent the current situation of the large ash tree interrupting the direct sunlight to The Oast.
- 7.11 The Oast additionally has extensive and established vegetation along the boundary with the site and this already offers extensive screening from the site and the direct sunlight.
- 7.12 The use of the garden at the site will remain unchanged to the current situation.

- 7.13 I do consider there will be a benefit to both the applicants' existing property 184-186 The Street and to the neighbouring property of the proposed removal of the large ash tree. This trees canopy shades the majority of the existing garden for most of the day and similarly the neighbouring property to the rear The Oast also loses direct sunlight due to its expansive canopy.
- 7.14 I note the occupier of 178 The Street, to the north is also concerned regarding overlooking, however, there is no view of the rear of the property or the rear garden from the proposed dwelling. The side window on the proposed dwelling serves to only provide light to the stairs and not to any habitable space. This side window is separated from the property at no 178 by School Lane and the car park adjacent to the public conveniences and as such I do not consider that in addition to this distance would have any significant impact on privacy.

Highways

- 7.15 There will be limited impact from an additional dwelling here as the existing large parking area would be able to accommodate the existing occupiers and a garage is to be provided for the new occupier as part of the proposal.
- 7.16 I note the comments regarding the impact on the visibility and flow of traffic in particular in relation to School Lane. The proposal in no way would interfere with the junction or the flow of traffic within the village, the existing access is to be used and garaging is provided within the site whilst the building retains the same building line as the existing building and wall. Equally the use of the bus stop and lay by area would not be affected.
- 7.17 There would of course be an increase in vehicles delivering materials to the site during the construction phase however this is usual for any development and is only for a very short period of time.

Other Matters

- 7.18 I note the dwelling has been referred to as an annex this is not what is being applied for. The application is for a separate dwelling which given the property's location within the village boundary is acceptable in principle.

7.19 Furthermore it is providing an additional property within the village. I note the comments regarding the potential occupier of the property but this is not a legitimate planning consideration that can be taken into account.

8.0 CONCLUSION

- 8.01 The principle of an additional dwelling within the village built up area boundary is acceptable. I consider the amendments received on 27 September have addressed many of the concerns raised by residents particularly in terms of the repositioning of the rear garden access door, the use of Kent peg tiles on the roof and the removal of the front elevation window shutters. Conditions have also been attached to ensure the parking provision is maintained and that a native appropriate replacement tree is replanted amongst others and as such I consider the proposal to be acceptable.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with approved drawings EAS/15/18/03B and EAS/15/18/04C.

Reason: For the avoidance of doubt.

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

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding and to ensure that these details are approved before works commence

- (4) Prior to the commencement of the development detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding and to ensure that these details are approved before works commence

- (5) No development shall take place until full details of both hard and soft landscape works, including replacement tree planting, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and to ensure that these details are approved before works commence

- (6) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

Reason: In the interests of the visual amenities of the area

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

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area

- (9) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of the area

- (10) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area

- (11) The area to the front of the dwelling shall be kept available for the parking and turning of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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2.10 REFERENCE NO - 16/506520/FULL			
APPLICATION PROPOSAL Erection of a detached garage/store/office as amended by drawing 2603/1 Received 12 September 2016			
ADDRESS Norwood Cottage Eastchurch Road Eastchurch Kent ME12 4HP			
RECOMMENDATION – Approve SUBJECT TO: view of the County Archaeological Officer			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL Proposed development would not give rise to unacceptable harm to the countryside.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mr Engin Selcuk AGENT Richard Baker Partnership	
DECISION DUE DATE 18/10/16	PUBLICITY EXPIRY DATE 30/09/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/501545/FULL	Two storey rear extension	Granted	12.04.16
16/505793/FULL	Erection of a detached garage/store/office	Granted	05.09.16

1.0 DESCRIPTION OF SITE

- 1.01 Norwood Cottage is a two storey detached dwelling with off road parking to the side and private amenity space to the rear. The property is constructed of brick and render, with concrete roof tiles and uPVC windows and timber doors in varying styles. The cottage is currently undergoing refurbishment with a substantial two storey rear extension being built following the 2016 planning permission above.
- 1.02 The property has access directly off Eastchurch Road by way of a driveway. There is hardstanding to the side providing off road parking for several vehicles.
- 1.03 The application site is located on a generous plot within the countryside as defined in the Swale Borough Local Plan 2008. The property sits in somewhat of an isolated location with farmland predominately surrounding the site to the south, east and west. A Public Right of Way runs close to but not across the site.

2.0 PROPOSAL

- 2.01 This application seeks permission for the erection of a detached garage/store/office located to the side of the property.
- 2.02 This application as first submitted sought to position the garage close to the highway with no details of proposed landscaping. The proposal has since been modified to re-position the garage further back from the highway and various trees/shrubs would be planted in addition to the existing hedgerow.

- 2.03 The garage would have relatively little impact on the front elevation of the building being positioned in the north east corner and screened by the existing hedgerow. The north facing side of the garage would front the highway with a log store attached, set approximately 2.4m away from the highway, and slightly forward of the front elevation of the building.
- 2.04 In terms of access and parking, the existing access point will be retained and parking will remain to the side of the property in front of the new garage. The garage will provide covered car parking space to the side leaving further parking space between it and the main building.
- 2.05 The first floor of the new garage will accommodate a store/office and a shower room. In terms of windows, one would be provided on the west and east facing elevation. Two rooflights are proposed within the roof space on the south roof slope and one on the north.

3.0 SUMMARY INFORMATION

	Proposed
Approximate Ridge Height (m)	6.1m
Approximate Eaves Height (m)	2.6m
Approximate Depth (m)	7m
Approximate Width (m)	9.3m
No. of Storeys	2
Net Floor Area	91sq m
Parking Spaces	2

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 Swale Borough Local Plan 2008: Saved policies E1 (General Development Criteria) E6 (The Countryside) E19 (Design Criteria) E24 (Extensions & Alterations) RC4 (Extensions to, and replacement of, dwellings in the rural area)
- 5.02 DM11, DM14 and DM16 of The Swale Borough Local Plan Proposed Main Modifications June 2016
- 5.03 Supplementary Planning Documents (SPD): Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

6.0 LOCAL REPRESENTATIONS

- 6.01 I have not received any letters supporting or objecting to the application.

7.0 CONSULTATIONS

- 7.01 Eastchurch Parish Council objects to the application as submitted stating “The application is over intensification of the site in a rural location and the scale of the proposal is out of keeping with the requirements of a garage.”
- 7.02 KCC Public Rights of Way and Access Service did not object to the application as submitted. The public bridleway ZS22A passes adjacent to the proposed site. As the application is for the erection of a detached garage with associated usage away from the public right of way, there is unlikely to be a significant impact on the path.
- 7.03 I am awaiting the comments of the County Archaeological Officer and will update Members at the Meeting.

8.0 BACKGROUND PAPERS AND PLANS

Application papers and drawings referring to application reference 16/506520/FULL.

9.0 APPRAISAL

Principle of Development

- 9.01 The main issues to be considered in this application are the impact of the proposed garage on the character and appearance of the cottage and the countryside and the impact on the neighbouring properties.

Design, impact on the character and appearance of the street scene and visual amenity

- 9.02 The garage, visible from the highway, will have relatively little impact on the front elevation of the building in my view. It would be appropriately designed and would not harm visual amenity. The garage would be set further back from the highway than originally submitted, resulting in only the log store element protruding further than the front elevation of the main building. I note the Parish Council’s objection to the over intensification of the site in a rural location but, whilst the proposal is a change to the landscape setting, it is acceptable in my opinion. The site is mainly surrounded by farmland with only one large detached property located to the west and a row of four cottages to the east. The proposed design would have an acceptable impact on the character and appearance of the street scene and the visual amenities of the area in my opinion.
- 9.03 The new garage would be obscured from public view by existing trees and hedgerows. The proposed pitched roof would complement the character of the existing building and in my opinion, this proposal has been well designed to minimise the visual impact. I am satisfied that the proposal will not negatively affect the streetscene as the proposal will realistically be able to accommodate parking.
- 9.04 There is potential for future alterations to the garage which may have a harmful impact on the design of the building and the character of the area. I therefore recommend imposing condition (4) below, which removes permitted development rights for such alterations.

Residential Amenity

- 9.05 The property is quite isolated, therefore there are no overlooking or overshadowing issues.

Highways

- 9.06 There are two car parking spaces to the front of the new garage which accords with adopted Kent County Council Highways and Transportation standards for a dwelling with 4 bedrooms. There would be no resulting harm to highway safety and convenience.

Landscaping

- 9.07 The revised plans detail proposed hedgerow planting (consisting of Holley, Hawthorn and other indigenous species) in addition to the existing trees and hedgerows along the northern side of the site.

Other Matters

- 9.08 I also note that the application proposes a first floor to the new garage. I consider that the use of this for a store/office is acceptable. I am mindful that this space is fairly substantial in size, and recommend imposing condition (5) below which restricts the use of the roofspace to purposes ancillary and/or incidental to the use of the dwelling..

10.0 CONCLUSION

- 10.01 I therefore consider that the proposal is acceptable in terms of impact upon the landscape character and is of an acceptable design. I therefore recommend, subject to conditions, that permission is granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) The facing materials to be used in the construction of the external surfaces of the garage hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity

- (3) The development hereby approved shall be carried out in accordance with the following approved drawings:

Plans and Elevations: Drawing Number: 2603/1 received 12 September 2016

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

- (4) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as “Norwood Cottage”.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

- (5) Upon completion, no alterations or extension to the garage hereby approved, whether or not permitted by Class E of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.

Reason: In the interests of the amenities of the area.

Council's approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

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

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REPORT SUMMARY

2.11 REFERENCE NO - 16/505299/OUT			
APPLICATION PROPOSAL			
Outline application for the erection of a 60 bed care home with amenity space, car and cycle parking, associated development, landscaping and access (Approval of Access details being sought)			
ADDRESS Coleshall Farm Ferry Road Iwade Kent ME9 8QY			
RECOMMENDATION: Grant of Planning Permission subject to:-			
<ol style="list-style-type: none"> 1) The submission of further information relating to protected species, as request by KCC Ecology, and to any appropriate additional conditions the may request; and 2) The further comments of Southern Water; and 3) the signing of Section 106 agreement/s requiring:- <ul style="list-style-type: none"> • Health care contribution; and • An administration charge; • Commitment to the use of local labour/apprenticeships where possible 			
SUMMARY OF REASONS FOR RECOMMENDATION			
The application site is an allocated employment site in the Adopted Swale Local Plan 2008, and is part of a wider site allocated for mixed use development (housing and employment). The development would provide much needed employment care home accommodation in the area and would meet the Borough Council’s employment policies, without giving serious harm to amenity, landscape, ecology, archaeology, and the highway network. As such the proposal is considered to be in accordance with Adopted Local and National Planning Policies.			
REASON FOR REFERRAL TO COMMITTEE			
Authority to enter into Section 106 agreement.			
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Middlefields Limited AGENT DHA Planning	
DECISION DUE DATE 07/10/16	PUBLICITY EXPIRY DATE 16/09/16	OFFICER SITE VISIT DATE various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/08/1127	Development of housing, employment up to 3000sqm, public open space and pavilion (up to 110sqm), with access from School Lane and Sheppey Way, including roads, cycle paths, footpaths, stream crossings, landscaping and	Approved	06.06.2011

	ancillary works		
SW/12/1392	Outline application for the erection of a 60 bed care home with amenity space, car and cycle parking, associated development, landscaping and access	Approved	05.02.2013
Members will note that in addition to the above permissions, the wider site has been subject to a significant number of planning approvals - predominantly for reserved matters, details of the housing layouts, landscaping etc – but not all of these permissions would warrant specific mention in this instance.			
SW/11/1537	Approval of all reserved matters, pursuant to outline permission SW/08/1127, for erection of 187 dwellings on part of the site	Approved	08.03.2012
14/504557/REM	Reserved Matters permission including details of access, appearance, landscaping, layout and scale for the erection of 40 dwellings pursuant to outline application SW/08/1127	Approved	16.03.2015
14/501060/REM	Application for approval of reserved matters pursuant to planning permission SW/08/1127 for recreation area and Stream Public Open Space including 2 football pitches, pavilion, play area and associate hard and soft landscaping	Approved	04.12.2014
15/505910/REM	Approval of Reserved Matters including details of access, appearance, landscaping, layout	Approved	09.11.2015

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site consists of 0.44 hectares (1.08 acres) of fairly flat land to the west of Sheppey Way, and to the south east of Coleshall Farmhouse. The application site is located to the south-eastern corner of the wider ‘land adjacent Coleshall Farm’ site part of which is allocated in the adopted Swale Local Plan 2008 for B1, B2, B8 employment use (see paragraph 5.19 below). To the east, beyond Sheppey Way, lies Featherbed Farm. The application site is currently an open field that has been used in past years for arable farming. The southern boundary of the application site is lined by mature poplar trees which run for approximately 250 metres from the Sheppey Way towards Coleshall and Coleshall Farm.

1.02 Members will note that this site is part of an allocation for mixed use development in the Adopted Swale Borough Local Plan 2008, and a development brief for the land was agreed pursuant to policy AAP9. Adjoining the site to the north west is housing development currently under construction and nearly complete (this housing development is part of the wider development site). Immediately to the north of the application site is a housing development of 40 houses, recently built by Permission Homes as part of the wider mixed use development allocated in the Adopted Swale Local Plan 2008. Beyond the Permission Homes land located to the north of the application site is land allocated as open space in the master plan of the wider

development site. Adjoining the application site to the west is land allocated for employment use. This land has not been developed.

- 1.03 There is a public right of way ZR92 which runs north-south through the centre of the wider development site, and continues as ZU52, which runs adjacent to and parallel with the line of poplar trees running along the southern boundary of the application site, and connects with Sheppey Way.

2.0 PROPOSAL

- 2.01 This is an outline application with all matters reserved except for the main site access from Sheppey Way into the site. If permission is granted, a separate application would be required to agree details of the layout, scale, appearance and landscaping for the development. Members will note that whilst the description of development says proposed access road' the highway crossover affording vehicular access into the site, including the junction visibility splays and associated footpaths have been constructed and were constructed when the infrastructure for the wider development was implemented.

- 2.02 The application proposes to construct a 60 bed care home (Class C2) to the east of Coleshall Farm. The submitted detail is indicative and shows a building with a floor area of 2878 square metres (equating to approximately 48 square metres per resident), a car parking area to the front of the building with twenty car parking spaces, two disabled car parking spaces and a cycle parking area for eight bicycles, and, an amenity area of approximately square metres for the residents. Indicative drawings also show proposed landscaping around the perimeter boundary of the application site. The indicative drawings show a two storey building with a maximum height of 9.7 metres and the building would be a u-shape with wings on either end accommodating 15 bedrooms on either end at ground and first floor making a total of 30 beds on each end (providing 60 beds altogether). All bedrooms would have ensuite facilities, and there will be a communal lounge, bathroom, kitchen and storage areas, laundry room, plant room, administration block and a nurses' station.

- 2.03 The building would be located approximately 10 metres from the line of existing poplar trees on southern perimeter boundary of the site. As noted above, there is a public footpath (ZU52) running at southern boundary of the application site and this would not be affected by the development. The proposed vehicular access into the site from Sheppey Way is similar to the access approved in 2008 under ref SW/08/1127.

- 2.04 The application is supported by a number of reports including the following:-

- Planning Statement
- Care Homes Needs Assessment
- Staff Requirements Letter
- Tree Survey
- Design and Access Statement

- 2.05 From the above listed reports, I have drawn some of the information set out above and the following summarised key points:-

- The principle of a care home is established with the granting of planning permission for a similar scheme in 2012 under ref SW/12/1392 and the

allocation of the site as part of a mixed use development in 2009 under ref SW/08/1127

- There has been no material change in planning policy since the grant of the last planning permission
- The application meets policies within the adopted Swale Local Plan 2008 and Swale Local Plan Bearing Fruits 2031.
- The site has good access to the A249 Sheppey Way and as such conforms to sustainable development
- A 60 bed care home would generate a total of 2021 staff hours which is equivalent to 54 full time and part time hours based on working 37.5 hours per week and many of these would be sourced from Iwade and Sittingbourne
- There is need for care homes in the area and development would provide the opportunity for the elderly in the local catchment area to remain in their local area
- The proposed access is considered to be acceptable
- The site is within a sustainable location within walking and cycling distance of the centre of Iwade
- The site has archaeological potential and this will be dealt with by condition
- The land has historically been used for agricultural purposes and as such is not likely to be contaminated
- In view of the historic use of the site for agricultural activities there is no justification for a Phase 1 Ecological Assessment.
- The building will be constructed to the BREEAM 'good' standard
- The building would be of high quality design with large glazed openings to maximise sunlight penetration
- The sleeping rooms are grouped in clusters of 15 rooms located on either end of the building at ground and first floor. Communal areas such as a lounge, dining room and ancillary facilities including admin and staff facilities will be located at central section of the building
- A high standard of landscaping is proposed and details will be given at reserved matters stage
- The development would be located in close proximity to a row of mature poplars however there is enough distance separation to minimise impact on roots of trees to acceptable levels. However, there may be pressure to crown reduce the trees and this will be good maintenance practice.
- The development is not likely to cause harm to features of ecological value or protected species.
- The application envisages the planting of native trees and shrubs to encourage new habitats and pollen rich plants.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.44 ha	0.44 ha	0
No. of Storeys	2	2	+2
Car parking spaces	0	20	+20
Disabled car parking spaces	0	2	+2

4.0 PLANNING CONSTRAINTS

- Potential Archaeological Importance
- Part of a wider site allocated for mixed use development (employment of 3000 square metres floor space and housing development of 400 houses)
- The site is located 260m from a Listed building (Grade 11 Coleshall Farmhouse)
- Iwade Arable Farmlands
- Row of mature poplar trees on southern boundary of application site
- A Public right of way (ZU52) runs parallel to southern boundary of the site and parallel to the line of poplar trees

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are both pertinent to this case.
- 5.02 The NPPF sets out the Government's position on the planning system explaining that "The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this mean:
- Approving development proposals that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out of date granting permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted."
- 5.03 At Para 7 of the National planning Policy Framework (NPPF) identifies three dimensions to sustainable development; economic, social and environmental, subsequently ascribing these "roles" to the planning system.
- 5.04 As a core planning principle, the NPPF requires the planning system to proactively drive and support sustainable economic development to deliver business and industrial units, infrastructure and thriving local places. Every effort should be made objectively to identify and then meet business and other development needs of an area and respond positively to wider opportunities for growth. In seeking to deliver sustainable development and build a strong and competitive economy paragraph 19 of NPPF advises that significant weight should be placed on the need to support economic growth through the planning system.
- 5.05 At paragraph 18 it explains "The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future."
- 5.06 Paragraph 34 deals with sustainable travel modes and suggests developments

generating significant vehicle movements should be located where the need to travel will be minimised.

- 5.07 At Paragraph 47 it states that “planning authorities should meet local housing needs and identify five year housing land supply with an additional 5% buffer”. Paragraph 49 states “that housing application should be considered in the context of the presumption in favour of sustainable development” and that “Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”
- 5.08 Paragraphs 47-55 seek to significantly boost the supply of housing. NPPF paragraph 49 confirms that the lack of a 5-year land supply triggers the presumption in favour of sustainable development as set out by NPPF para. 14. It is necessary to determine what the relevant policies for the supply of housing are in order to identify which are out of date. What constitutes a policy for the supply of housing has been the subject of legal judgement, which can be interpreted as either policies that have specific and direct impacts on housing supply or more indirect, but significant impacts on supply. Regardless of the approach taken, decision makers can and do take into account whether certain aspects of policies accord with the NPPF. Importantly, the decision maker must apply themselves properly to para. 49.
- 5.09 Paragraphs 56 to 68 address ‘requiring good design’, and Paragraph 56 asserts that “*Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*”
- 5.10 Paragraph 64 of the NPPF states “*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*”
- 5.11 Paragraph 64 of the NPPF states “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”
- 5.12 Paragraph 96 states that in determining planning applications, local planning authorities should “*take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption*”.
- 5.13 Paragraph 109 deals with the conservation and enhancement of the ‘natural and local environment’, and is discussed in the ‘appraisal’ section below.
- 5.14 Paragraph 113 explains “Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.”
- 5.15 The use of ‘planning conditions and obligations’ are addressed at Paragraphs 203 to 206. To a large extent, these paragraphs advocate the approach set out in Circular 05/ 2005: ‘Planning Obligations’ [which is now cancelled], the Community Infrastructure Levy (CIL) Regulations (2010), and in particular, Regulation 122 (2), and Circular 11/95 ‘The Use of Conditions in Planning Permissions’.

5.16 Development Plan:-

5.17 The adopted 2008 Swale Borough Local Plan, however, remains the primary consideration for determining this application.

5.18 The key policies from the Swale Borough Adopted Local Plan 2008 are:-

Policies AAP9 (Iwade), B1 (Supporting and Retaining Existing Employment Land and Businesses), B2 (providing new employment), B14 (New Employment sites), E1 (general development criteria), E9 (landscape), E10 (trees and hedges), E11 (biodiversity), E14 (listed buildings), E16 (archaeology), E19 (design), H2 (new housing), H5 (housing allocations), T1 (vehicular access), T2 (off-site highway works), T3 (car parking) and T4 (cycle parking and pedestrian) and T5 (public transport).

5.19 Members will note that the wording for (Policy AAP9) which allocates land for housing and employment at Iwade) reads as follows:-

“Policy AAP9

Iwade

An Area Action Plan is designated at Iwade, as shown on the Proposals Map. Within this area, planning policies and proposals will aim to provide the existing and new communities the services and mix of uses that ensures that the village functions as a more sustainable settlement. In addition to the development, and provision of new and improved community facilities comprising the first phase of development as outlined in the currently approved Development Brief, planning permission will be granted for development comprising:

- 1. housing, for approximately 400 additional dwellings on sites in the south-western and eastern parts of the village respectively;*
- 2. expansion of the recreation ground in School Lane; and*
- 3. the provision of some 3,000 square metres of employment floorspace.*

Planning permission will not be granted for the additional 400 dwellings proposed until:

- a. A revised Development Brief has been approved by the Borough Council.*
- b. It is demonstrated to the Council’s satisfaction that flooding problems arising from the Iwade Stream can be resolved as part of the additional development.*
- c. The construction of the Ridham and Kemsley employment area has commenced; and*
- d. An assessment of the likely significant effects of development upon nearby European Sites for nature conservation and other important areas of biodiversity has been undertaken and its recommendations implemented.”*

5.20 Members will also note that Policy B14 (New Employment Sites) lists employment sites allocated in the adopted 2008 Local Plan, and this site (Iwade) is listed as one of the allocated employment sites (3000 square metre of employment floor space), although it is part of a wider mixed use development (housing and employment). In

Paragraph 4.56 of the adopted Local Plan 2008, the Borough Council advises that B1 use classes would be the most appropriate employment uses in this location.

- 5.21 In addition, Members will note that this site is subject to a Development Brief, as required by Policy AAP9 of the Adopted Local Plan 2008, and, agreed by the Local Development Framework Panel. The Development Brief for the site sets the parameters for the development of the site, and gives guidance on the forms of development that could be appropriate. Important issues such as the potential locations for the public open space, housing areas, and the employment area are considered, together with matters such as design quality, density of development, access, flooding and sustainability.
- 5.22 Emerging Local Plan 'Bearing Fruits 2031' relevant policies include: ST1 (Delivering Sustainable Development in Swale), ST2 (Development Targets for Jobs and Homes in Swale 2011-2031), ST3 (Swale Settlement Strategy), ST4 (Meeting the Local Plan Development targets), CP2 (Promoting Sustainable Transport), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring Good Design), CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure), DM6 (managing transport demand and impact), DM7 (Vehicle Parking), DM14 (Development Management Criteria), DM19 (Sustainable Design and Construction), DM21 (Water, flooding and drainage), DM25 (The Separation of Settlements – Important Local Countryside Gaps), DM28 (Biodiversity and Geological Conservation), DM29 (Woodlands, trees and hedges), DM31 (Agricultural Land), and DM34 (Schedules Monuments and archaeological sites),

Supplementary Planning Documents:

- 5.23 The Swale Landscape Character and Biodiversity Appraisal SPD (2011) seeks to support landscape and other policies of the Swale Borough Local Plan 2008. The SPD states that there is a need to retain pattern and diversity in the landscape of the Borough to ensure that character and local distinctiveness are maintained.
- 5.24 As noted above in paragraph 4.0 above, The Swale Landscape Character and Biodiversity Appraisal 2011 advises that the site is within the Iwade Arable Farmlands which are described as having a gentle undulating rural landscape where 'cereal crops have mainly replaced orchards'. This Landscape and character appraisal considers the site to be in moderate condition.

6.0 LOCAL REPRESENTATIONS

No representations have been received from neighbouring properties and from any other residents of the area.

7.0 CONSULTATIONS

- 7.01 Iwade Parish Council has no comments to make.
- 7.02 The Lower Medway Drainage Board advise that the proposed development is outside of the IDB district and is unlikely to affect IDB interests, particularly as surface water

drainage is proposed to be disposed of by means of soakaway. The soakaways should be designed in accordance with KCC's Soakaway Design Guide (July 2000) and ideally in direct consultation with KCC's drainage and flood risk team.

- 7.03 KCC Flood Risk Project Officer has no objection to the development subject to conditions requiring a detailed sustainable surface water drainage scheme (including the implementation, maintenance and management of the SUDS) to be submitted to and approved in writing by the Local Planning Authority.
- 7.04 Kent County Archaeology advises that Coleshall Farm has an extant planning permission ref SW/08/1127 which was issued in 2011 subject to a condition securing a programme of archaeological works. In pursuant of satisfying that condition Hillreed Homes have to date carried out an archaeological evaluation of the whole site through trial trenching. This evaluation has confirmed the presence across substantial areas of the Coleshall Farm land the presence of significant archaeological remains dating from as early as Neolithic times (c5000 years old) through to medieval remains. Subsequent to the evaluation a second stage of a programme of strip, map and sample excavation has been completed across the majority of the residential site.
- 7.05 The site of the proposed residential care home has confirmed significant archaeological potential from the evaluation. Remains of Neolithic, Bronze Age, Iron Age, Later Prehistoric and medieval dates have all been found in the area. The site has been identified for further work involving the stripping of the overburden to reveal archaeology, mapping and excavation of that archaeology to be then followed by post excavation works, reporting and publication of the results. This has yet to be carried out and therefore if planning permission is given for the development a condition should be attached requiring the submission to the Local Planning Authority of a programme of archaeological works.
- 7.06 Kent County Ecology advise that they are satisfied with the ecological information submitted with the planning application. However, clarification is required on the suitability of the site to contain reptiles, and this should be provided prior to the determination of the application. They further advise that there are populations of slow worms, common lizards and grass snakes present within 150m west of the proposed development and the existing poplar tree line provides connectivity with this ecologically sensitive site such that reptiles may have established within the proposed development site. Given this, clarification should be submitted, together with a reptile survey and mitigation measures, prior to the determination of the application. In addition, bats may be present foraging or commuting along the boundaries of the proposed development and given that lighting may be detrimental to roosting, foraging and commuting bats KCC Ecology advise that any lighting should be designed to minimise impacts on bats. Furthermore, biodiversity enhancements should be incorporated into the development.
- 7.07 Natural England (NE) makes the following summarised comments:-
- The proposed site is located in close proximity to a European designated site and therefore has the potential to affect its interest features
 - The site is close to The Swale Special Protection Area (SPA) and is also listed as the Swale Ramsar Site and also notified at a national level as The Swale Site of Special Scientific Interest (SSSI)
 - The Local Authority should have regard for any potential impacts may have

- The application is unlikely to have a significant effect on any European site and can therefore be screened out from any requirement for further assessment.
 - Given that the proposed development is for care homes and does not include any permanent staff accommodation, and that the planning use class of the property will be limited to C2 with elderly occupants of only limited mobility, NE consider that the proposal is unlikely to result in increased recreational disturbance to The Swale SPA and Ramsar site.
 - The development should provide opportunities to incorporate features into the design which are beneficial to wildlife
- 7.08 KCC Development Contributions advises that the proposed development is for a care home and as such there is no requirement for the developer to make contributions.
- 7.09 The Public Rights of Way Officer advises that there are public rights of way running near the site however they would not be affected by the development.
- 7.10 Comments from Southern Water are awaited and Members will be updated at the meeting.
- 7.11 The Environmental Protection Team Leader has no principle objection to the development subject to conditions restricting hours of construction, details of any mechanical ventilation system to be submitted to the Local Planning Authority for approval, requiring a programme for the suppression of dust during the construction of the development to be submitted to the LPA for approval, and that any lighting to be submitted to the LPA for approval.
- 7.12 KCC Social Services advise that they support the application as there is need for modern care home facilities in Swale.
- 7.13 The Strategic Housing and Health Manager advises that the proposed care home is a Class C2 use and as such there is no requirement to provide affordable units.
- 7.14 The Climate Change Officer raises no objection to the proposal subject to a condition requiring the non - residential areas of the care home to be built to BREEAM good standard.
- 7.15 KCC Highways and Transportation have no objection to the development subject to conditions requiring provision and permanent retention of vehicle parking spaces, provision of wheel washing facilities, and provision of vehicle loading and unloading and turning areas.
- 7.16 The NHS CCG [Clinical Commissioning Group] have requested a total of £21,600.00 based on the assumption that the 60 beds equate to 60 residents. An extract from their report is as follows: *'A contribution of £360 per resident is requested. If this assumption is incorrect e.g. if the 60 beds actually meant 120 residents please advise as this would alter the contribution requested. The contribution will be directed to Iwade Health Centre'*.
- 7.17 The Economy and Community Services Manager advises that whilst they would welcome additional employment the development may bring, they have no comments to make.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and correspondence relating to planning application reference **16/505299/OUT**

9.0 APPRAISAL

- 9.01 I consider that the key material considerations in the assessment of this application are as follows:-

- Principle of development
- Impact on the surrounding landscape quality and visual amenity
- Residential amenity
- Archaeology
- Biodiversity and Ecology implications
- Flood risk /Surface water drainage
- Highway network impact
- Developer contributions

Principle of Development

- 9.02 The proposed application site comprises best and most versatile agricultural land (BMV = Grades 1, 2 and 3a), which would be permanently lost. Whilst paragraph. 112 of the NPPF expects Councils to take into account economic and other benefits of BMV land and if the significant development of agricultural land is necessary, they should seek to use areas of poorer quality land. The emerging Local Plan policy DM31 also looks for the loss of BMV land to be avoided if possible. However, in this case the site is part of a wider site that is allocated for mixed use development in the Swale Borough Council adopted local plan 2008, and loss of this land to other uses was found acceptable when the site was allocated for other uses (under reference SW/08/1127 in 2011), and when planning permission was given in 2013 for a care home under ref SW/12/1392. The scheme approved in 2013 is similar to the current application, and this is a strong material consideration in the determination of the application. In addition, of importance in this case is that the application site is part of a wider site that is allocated for mixed use development comprising of 400 houses and employment use of 3000 square metres of floor space under Policies B14, H5(4) and Policy AA9 of the Adopted Swale Local Plan 2008, which carry significant weight in decision making.
- 9.03 Whilst policy advises that suitable employment uses for this site would be B1, B2, B8 uses, a care home was found acceptable in 2013 mainly because the jobs that would be generated by a care home would be similar to jobs created by any B1, B2 and B8 use. Members will note that the Local Plan allocation does not preclude considering care homes as employment uses. Locating an employment use such as a care home close to residential properties is not unusual and indeed the original masterplan for the Iwade development which envisaged locating employment uses to the south western part of the allocated site. To date, only the housing development has been built whilst land to the north west of the site allocated for housing is almost built out. The small area of land allocated for employment use immediately to the west of the application site has not been developed.

- 9.04 Clearly, it is not considered that there are any policies or objectives which would count against the use of this employment site as a care home. In fact, the proposed care home is considered to positively contribute towards meeting the objectives of the original master plan of the Iwade development. Given this and that the Borough Council's policies, in particular that the specific policies relating to this site have not substantially changed since the grant of the last application, and given that the current scheme is very similar to the scheme given planning permission in 2008 under ref SW/08/1127, it is considered that the development is acceptable as a matter of principle.
- 9.05 In addition, Policy B2 of the 2008 Adopted Local Plan advises that provision for new employment site has been or will be granted for sites shown on the proposals map. This application site is shown on the proposals map, and Policy B14 specifically identifies this site as an allocated site with employment use being part of a mixed use development with a floor area of 3000 square metres. The applicant confirms that the proposed care home will create a total of 2021 staff hours per week which equates to 54 full and part time jobs based on a 37.5 hour per week, and as such adds to the local economy. Given this, it is considered that proposed development is supported by Policies B2, B14 of the 2008 Adopted Local Plan, and Policies DM1 and DM2 of the emerging Local Plan.

Impact on the surrounding landscape quality and Visual Impact

- 9.06 At this stage, given the outline nature of the scheme (see paragraph 2.01 above), the visual impact of the proposal can only be considered in very broad terms due to the uncertainty of all matters of design, the height of the building, and materials. The site is subject to a Development Brief that was approved by the Local Development Framework Panel. The Brief also gives some pointers to guide the detail of the employment uses and housing development on these parcels of land. Whilst the indicative design of the proposed care home was found acceptable in 2013, it is considered that with the adoption of the NPPF in 2012, policy has since placed more emphasis on design, and the NPPF specifically requires developers to take advantage of all opportunities available to produce schemes that are of good quality design, and advises that poorly designed schemes should be refused. In this case, the applicant is encouraged to pay particular attention to design matters when a reserved matters application is submitted for consideration.
- 9.07 The landscaping of the site/development is a fundamental issue and will help ensure that the development assimilates well with its surroundings in such a way that the rural character of the area is not harmed. The submitted drawings include illustrative landscaping proposals which suggest that the site will be well screened and have limited impact on the character of the area such that the exposed and open landscapes around the development and, importantly, the strategic gap between Iwade and Sittingbourne will be maintained. In order to secure a high standard of landscaping and to ensure that the development has a minimal impact on the character of the area, full details of landscaping are required and such details can be secured by appropriate conditions.
- 9.08 Whilst the development will benefit from the screening that will be afforded by the existing belt of mature poplar trees, it will be visible from other public vantage points such as Sheppey Way, the adjoining countryside and long distance views from the public right of way. However, given that it will be no more than two storeys high, that it

would be set-in from the front boundary of the site by at least 10m, and that there would be soft landscaping along perimeter boundary of the site to soften views, and that where the development will be visible it will be seen within the context of residential development and employment uses which form the wider allocated site, it is considered that no unacceptable visual impact will be caused, and any impact on landscape quality would not be significant and not seriously harm the character and quality of the landscape.

Residential Amenity

- 9.09 The precise impact of the development on residential amenity will be dealt with as part of the subsequent reserved matters application(s), should Members decide to grant outline planning permission. However, as set out above, the application very closely matches in illustrative layout, scale and design the scheme that was approved in 2013. The current indicative scheme has been carefully designed to ensure that the available separation distance would minimise any harm to the residential properties to the north of the site to acceptable levels. As such, it is considered that no unacceptable impact would be caused to neighbouring properties as a result of the development.
- 9.10 With regards to the standard of accommodation proposed for future occupiers of the proposed care home, it is considered that all rooms are of acceptable internal size and there is ability for all rooms to benefit from natural light and ventilation. The applicant also proposes an amenity area at the rear of the building that would afford acceptable privacy to future users of the garden, and is approximately 640 square metres in area and is considered to be of an acceptable size for a care home of this size.
- 9.11 Given that the proposed building would be no more than two storeys in height, and that the building would be set in from the site's front boundary by at least 10m, that there would be a separation distance of at least 25 metres from residential properties to the north, it is considered that the site is of a sufficient size to accommodate the proposed building with appropriate parking areas and amenity space for future residents. As such, it is considered that there would be no significant impact on neighbour amenity as a result of the development.

Archaeology

- 9.12 As mentioned above in paragraph 7.04 the application site has important archaeological remains as detailed by KCC Archaeology in paragraph 7.05. Trial Trenching was carried out in past years by Hillreed Homes and this evaluation confirmed that across substantial areas of the Coleshall Farm land there is presence of significant archaeological remains dating from as early as Neolithic times (c5000 years old) through to medieval remains. The site has been identified for further archaeological work involving the stripping of the overburden to reveal archaeology, mapping and excavation of that archaeology to be then followed by post excavation works, reporting and publication of the results. Given this, it is considered that if a programme of archaeological works is secured via a condition that is similar to the archaeological condition attached to planning permission ref SW/08/112, the development would be considered to comply with Policy DM34 of the Local Plan 'Bearing Fruits' 2031.

Biodiversity and Ecology implications

- 9.13 As noted above in paragraph 1.03, the southern boundary of the application site is lined by mature poplar trees which were originally planted as an agricultural shelter belt. These trees are not protected, however, they form an attractive belt and barrier, and will soften the appearance of the development in views from the nearby public rights of way (ZU52 and ZU92), fields and public vantage points. A degree of separation is indicated (of at least 4 metres taken from centre of the line of trees) between the proposed development and the belt of existing mature trees so as to mitigate any impact to acceptable levels. The existing trees and vegetation have the potential to be used by breeding birds. Given that all nesting birds and their young are protected under the Wildlife and Countryside Act 1980 (as amended) it is considered that if planning permission is given for the development, any vegetation should be removed outside the bird breeding season. In addition, biodiversity enhancements should be incorporated in and around the development and be secured by condition.
- 9.14 KCC Ecology advise that bats may be present foraging or commuting along the boundaries of the proposed development and lighting can be detrimental to roosting, foraging and commuting bats and as such if planning permission is given for the development, lighting should be designed to minimise impacts on bats.
- 9.15 KCC Ecology advise that reptiles may have established within the proposed development site and additional information is required to assess the suitability of the site to contain reptiles, with subsequent species specific surveys being required if necessary. The applicants have been advised of this and additional information is awaited. Members will be updated at the Meeting.

Flood risk /Surface water drainage

- 9.16 The site is not located within an area known to be at risk of flooding, and falls below the 1 hectare site area requirement for a flood risk assessment to be required. KCC Flood Risk Officer advises that there is no objection to the development subject to submission of an acceptable surface water drainage strategy. This can be secured via a condition. As such there is no objection to the development on this ground.

Highway network impact

- 9.17 The site is allocated for employment use, and is part of a wider site allocated for mixed use development comprising of residential use and employment uses. The roads in the immediate vicinity have been designed to accommodate that level of housing and employment uses, in accordance with the road types and specifications detailed in the Kent Design Guide and Manual for Streets, and the site is considered to be well located to connect to the existing Iwade development infrastructure, which includes pedestrian and cycle links, access to other amenities. As such KCC Highways and Transportation have no objection to the proposed access point, and the proposed development is considered to be acceptable in principle and that it complies with policies.

Developer contributions

- 9.18 In accordance with the relevant policies of the Local Plan and the guidance set out in the adopted Supplementary Planning Document, 'Developer Contributions' (2009), the

proposed care home is a Class C use that is exempt from the provision of affordable housing and making community contributions. However, Class C2 uses are not exempt from contributing towards health care facilities. The Emerging Bearing Fruits 2031: Implementation and Delivery Schedule 2016/17 identifies a need to expand the existing Iwade Health Centre in order to support the population growth associated with the Local Plan. Given this, the NHS Swale and NHS Dartford, Gravesham and Swanley Clinical Commissioning Groups requests a contribution of £360 per resident (£360 x 60) which equates to a financial contribution of £21,600 towards expanding health facilities within the vicinity of the development, and these funds will be directed to Iwade Health Centre.

- 9.19 In addition, a Section 106 administration charge is required, and a commitment to employing best endeavours to utilise local labour / apprenticeships. The applicant has agreed to the above contributions.

10.0 CONCLUSION

- 10.01 The application site is allocated for employment use and is part of a wider site allocated for mixed use development (housing and employment) in the Adopted Swale Borough Local Plan 1998. The proposed development would be in line with the aims of the Borough Council's employment policies and would bring significant economic benefits. Whilst there is no requirement for the provision of affordable housing and community contributions for a care home as it is a Class C use, there is a requirement to provide for NHS CCG contributions (which is a total of £21,600 as detailed in paragraph 9.18). It is considered that the development would sit comfortably within the context of the mixed use scheme approved in 2011. No significant impact would be caused to visual and residential amenities of neighbouring properties, and the surrounding development and landscape as a result of the proposed development.
- 10.02 Taking the above into account, and subject to the completion of a S106 agreement to secure contributions towards NHS CCG provision and the other items mentioned above (see paragraph 9.20), the final comments of Southern Water, the submission of additional information in relation to ecology and to no objection being raised by KCC Ecology (and to any appropriate conditions they recommend imposing), it is recommended that planning permission is granted.

- 11.0 RECOMMENDATION – GRANT** Subject to the agreement of an acceptable package of health care contributions, the signing of a suitably-worded Section 106 agreement, the receipt of final comments from KCC Ecology and Southern Water, and the resolution of any issues arising, and to conditions as set out below.

With regard to both the wording of the Section 106 agreement and of conditions, authority is sought to make such amendments as may be necessary.

CONDITIONS to include:

- 1) Details relating to the layout, scale and appearance of the proposed building(s), and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Grounds: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Grounds: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4) The development hereby approved shall be carried out in accordance with the following approved drawings in so far as it relates to access, as detailed on indicative drawing numbers:

A-596 O1 Rev A; A-596 02 Rev P7; A-596 03 Rev A; A-596 04 Rev A and A-596 OS-B.

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

- 5) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority

Grounds: In the interests of residential amenity

- 6) The details submitted pursuant to condition (1) shall show a buffer strip of no less than 4 metres as separation distance of the proposed development from the root protection zone of the line of poplar trees running parallel to the southern boundary of the application site and shown on indicative drawing no. A-596 Rev A. Thereafter development shall be implemented and maintained as approved.

Reason: In the interests of visual amenity and landscape quality and to protect the mature trees.

- 7) The details submitted pursuant to condition (1) shall show the care home set back from the site frontage with the Sheppey Way by a minimum of 10 metres, and extending to no more than two storeys in height.

Grounds: In the interests of visual amenity and the character and appearance of the area.

- 8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features,

planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- 9) No development shall take place until a tree protection plan; arboricultural impact assessment and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

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

- 10) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to (and approved in writing by) the local planning authority. This detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 11) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 12) The details submitted pursuant to condition (1) shall include biodiversity enhancements, and a lighting scheme designed to minimise impact on any bats within the surrounding area in accordance with the Bat Conservation Trust's Bats and Lighting in the UK. The details as agreed shall be implemented in full prior to the first occupation of the development.

Reason: In order to secure biodiversity enhancements and to ensure no harm to commuting/foraging bats in the area and to ensure that such matters are dealt with before development commences.

- 13) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are dealt with before development commences.

- 14) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-

Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 15) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 16) Before any work is commenced on site, a Construction Management Plan, including details of delivery routes and the timing of these, shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests highway safety and amenity.

- 17) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

- 18) The development hereby permitted shall not be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved drawings for refuse storage, car and cycle parking, and vehicle loading and unloading areas. Thereafter development shall be maintained as approved.

Reasons: To ensure the provision and retention of adequate off-street parking facilities for cars and cycles in the interests of highway safety.

- 19) The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

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

- 20) The premises shall be used for the purpose of a care home and for no other purpose, including any other purposes in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Amendment Order 2010.

Grounds: In the interests of the amenities of the area

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

Grounds: In the interests of residential amenity

INFORMATIVES

1. All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area.
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement.
3. The applicant or developer should enter into a formal legal agreement with Southern Water to provide the necessary sewerage infrastructure required to

service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 3030119 or www.southernwater.co.uk).

4. A formal application for connection to the public sewerage system is required in order to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 3030119 or www.southernwater.co.uk).

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by: <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

2.12 REFERENCE NO - 16/505541/FULL			
APPLICATION PROPOSAL Conversion from B1 offices to a mixed use of A2 offices and 9 one bedroom residential apartments with external alterations			
ADDRESS Excelsior House, Ufton Lane, Sittingbourne, ME10 1JA			
RECOMMENDATION Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The application would not have an unacceptable impact upon residential, visual or highway amenities and would provide residential units in a sustainable location along with a limited number of additional jobs.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Truelove			
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Wildwood Ltd AGENT Alpha Design Studio Limited	
DECISION DUE DATE 26/08/16	PUBLICITY EXPIRY DATE 05/08/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/501387/PNOCL A	Prior Notification for change of use of existing office building into 10 residential apartments with on site parking. For its prior approval to: Transport and Highways impacts of the development. Contamination risks on the site. Flooding risks on the site.	Planning permission required (due to restrictive condition on original permission)	03.03.2016
SW/94/0098	Renewal of planning permission SW/89/96 for redevelopment for ten flats.	Approved	28.03.1994
SW/89/0096	Redevelopment of existing site with new offices and residential units.	Approved	03.05.1989

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 Excelsior House is a two storey brick built building with an M shaped pitched roof located on a corner plot at the junction of Ufton lane and Addington Road. The footprint of the building measures 18.8m x 15.8m. Land levels rise from west to east resulting in the eaves height ranging between 5.3m and 6.6m from the ground level and the ridge height ranging between 8.3m and 9.6m.

1.02 The site has an existing car park to the rear and existing access which is taken from Ufton Lane.

1.03 The site is bounded on all sides by existing residential development.

2.0 PROPOSAL

2.01 This application seeks planning permission for the change of use from B1 offices to a mixed use development of 2 x A2 offices and 9 x 1 bed residential units.

2.02 The proposal would include 2 offices at ground floor level with associated kitchen and toilets and 3 residential units. The first floor would be comprised of a further 6 residential units.

2.03 To the rear of the site 4 x parking spaces for the proposed offices are provided along with 6 x parking spaces for the residential units, along with a shared private amenity space, a bike store and a bin store. External alterations to the building would involve additional openings at ground floor level and the obscuring of a number of windows on the first floor of the northern elevation of the building (facing Addington Road), additional openings on the southern elevation at ground and first floor level and at first floor level on the eastern elevation.

3.0 PLANNING CONSTRAINTS

3.01 None Relevant

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

Swale Borough Local Plan 2008

4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and 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;

4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;

4.04 Policy B1 seeks to retain land and buildings currently in employment use unless it is inappropriately located; demonstrated by market testing that it is no longer suitable for employment use or there is insufficient demand or is allocated in the Plan for other purposes.

- 4.05 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.06 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

The Swale Borough Local Plan Proposed Main modifications 2016

- 4.07 Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2011-2031 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); DM14 (General development criteria).

Supplementary Planning Guidance

- 4.08 The Conversion of Buildings into Flats & Houses in Multiple Occupation

5.0 LOCAL REPRESENTATIONS

- 5.01 Surrounding properties were sent a consultation letter, 9 letters of objection have been received raising the following summarised issues:

- Overlooking of residential units of properties in Unity Street;
- Parking provision is not adequate, has been worsened by other nearby residential developments and surrounding streets are already over capacity;
- Light pollution from the building will be increased if used as residential units;
- There has not been a concerted effort to retain the employment use of the site;
- The residential units would overlook No.22 Nativity Close and cause a loss of privacy;
- Residential units would be occupied unrestricted throughout a 24 hour period as opposed to the office use which was restricted from 7am to 7pm, Saturday mornings and not at all on Sundays / Bank Holidays;
- Increased traffic / parking will harm the safety of pedestrians;
- The gates should be moved forward to allow additional parking within the boundary of the site;
- The site is not suited for a commercial undertaking;
- Will the units be rented out for the private sector or another form of enterprise and who will be occupying the offices?;
- The proposal would contravene conditions imposed under SW/89/0096.

6.0 CONSULTATIONS

- 6.01 **Kent Highways & Transportation** commented that *“The proposed application does not provide the maximum recommended parking allocation for a development of this size as outlined in IGN3 Residential Parking. However, as this is a town centre location with amenities nearby maximum parking standards are not seen as vital. Ufton Lane and nearby roads are all served with permit controlled parking, this should help to manage parking provision in the area.”*
- 6.02 **Environmental Health** raised no objection subject to an hours of construction condition.

- 6.03 **Cllr Truelove** stated *“If you do decide to indicate approval I will want it to go to the Planning Committee on the grounds that the inadequate provision of parking will only exacerbate an existing local problem with parking.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 A Planning Statement has been submitted in support of the application which includes the following sub headings - site appraisal; design strategy and aspirations; parking; private amenity space; sustainable development; conclusion.
- 7.02 The Statement also includes a letter from Open House Kent Ltd which sets out the marketing strategy that has been undertaken in order to lease the buildings for office use. This includes advertising the building on the internet since January 2016. The letter states that the premises are not big enough for most large companies who tend to occupy units on industrial estate. However, there has been interest expressed by a company in taking on part of the building for A2 use. This has been brought forward in the application.

8.0 APPRAISAL

Principle of Development

- 8.01 Policy B1 of the Swale Borough Local Plan 2008 deals with the retention of land and buildings in employment use. In this case, in order to satisfy this policy a letter from a local property agent has been submitted with the application. As set out above, this states that the property has been marketed for B1 office use, in my view for a sufficient period of time, however no firm offers have been received. The policy also sets out that in cases where changes of use are proposed for residential purposes a mixed use approach will also need to be assessed. In this case, alongside the residential element the scheme also proposes two A2 offices and as such, as referred to in the policy a mixed use approach to the site has been brought forward rather than a solely residential development. Additionally, the site lies within the built up area boundary and close to local services, amenities and public transport links. Based upon the above assessment I am of the view that the principle of development is accepted in this case.

Visual Impact

- 8.02 The building on the application site will remain in situ with the external alterations being the obscuring of a number of the windows on the north elevation (discussed in more detail below relating to residential amenities), additional openings in the northern, southern and eastern elevations and the rendering of some of the external walls. There will also be some alterations to the part of the site currently occupied by the parking spaces which will involve a reconfiguration of the car park layout and the inclusion of a private amenity space, bin store and bike store. However, these alterations to the existing layout will be largely hidden from public vantage points and would be additions typical of the surrounding residential area. As such I do not consider that the proposal would have an unacceptable impact upon visual amenities.
- 8.03 In terms of the existing streetscene I note that the adjacent building, King Arthur Court is a development of flats. Therefore, although the majority of the remainder of the immediately surrounding area is comprised of single dwellings I do not consider that the introduction of flats into this location (along with an element of A2 use) would cause unacceptable harm to the character of the area.

Residential Amenity

- 8.04 Concern has been raised locally regarding the impact that the proposal would have upon residential amenities in terms of overlooking and a loss of privacy. The application site is bounded on all sides by residential properties and therefore careful consideration is required in this regard. To the rear, the properties in Unity Street are approximately 21m away from the rear elevation of the host property. This is compliant with the Council's requirement for a rear to rear separation distance and therefore I do not believe that unacceptable levels of overlooking or a significant loss of privacy would occur between the proposed units and these properties.
- 8.05 The northern elevation of Excelsior House fronts Addington Road. However, due to the layout of Nativity Close, also located to the north, the rear elevation and private amenity space of No.22 faces towards the application site. As a result the rear elevation of No.22 Nativity Close is 19m away from the north elevation of Excelsior House. Although this is the flank elevation of Excelsior House it is noted that due to the internal layout of the building the windows at first floor level on this elevation would serve habitable rooms. As such, upon receipt of the original drawings I suggested that a number of the windows at first floor level in the northern elevation be obscured glazed in order to reduce the impact. An amended drawing has been forthcoming which shows that of the 9 windows on the north elevation, 6 of them will be obscure glazed. Although this means that 3 of the windows will remain clear glazed I have balanced this against the impact that could potentially be caused by a B1 use operating at first floor level, which could take place without requiring the benefit of planning permission. In my view, the overlooking that would be possible from the clear glazing that would remain in 3 of the windows would not be significantly worse than if the building was to be occupied by a business at first floor level and all of the windows remained as clear glazing. Furthermore, in terms of the future occupants of the development I believe that they would still have sufficient outlook due to each habitable room having at least one clear glazed window by virtue of other non obscured glazing on the other elevations and due to the 3 windows mentioned above.
- 8.06 I have assessed the proposed floor area of the residential units and they are in compliance with the overall floorspace requirements as set out in the SPG. As such I take the view that the development would provide suitable accommodation for future occupants. I also note the private amenity space which would in my opinion appropriately located for future residents.
- 8.07 In relation to the proposed use of part of the ground floor for A2 use I have consulted with the Environmental Protection team who raise no objection. As such, I consider that this element of the scheme would not give rise to unacceptable harm to the amenities of the occupants of the surrounding residential units. However, to ensure the Council has control over any future changes of use and the impact this would have I have recommended a condition which requires planning permission for this.

Highways

- 8.08 The majority of the objections received from surrounding occupiers raise concern in relation to parking. The application proposes 6 parking spaces for the 9 x 1 bedroom units and 4 parking spaces for the proposed offices. I appreciate that the surrounding area experiences high demand for on street parking spaces, in particular due to a number of the surrounding roads not having provision for off road parking

spaces. I have consulted with KCC Highways & Transportation who have raised no objection to the proposal due to the sustainable location of the site.

- 8.09 Further to the comments of Kent Highways & Transportation I also note the details contained within the *Kent Design Guide Review: Interim Guidance Note 3, 20th November 2008 – Residential Parking* which divides areas into four categories – town centre, edge of centre, suburbs and rural. There is a clear distinction that can be made between town centre / edge of town centre areas and suburbs / rural areas in that *maximum* parking standards are applied to the former. The result of this is that essentially developments within the town centre / edge of town centre, as is the case with this site, would be acceptable even if no parking was proposed. Therefore, in line with KCC Highways & Transportation comments and that the application does propose some parking provision in this sustainable location I do not believe that the lack of parking spaces to amount to a reason for refusal in this case.

Impact upon SPA and Ramsar Sites

- 8.10 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.11 I note that an area of outside amenity space has been indicated upon the site layout which is welcomed. Furthermore a 1.1m high palisade fence is proposed around the amenity area. Palisade fencing does have the potential to be of a harsh and industrial appearance and due to this I have imposed a landscaping condition which also requires details of means of enclosure. Therefore I consider that satisfactory details can be agreed via condition.
- 8.12 A number of the grounds for objection have been discussed within the assessment above however of those that remain I respond as follows. Due to the residential nature of the surrounding area I do not consider that residential units and A2 office use would give rise to significant and unacceptable levels of light pollution. Furthermore, I do not consider that the gates are required to be moved because as set out above the parking provision is in my view acceptable. It is not a material planning consideration in this case as to whom the specific end user of the residential units or the A2 offices will be and therefore I make no further comment on this matter. Finally, the conditions imposed under SW/89/0096 require permission for the change of use which is what is now being considered.

9.0 CONCLUSION

- 9.01 In overall terms, although I appreciate that local concern has been raised especially in relation to parking provision and loss of privacy I am of the view that as set out above the application does not give rise to significantly harmful impacts on either front. I also take the view that the application would provide residential units of a suitable size for future occupants in a sustainable location and contribute, albeit in a limited way to job creation in the Borough via the proposed A2 use. I recommend that planning permission is granted.

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

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 1363/P3 (received 29th June 2016) and 1363/P4, Rev B (received 7th September 2016).

Reason: For the avoidance of doubt and in the interests of proper planning

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

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

- 4) No development shall take place until details of the colour and type of rendering on the external walls shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of visual amenities.

- 5) No development shall take place until details of the obscure glazing to be used in the first floor of the northern elevation of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of residential amenity.

- 6) Notwithstanding drawing no. 1363/P3 (notation of palisade fencing), no development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

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

Reason: In the interests of the visual amenities of the area.

- 8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area

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

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

- 10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 11) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (as amended), the part of the building hereby permitted for Class A2 use (as shown on drawing 1363/P4 Rev B, received 7th September 2016) shall remain in that use in perpetuity.

Reason: In the interest of local amenity.

- 12) The opening hours of the A2 use hereby permitted shall be limited to Monday to Friday 07.00 – 19.00, Saturdays 07.00 – 17.00 and Sundays and Bank Holidays 09.00 – 16.00.

Reason: In the interests of residential amenity.

- 13) No dwelling shall be occupied or the approved A2 use commenced until space has been laid out within the site in accordance with the details shown on the submitted drawing for cycles to be parked and for bins to be stored.

Reason: To promote sustainable transport methods and in the interest of visual amenities.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 3.5km south-west of The Swale Special Protection Area (SPA) and Ramsar site and 5.5km south-east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European

designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and

is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion as this is a replacement dwelling, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

- The applicant/agent was advised of minor changes required to the application and these were agreed.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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

2.13 REFERENCE NO – 16/501726/FULL		
APPLICATION PROPOSAL		
Change of use from B2 Industrial use in the form of redundant steelworks to port related uses (sui generis) including demolition of buildings (except for the former military hospital, former fitness centre, former billet packing building, former stores and stores maintenance building and part of main former Thamesteel building), construction of new paved surfaces and a new vehicle access and bridge spanning the A249 to the existing Port to the west, reconfiguration of railhead, boundary treatment and landscaping and associated works (amended description).		
ADDRESS		
Former Thamesteel Site, Brielle Way, Sheerness, Kent ME12 2AE.		
RECOMMENDATION		
Grant Full Planning Permission subject to imposition of planning conditions, and the comments of the Economic Development Officer.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed use and associated re-development of the site (including demolition) and the cumulative impact of that use would not give rise to unacceptable harm to the environment or to residential and public amenity, would result in a considerable reduction in environmental impact, would enable the expansion of the Port of Sheerness and as a result would provide opportunities for job creation and provide a boost to the local economy, would make beneficial use of a redundant industrial land resource and would preserve the local heritage. For these reasons the proposed development is considered to represent sustainable development and is acceptable.		
REASON FOR REFERRAL TO COMMITTEE		
Major application of local significance, third party objections and wider public interest.		
WARD	PARISH/TOWN COUNCIL	APPLICANT Peel Ports Ltd AGENT N/A
DECISION DUE DATE 13/03/15	PUBLICITY EXPIRY DATE 13/03/15	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
16/501257/ENVSCR		
Request for a Formal Screening Opinion: Change of Use from B2 Industrial in form of a redundant steelworks to port related uses (sui generis) including demolition of buildings, construction of new paved surfaces and a new vehicular access and bridge spanning A249 to existing Port to west, a new railhead, boundary treatment and associated works; some buildings to be retained and re-used: Determined 21.04.2016 'Environmental Impact Assessment (EIA) not required'.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site comprises a former steel mill complex, approximately 20 hectares in area. The mill was first commissioned in 1972 and the site has been vacant, since closure of 'Thamesteel' in 2012. The site is bounded to the north and west by A249 'Brielle Way', by the Canterbury to Sheerness-on-Sea railway line to the south and by 'The Moat' a scheduled ancient Monument forming part of the historic 'Sheerness Lines' to the east. The land does not include any harbour, dockside or wharf connected to tidal waters.
- 1.2 The site is accessed from Brielle Way at its northerly corner and also mid-way along its north-west boundary also from Brielle Way. The site contains railway goods sidings which connect to the main Sheerness-on-Sea rail line, tanks, cooling ponds, and numerous large industrial buildings and structures. Pockets of contamination have been identified as a result of its former heavy industrial use. The site lies within Flood Zone 3 (high probability of flooding), in close proximity to the town of Sheerness, the Port of Sheerness, and the Sheerness-on-Sea rail station passenger terminus.
- 1.3 Prior to development of the steelworks in the 1970s the site had originally formed part of a historic military garrison, remnants of which, comprising defensive structures and a former military hospital building, survive. The hospital building was until recently in use as offices ancillary to the steelworks, and was identified as a heritage asset prior to submission of this planning application. It was designated by Heritage England as a Grade II listed building in August 2016. The site is of archaeological interest as a result of its former historic garrison use. Sheerness Conservation Area and several listed buildings lie to the north in Blue town on the opposite side of Brielle Way and within the wider setting of the listed hospital building.
- 1.4 Clusters of residential property, while not directly adjoining the site, lie in relatively close proximity to both northern and southern site boundaries.
- 1.5 There are no public rights of way through the site. Although there are no protected trees, and there is limited vegetation within the site, there are self-sown hedgerow specimens to parts of the south west boundary, and a row of large semi-mature conifers planted as an amenity screen along Brielle Way. The boundary is enclosed by a section of 2m high brick walling along the north east boundary and elsewhere by steel palisade security fencing.

2.0 PROPOSAL

- 2.1 A significant number of the redundant industrial buildings would be demolished, while the remaining buildings would be altered for general port use, including use as workshops and warehousing. Ground depressions and subterranean voids would be in-filled using existing above ground spoil heaps (including contaminated spoil) and subterranean contamination where found would be left in situ and capped. Existing serviceable surfacing would be retained and the remaining oversite would be graded and surfaced with permeable material.

- 2.2 The former military hospital Grade II listed building together with its curtilage would be retained. A dedicated access route would be provided across the site between the northern entranceway and the listed building.
- 2.3 A road bridge would be constructed in the south west corner of the site, spanning the A249 and linking the site to operational Port Authority land to the west. This would be subject to a separate legal agreement with Highways England.
- 2.4 The site would be an extension of the Port of Sheerness and would be used for open and covered temporary storage of imported goods. The site would be sub-divided with the larger area used for the storage of imported vehicles (primarily cars) arriving at the Port. Other areas within the site would be allocated for storage of imported raw materials (predominantly timber and steel).
- 2.5 Existing rail sidings would be modified and extended to provide a railhead to facilitate onward transportation of vehicles and other imports by rail to UK destinations rather than by road as currently happens.
- 2.6 The site boundary would be subject to landscape enhancement and reinforcement that would assist in visually screening the site from views particularly along Brielle Way, while being secured by new metal fencing to Department of Transport standards for Port related land.
- 2.7 Provision would be made for the safeguarding of above and below ground heritage assets within the site.
- 2.8 Pockets of contamination would be dealt with on-site
- 2.9 The application is supported by the following reports:
 Planning Statement;
 Design and Access Statement;
 Phase 1 land contamination report;
 Ecological Appraisal;
 Flood Risk Assessment;
 Heritage Assessments (2)
 Transport Assessment;
 Geo-Environmental Phase 1 Parts 1, 2 & 3;
 Geo Environmental Phase 2 Parts 1 & 2;
 Bat Survey.
- 2.10 This application was preceded by an EIA Screening Opinion which – as noted above - concluded that an Environmental Impact Assessment was not required as the proposed use, redevelopment and remediation, would be unlikely to have any significant environmental effects beyond those associated with typical demolition and construction methods.
- 2.11 The application form states that the development would create approximately 200 full-time jobs.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	20 hectares (or

	thereabouts)
Approximate Maximum Building Height (existing)	38.75m AOD (with flues reaching 46.88 AOD)
Approximate Maximum Building Height (retained building) proposed	18.6 AOD
Proposed Storage Height (main compound)	20m restricted by condition
Proposed Storage Height (eastern compound)	10m restricted by condition
Automotive Storage Area	11.845 ha
Port Multi-User Storage Area	4.30 ha

4.0 PLANNING CONSTRAINTS

- 4.1 The authorised use of the site is for Use Class B2 (heavy industrial).
- 4.2 Areas of residential development lie within 0.1km to the north and south east of the site.
- 4.3 The site is within the immediate setting of a recently designated Grade II listed office building (former military hospital); and a scheduled ancient monument (moat and ramparts).
- 4.4 The site is within the wider setting of Sheerness Royal Naval Dockyard and Bluetown Conservation Area, together with several Grade II and Grade II* listed buildings.
- 4.5 The site has been identified as having Potential Archaeological Importance (former Napoleonic era military garrison).
- 4.6 The site is located close to the Swale SPA and Ramsar site SSSI's and within 7km of the Medway Estuary and Marshes SPA and Ramsar site SSSI's.
- 4.7 The site is subject to known ground contamination resulting from its former heavy industrial (steelworks) use.
- 4.8 The site lies within Flood Risk Zone 3.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.1 The Development Plan for Swale comprises the adopted 2008 Local Plan as amended by paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of those policies directed to have expired as of 20th February 2011. The emerging Local Plan (Bearing Fruits 2031 Publication Version), is at an advanced stage and as such carries significant weight.
- 5.2 The adopted Swale Borough Local Plan 2008 relevant policies:
 - SP1 Sustainable Development
 - SP2 Environment
 - SP3 Economy

SP6 Transport and Utilities
 TG1 Thames Gateway Area
 E1 General Development Criteria
 T1 Providing Safe Access to the Highway Network
 E14 Development Involving Listed Buildings
 E15 Development affecting a Conservation Area
 E16 Scheduled Ancient Monuments and Archaeological sites
 B1 Supporting and Retaining Existing Employment Land and Businesses
 B2 Providing for New Employment
 T1 Providing Safe Access to New Development
 T6 Maximising the Use of the Railways and Waterways for Commercial Purposes
 U4 Placing Services Underground

- 5.3 Emerging Local Plan (Bearing Fruits 2031, Main Modifications June 2016), relevant policies:

ST1 Delivering Sustainable Development in Swale
 ST2 Development targets for jobs and homes 2011-2031
 ST4 Meeting the Local Plan development targets
 ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting Sustainable Transport
 CP7 Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure
 DM6 Managing transport demand and impact
 DM14 General Development Criteria
 DM21 Water, flooding and drainage
 DM29 Woodland, trees and hedges

- 5.4 The Emerging Local Plan was submitted for examination on 20 April 2015, with the 2nd part of the examination expected to take place early in 2017. Policies of the Plan should therefore be given the weight afforded by NPPF para. 216.

National Planning Policy Framework (NPPF)

- 5.5 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are to be taken into account, particularly as the Local Plan has not been adopted.

- 5.6 The NPPF sets out the Government's position on the planning system explaining that *"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means:*

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out of date granting permission unless:*
 - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*

- *Specific policies in this Framework indicate development should be restricted.”*

- 5.7 It further outlines a set of core land use planning principles (para 17) which should underpin both plan-making and decision taking including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value. It further states ‘take account of the different roles and character of different areas
- 5.8 At paragraph 18 the NPPF states that *“The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”*
- 5.9 Para 111 states ‘Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.

6.0 REPRESENTATIONS

- 6.1 623 neighbours including local businesses and residential addresses were consulted by letter. 31 letters of objection have been received reflecting the concerns of neighbouring residents, while 2 letters of support have been received from the business community.
- 6.2 The primary grounds for objection initially centred upon the proposed demolition of the military hospital building, a heritage asset. Following service of a Building Preservation Notice (BPN) the building was subsequently listed by Heritage England and the application was amended showing the building to be retained. As part of the listing process a comprehensive heritage report was submitted setting out in more detail the history of the site including both above and below ground heritage. Many early comments relating to the proposed demolition of the military hospital and ground archaeology have consequently been overtaken by events. A further round of public consultation subsequent to listing of the former military hospital building and amendment of the application to show retention of the former military hospital did not generate any further objections. Numerous concerns have also been expressed in respect of historic site contamination and how that will be contained.
- 6.3 The letters of support focus upon the need for extended port facilities and the benefits that would bring in terms of job creation and existing job security.
- 6.4 Objections can be summarised as follows:
- I object to the demolition of historic old Admiralty hospital. This building must be listed and saved for future generations to appreciate the heritage of Sheppey.
 - The Military Hospital sits between Number 2 and Number 3 Bastion on the Sheerness Lines. Sheerness Lines consisted of three bastions with a wide defensive moat and was built to protect the Sheerness Dockyard and Naval Base by attack from landward. Much of the old monument was destroyed when the Steel Mill was built. Destruction of the military hospital would compound this act of vandalism.

- The building commonly known as the old military hospital is a very important piece of the history of Sheerness and Sheppey as a whole and is more important to the community of the island than another large car park;
 - Over the past century since the (military) dockyard's closure there has been demolition with little foresight over future use or heritage impact and many fine Georgian buildings have been lost to make way for open storage. In 2010 the whole Sheerness Dockyard was put on the World Monuments Watch list for endangered buildings, relaying its importance alongside major world structures. The military hospital stands at the side of the site, and does not interfere with the use of the rest of the site.
 - The surviving façade of the Former Garrison Hospital remains very attractive and is highly visible from the adjoining Conservation Area. It is important to local people and has a communal and social value. There should not be a problem in finding a viable future use for the building as a separate access could readily be established from the adjacent roundabout.
 - The island is in desperate need of social infrastructure. Could this building not be preserved and made to service the community.
 - The proposals will destroy the last remaining part of the moat which remains in this area. This area is little understood and retains important features of the sites past including a former Convict's Garden.
 - If Peel were to reinstate some of the Moat and create a nature reserve in the middle of a highly built up area this would be beneficial to themselves and the town of Sheerness. The steel mill buildings are an eyesore and should be knocked down and the military hospital building restored to its former glory.
 - The site should be saved and be reverted back into a park (being nearer to its original use as recreational parkland for the Royal Artillery). This would provide a much more attractive approach to the town than industrial wasteland/car park.
 - The assessment carried out by BWB is largely a desk based assessment rather than a thorough site survey. The report states that it is likely that the substantial foundations of the former steelworks have removed any below ground heritage assets. However the main buildings were constructed on piles with concrete raft floors. In addition large areas of the site were not built upon at all.
 - The proposal will cause residents a great deal of inconvenience and noise with Brielle Way being used as construction site with pollution levels worse worse than when the steel works were operating;
 - Many poisonous chemicals would have been released upon the insides of the buildings that could be released to the atmosphere when demolished.
 - The steelmaking commenced in 1972 at which time one third of the site was used to bury filter plant dust. This was heavily contaminated with cadmium, lead, zinc and dioxin, while the rolling mill floors are contaminated with mineral oil. What measure are being taken to clean up this contamination and prevent off-site and groundwater leeching?
 - The screening opinion attracted a substantial body of objections which should be considered relevant to this application. The principle of 'the polluter pays' should be applied to the owner or occupier of the land or the person developing the land.
 - The application provides a new vehicular link to the docks which will pass directly over the sea wall path, a route popular with cyclists. Improvements to the path such as markings, surfacing, ramps and railings would enable a safer route and enhance the growing cycle culture on the island.
- 6.4 The preservation of heritage and potential contamination issues form the groundswell of objection. Although some would prefer the site to be reclaimed as open space, overall, there would appear to be little objection to the principle of a change of use of

the site, providing heritage and pollution/contamination can be satisfactorily addressed.

6.5 Letters of support from the business community can be summarised as follows:

6.6 Volkswagen Group UK Ltd. - 'VW has a long established operational interest in the Port of Sheerness, specialising in the importation of motor vehicles. Together with the other car importer (GEFCO) the VW Group are in advanced discussions with the port operator to reconfigure our operational footprint at the Port safeguarding existing jobs and with an aspiration to increase our car import volumes through further investment. It may be noted that the VW Group and the Port of Sheerness successfully delivered a PDI Centre at Cullet Drive leading to the creation of 100 new jobs on the Isle of Sheppey. One of the most pressing issues for the VW Group (and GEFCO) concerns the lack of available land within the existing port estate to deliver our growth plans. The identification and delivery of the former steelworks and its assimilation into port use would be entirely sensible'.

6.7 GEFCO - 'We have specialised in the importation of motor vehicles through the Port of Sheerness since 1995. We are in advanced contractual discussions with the port operator to further commit to the Port, safeguarding 140 existing jobs, with an aspiration to increase our car import volumes leading to much needed new job opportunities on the Isle of Sheppey, in addition to those we are currently seeking to recruit. There is a lack of suitable land within the existing port hence the assimilation of the former steelworks into port use would be beneficial'.

7.0 CONSULTATIONS

7.1 **Highways England** raises no objection to the proposals. Highways England has had discussions with the developer regarding the proposed bridge over the A249 and will be entering into a Section 278 Agreement with them for construction of the bridge. The design of the bridge and requirements for any access to the A249 will need to be in accordance with the Design Manual for Roads and Bridges (DMRB). Informative will be attached.

7.2 **Kent County Council Highways and Transportation** has responded that as the site accesses directly onto the A249 Brielle Way, which forms part of the strategic highway network managed by Highway England, the impact of the development including the proposed overbridge linking the site to existing operations at Sheerness Docks will be mainly felt on Highway England's asset (see above).

KCC consider that the HGV movement associated with the site will not distribute onto any of the local highways that fall under the jurisdiction of KCC as all such movements would be expected to route directly along the A249. Staff car movements (in comparison to the authorised/last previous use of the site) are likely to substantially reduce, resulting in an improvement in performance of the local highway network. The submitted Transport Assessment predicts that the proposed use would attract about one third of the amount of HGV traffic than previously experienced, while the total volume of traffic associated with the site is likely to be about one quarter of the previous level.

As the proposed operations are reliant on the movement of a significant number of new vehicles between Sheerness Docks and the application site, the proposed overbridge is essential to avoid congestion at the Brielle Way roundabout and this should be secured by condition. Further conditions have been recommended in the

interests of amenity, road safety and parking during the construction process and in respect of parking prior to implementation of the proposed use.

7.3 **Network Rail** has issued a list of requirements to ensure that there will be no encroachment onto or any adverse effect on Network Rail land or infrastructure to be secured by condition. Specific advice (informative) is to be provided in respect of maintenance, drainage, plant and materials, scaffolding, piling, fencing, lighting, noise and vibration and landscaping.

7.4 **Southern Water Services** advise that there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Should planning permission be granted an informative has been recommended advising that there would be a requirement to enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure in accordance with Section 98 of the Water Industry Act.

In order to ensure that the proposed Sustainable Urban Drainage System (SUDS) would be maintained in perpetuity and the discharge of water to a public watercourse properly effected, a condition has been recommended requiring submission of details to be approved by the Local Planning Authority in consultation with Southern Water.

7.5 **Lower Medway Internal Drainage Board (IDB)** has advised that as surface water run-off rates are to be reduced, providing the proposed SUDs are developed and agreed in direct consultation with KCC's drainage and flood risk team, IDB interests are unlikely to be affected. An informative is to be attached advising of the requirement for IDB formal consent for any works affecting any watercourse on site.

7.6 **KCC Environment and Planning (flood risk)** has advised that given the site location and nature of past and proposed uses there are limited options for surface water management. Although the applicant has provided information relating to surface water storage requirements to achieve greenfield run-off rate for a 1 in 100 year storm event for the previous permeable areas with discharge to a public surface water it is recommended that the applicant confirm with Southern Water the acceptability of connection and discharge rates to the public sewer unless discharge to the sea is available. As the calculations provided for attenuation do not seem to allow for climate change in accordance with Environment Agency guidance February 19th 2016, an appropriate condition will be attached.

7.7 **Health and Safety Executive (HSE)** has not raised objection nor requested imposition of conditions.

7.8 **Natural England** advises that in respect of:
Statutory Nature Conservation Sites: the proposal, if undertaken in strict accordance with the details submitted, will be unlikely to have a significant effect on the interest features for which Thames Estuary & Marshes SPA and Ramsar and SSSI's and Medway Estuary and Marshes SPA & Ramsar and SSI's. Natural England therefore advises that an Appropriate Assessment to assess the implications of this proposal on the sites' conservation objectives is therefore not required and no objection is raised in this regard;
Protected Species: Natural England has not assessed this application for impacts on protected species. NE do however publish 'Standing Advice' on protected species and this is a material consideration that should be applied;

Biodiversity Enhancements: The application may provide opportunities to incorporate features that may be beneficial to wildlife, such as roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant in accordance with Paragraph 118 of the NPPF.

Landscape Enhancements: The application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment.

7.09 **Historic England** advises that: With the decision to retain the now listed military hospital, we are able to lift our objection to the granting of planning permission. Matters of detail still need to be resolved but we think that these are capable of being covered by planning conditions. These include a programme of archaeological works and hard and soft landscaping. We support the granting of planning permission for this site to be used for port purposes as this is an essential step in finding a securer future for all of the designated heritage assets associated within the port.

Historic England Advice - In our letter of 18th May we objected to the granting of planning permission. This was primarily as we opposed the then proposed demolition of the former military hospital. Your Council served a Building Preservation Notice and with the advice of Historic England, the Secretary of State has listed the building, grade II. In the light of this we welcome the decision of the applicants to amend their application so as to now retain this historic building and I can now confirm that we no longer object to planning permission being approved. There are a number of issues that still need to be resolved but we are confident that these can be addressed through carefully worded planning conditions agreed with the applicants and we advise that you should now proceed on that basis.

Though now protected by listing the former hospital still faces an uncertain future and it requires a use which will secure its long-term repair and maintenance. We do not suggest that finding such a use must be part of determining the current planning application but we do think that the decision on this must not prejudice the chances of identifying a new use for the hospital. With this in mind we think that you should pay attention to the permitted development rights which would become applicable once a port related use permission might be granted. We think you should agree with the applicants modification of the permitted development rights so that port related activities, such as the high stacking of cargo, do not dominate the historic building and its immediate setting. If a port related use for the building cannot be found then it may be necessary to offer it up for other uses and these will be more difficult to secure if the building is dominated by port activities. For similar reasons we think that the potential for an independent access to the building without the need to pass through port security needs to be thought about now and we are pleased to note the revised proposals for this. The condition of the building will need to be monitored during the period when its long-term future is under discussion and we think this is a matter for your Council to agree with its owner. We will be pleased to join you and colleagues in discussing with Peel Ports the future of this recently listed building

We think we should do so as part of future discussions about all the heritage assets at the port. Regular liaison meetings might be one way of taking this forward. We previously raised an issue for the recording of the steelworks prior to its demolition. With the co-operation of the applicant, Historic England has now been able to make a rapid photographic record of the site and this is sufficient for our purposes. If the paper archives that were in the hospital building from its use as offices for the steelworks are now to be disposed of we suggest that they should first be assessed for their possible curation as part of the local archives.

The other aspect of the site about which we raised significant concern in our previous letter related to above and below ground archaeology of the fortifications and barracks. We did not think that the Heritage Assessment by BWB had adequately described and assessed the historic significance of the site and the potential for works to cause harm to buried archaeological remains. This issue has now been addressed by recent actions. The helpful Heritage Response Statement by Montagu Evans dated 26th August 2016 includes a map regression that has assisted us to know how the proposed works relate to the well mapped major phases of military activity at the site. The applicant has supplied other information to show the relationship of proposed works to the mapped information and RSK are carrying out archaeological monitoring of site investigations which should provide additional information. We are now satisfied that there is a better understanding of the archaeological significance of the site and the potential for buried remains. There will be a need for further archaeological activities as part of implementing the proposed works and we think that these could now be covered by a Programme of Archaeological Works condition. We are content that the archaeologists at Kent C.C. might now advise you about the content of such a condition.

With reference to buried archaeological remains we note that the proposed approach to remediation of contamination is likely to work well with the preservation in situ of remains. If however there is any need to dig out any limited areas of contamination the archaeological consequences of doing so will need to first be assessed and responded to through agreed mitigation. There are some specific locations within the site which can be identified at this stage as needing further consideration and in most cases archaeological works. The cooling ponds represent parts of the historic fortifications and are intended to be filled in. Before this happens a method statement should be agreed for how the works will be carried out and archaeological recording of any evidence of the moat walls or other features associated with these will be needed. If there is any cause to carry out works to the historic wells that are known to exist at the site these too will require specific archaeological activities. We are now satisfied that the loco shed is on the site of the guardhouse for Fort Townsend but that it does not retain historic fabric from this use. The building is raised above the level of the surrounding site and if there is any intention to regularise the levels, this will require an archaeological response, as evidence of the earlier building could be preserved under the loco shed.

There is a revised landscaping plan now supplied with the application. This shows the security fence at the North East corner of the site, relocated from off the rampart of the historic fortifications and repositioned at the base of the rampart. This is as we requested and we welcome this amendment. The old security fence will need to be removed and the vegetation which obscures the form of the rampart will need to be managed. We think that a landscaping plan should be secured by condition and we would be pleased to advise further about what this might contain in relation to the scheduled monument. We think that there needs to be an agreed on-going management regime which will keep the rampart clear of vegetation so that it can be appreciated as a part of the historic fortifications.

Agreement of landscaping should also include the treatment of the hard landscaping of the wider site. We think that the location of the now buried fortifications should be surface marked in some way and we suggest that a different colour of material would be one option. Marking out the lost line of the fortifications will enable an understanding of just how large the defences were and of how the parts that are now scheduled were once continuous around the whole dockyard. This will also perform another helpful function and this will be to indicate where we know buried archaeological remains are very likely to be present and where future ground

disturbance might impact upon them. Future excavation of the ground as part of works which would normally be permitted development in a port context does have the potential to harm buried archaeology and in modifying the permitted development rights in the way that you have proposed you should consider the means to limit harm to buried archaeology. For example, there might be a limit on the size of new structure that could be allowed.

Historic England Recommendation: Historic England is able to withdraw its objection to the granting of planning permission for use of the steelworks site for port related activities. We now support an approval subject to a number of conditions which are necessary to control the detail of a) archaeological works to mitigate the impact of the development and b) for the soft and hard landscaping of the site.

- 7.10 **KCC Archaeology** advises that: The retention of the former military hospital in the proposals is very much welcome. I would agree with the Historic England view that while finding a future use should not be a matter for determining the planning application it is important that any permission ensures that the future potential is safeguarded. In particular there should be a condition applied to the permitted development rights being sought that ensures the setting of the hospital building is not compromised by port related activities in future.

I agree with Historic England that the relocation of the security fence off the rampart of the Sheerness Lines is a welcome improvement to the historic environment of the site. The removal of the old fence and the clearance of the vegetation would be a further benefit and the on-going management to keep this clear should be agreed with Historic England and secured through a condition.

With respect to the buried archaeology of the site it has been useful to obtain the overlays of the major historic features with respect to the development plan. Further information is currently being obtained from an on-going watching brief of the geotechnical test pits and bore holes though the aim of these has been specifically targeted at site condition matters rather than archaeology. In general terms the intention of the present development proposal is to avoid disturbance of archaeology through filling in the ponds with material from the site, creating a level platform mainly through raising level surfaces and capping the site with hard surface.

The new bridge structure may have piling that falls within the former moat area possibly in the area of the moat island which corresponds to the earthworks of Fort Townsend. That impact can be addressed through a condition securing archaeological assessment and recording as appropriate;

Areas of uncertainty surround possible remediation measures for removal of contamination that arise from the present surveys. If measures for remediation that involve ground excavations are being considered it is important that the archaeological impact of such measures is fully considered and appropriate mitigation put in place. In cases this may be able to be achieved through investigation and recording but especially where groundworks are proposed in areas of the buried fortifications we would wish to see safeguarding of significant remains.

The former cooling ponds are a significant heritage asset, that illustrate the continuation of the moat of the Sheerness Lines to the west of the site. Further information may be obtained from the present geotechnical survey although as this has not been targeted at the heritage aspects of the ponds it may be that further assessment is needed in due course. A methodology for the filling of the ponds that takes account the preservation of any historic elements of the ponds and appropriate

archaeological investigation and recording should be agreed and can be addressed through a condition on the planning consent if granted.

Similarly details on the arrangements for the works on the historic well heads should be agreed and appropriate archaeological works implemented.

Further details of the method of creating a level platform need to be provided in advance of development and the effects of these works on archaeology assessed and where appropriate evaluated. The former loco shed in particular sits on a raised platform that would appear from historic plans to have been in place as far back as the early part of the 19th century when it was the location of the barrack block of Fort Townsend. It may be that in this location significant archaeology sits above the general wider level and may require measures to preserve or investigate and record.

As mentioned above the former Cooling Ponds are a substantial and significant heritage asset in their own right. Being the last visible element of the western end of the Sheerness Lines moat, elsewhere a scheduled monument and thereby nationally important. The appreciation of this aspect is best achieved from aerial views of Sheerness. We accept that the infilling of these features will be necessary to enable the proposed use of the site however it is important that the former scale and layout of the moat is not fully lost as this would in my view in part affect the significance of the Scheduled Monument. As mitigation and a beneficial outcome of the scheme we would recommend that provision is made for the definition of the major fortifications in the surface treatment of the site. I would envisage this to be a broad colour / shade change that could be appreciated in aerial views of the site rather than lines marked on the surface that may lead to operational confusions as suggested by Chris Miele in our telephone discussion. I would recommend that an appropriately worded condition is attached to secure this.

Finally I am conscious that the application includes providing permitted development rights for port related activities and building in future. It will be important therefore that provision in these rights is made to ensure that future proposals that involve ground excavations are subject to archaeological assessment, evaluation and safeguarding / investigation as appropriate and that this is achieved through consultation and agreement with Swale BC or the County Archaeologist. It would be important in particular to ensure that future development avoids impacting on the buried fortifications and the military cemetery.

I am satisfied that the above archaeological matters can be addressed through suitably worded conditions attached to any planning consent for the present proposals.

7.11 Environmental Protection Team Leader has advised that:

Land Contamination Further to my memo dated 14th April 2016, I have now revisited the site and had a meeting with a new environmental consultancy. As a result of this meeting, and a subsequent visit around the site, a new revised remediation strategy has been drawn up by them and agreed in principle by myself. I am consequently satisfied with this approach, which will include more intrusive investigation points throughout the site, together with mitigation measures to be put in place for dust creation and noise during the decommissioning and demolition of the works.

Therefore I remove my initial objection to the proposal and will now raise no objection to it, subject to conditions.

7.12 Environment Agency

The Environment Agency notes that the Phase 2 investigation only covered the western most third of the site, and that no intrusive investigation has been undertaken for the remaining two thirds. The reported actions and analysis of the risks and liabilities detailed in the submitted report are agreed in principle as being in accordance with relevant guidance and good practice. The Environment Agency agrees with the recommendations for further investigations for this third of the site. Further clarification should be sought from Swale Borough Council's Environmental Health Officer with respect to issues related to potential human health risks.

The Environment Agency has no objection to planning permission being granted to the proposed development as submitted subject to a range of planning conditions. Without these conditions the proposed development on this site poses an unacceptable risk to the environment and we would object to the application. has assessed the application as having a low environmental risk and consequently raises no objection to the proposal. Informative has been recommended in respect of consents, permissions and licenses.

7.13 **Council's Tree Consultant** has not raised objection subject to imposition of conditions relating to landscape and tree provision and tree protection.

7.14 The comments of my **Economic Development** colleagues are awaited, and I will update Members at the meeting.

8.0 APPRAISAL

8.1 The principle of the change of use

8.2 The application site is an established employment site for heavy industry. Although it has been in use as a steel mill for 40 years, that use is no longer viable and the site has remained dormant for the last 4 years. The nature of the buildings and site structures are closely related to its former use and not readily adapted to current industrial needs. The neighbouring Port of Sheerness has identified a need to expand in order to cope with increased demand for storage space and is seeking to redevelop the site for this purpose.

8.3 Policy B1 of the Local Plan 2008 requires land and buildings in employment use to be retained for that use unless demonstrated that it is no longer suitable for employment, while Policy SP3 of the Local Plan 2008 seeks to support local company growth and satisfy economic need. Although the level of employment associated with the proposed use will be substantially less than that associated with the steelworks use, the proposal will nevertheless contribute positively to stabilise losses of jobs within the (steel) manufacturing sector and support the extension of an existing employment site (the docks). This, further accords with Policy CP1 of the Emerging Plan which seeks to build a strong competitive economy and bring forward an increase in business creation and inward investment.

8.4 Paras 18 & 19 of the NPPF state that the Government is committed to securing economic growth in order to create jobs and prosperity and in ensuring that the

planning system operates to encourage and not act as an impediment to sustainable growth. In this instance implementation of the change of use will make beneficial use of a previously developed industrial site that would otherwise be, for reasons associated with its former use, be potentially uneconomic to develop and unsuitable for land use purposes such as housing without financially prohibitive reclamation.

8.5 Implications of the change of use

Under normal circumstances the proposal would entail a change of use from a Class B2 heavy industrial use to Class B8 storage and distribution use. The applicant has however applied for Port Related (sui generis) Use. This would allow extensive permitted development rights in accordance with the provisions of the Town and Country Planning (General Permitted Development) Order. Given the presence of heritage assets within and adjoining the site it is considered appropriate to restrict such rights through condition.

8.6 **Heritage and Conservation**

8.7 With the recent decision by the applicant to retain the (recently listed) former military hospital building, it is reasonable to lift earlier objection to the granting of planning permission. While detailed design matters still need to be resolved these are capable of being dealt with via planning conditions. These include the need for a programme of archaeological works and the provision of a hard and soft landscaping scheme. In common with the views expressed by heritage experts at Historic England and Kent County Council, the granting of planning permission for this site to be used for port purposes, can be seen as an essential step in finding a securer future for all of the designated heritage assets associated with the port

8.8 Although now protected by its addition to the statutory list, the former military hospital still faces an uncertain future and will ideally require a complementary use which will sustain its long-term repair and maintenance. Finding such a use is however a matter outside the remit of this determination process which seeks a change of use of the larger site. It is however important that the opportunity for identifying a new use for the hospital should not be prejudiced by access constraints and/or wholly unsympathetic adjoining development. On one hand it needs to be recognized that the listed building lies within a larger industrial site and that there are operational requirements associated with the proposed use of the land in conjunction with the Port of Sheerness. It should also be understood that there is no 'as of right' public access to the building. As the use of land for port related uses allows extensive permitted development rights it is considered appropriate in this instance to restrict certain of those right such as restrictions on the proximity and height of cargo that could otherwise visually dominate the historic building and its immediate setting.

8.9 If a port related use for the building cannot be found (as seems likely to be the case given the consistent feedback from applicant in this respect) then future opportunities for a beneficial use of the building will be more difficult to secure if the building is dominated by port related activities. Since the decision taken by Heritage England to list the building, the applicant has engaged positively in addressing heritage concerns. The option for an independent access to the building without the need to pass through port security has been considered and this now forms part of the amended proposal. It is hoped such measures will ultimately assist with other heritage initiatives that will in turn help regenerate the social and economic fortunes of Sheerness.

- 8.10 The proposed redevelopment of the site has the potential to affect buried archaeological remains, including the outline of the moated defence structure. Historic England and Kent County Council's Heritage Team have provided detailed advice and recommendations in this respect, and conditions will be attached to address the issues arising.

8.11 Residential amenity implications

- 8.12 In comparison to the sites former use the proposal represents a substantive improvement in terms of the impact upon the local environment including the impact upon residential amenity. Air quality will improve significantly due to the cessation of industrial steel production, there will be reduction in road traffic and there will be the potential for a significant reduction in noise and disturbance emanating from the site. Given the history of the site it would seem unreasonable to impose hours of working conditions particularly as noise, such as might be generated from loading and unloading operations, can be controlled by separate environmental health legislation, should that be an issue.

8.13 Transportation implications

- 8.14 The impact on the highway network will be significantly relieved as a result of the railhead development and emphasis on rail freight transportation. National Rail has not objected to the proposals subject to compliance with their requirement. The proposed new road bridge, linking the site to dock storage land within the control of the applicant falls under the jurisdiction of Highways England who have not raised objection subject to legal agreement under the Highways Act. Kent County Council Highways and Transportation has not raised objection subject to imposition of condition requiring the road overbridge to be completed and commissioned prior to first use of the site.

8.15 Air Quality

- 8.16 For the purposes of this application, notwithstanding that the steel facility has closed and would in the current economic climate be highly unlikely to re-open, due regard must be given to the current authorized use of the site as a steelworks. Given the level of emissions associated with steelwork production, the proposed change of use will result in a significant improvement in air quality both within Sheerness and within the wider area. Although there will be a degree of dust generation as a result of the intended demolition and site restoration processes, it is anticipated that this will be contained within a relatively brief period of time during the construction phase and will be subject to the imposition of conditions such as watering and other measures intended to reduce air-borne dust. Crucially air quality as a result of the cessation of steel manufacturing and the projected reduced road traffic levels will significantly improve. This is in line with Paragraph 17 of the NPPF which require the planning system to contribute to reducing pollution. The development is considered to be compliant with both Adopted Local Plan policy SH1 and Emerging Local Plan Policies ST3 and ST5 which highlight air quality as a constraint to development, although it is noted that there are no relevant AQMA's in this part of the Borough.

8.17 Ecology

- 8.18 As would be expected for a former heavy industrial site, the scope for the establishment of flora and fauna has been extremely limited given in particular the presence of ground and pond water pollution. This overview is supported by the findings of the Ecological Appraisal document (Brindle & Green, February 2016) who

conclude that the 'likelihood of indirect impacts is considered low'. Although Natural England has requested that regard be given to their standing advice, and have requested that where possible biodiversity be enhanced, there are no specific concerns relating to site ecology in this instance or in respect of SPA, Ramsar or SSSI sites.

8.19 Landscaping

8.20 Existing tree and hedge cover on this site is limited and is confined to the site perimeter where it affords a degree of intermittent screening. Although a dense row of semi-mature conifers lining the northern site boundary adjoining Brielle Way afford effective screening of the larger site buildings, the conifers do in other respects not contribute positively to local character and do not merit statutory protection. Furthermore, the applicant has advised as to current Department of Transport requirements for security fencing around Ports and it would appear that the existing conifers represent a security risk as they would be readily scaled and used for unauthorized entry to the site. Consequently it is considered unreasonable to require their retention. The potential loss of the existing screening can however be mitigated by landscaping provision within the site. The applicant has amended drawings showing a landscaped perimeter bund that would be located within the site and extend for much of the northern and western boundaries, providing screening on the approaches to the town of Sheerness along the A249.

8.21 Flood Risk

8.22 Although the site is located within a flood risk area (Flood Zone 3), no built development is proposed within the site. Given that the proposed use of the site is for surface level car storage and other forms of goods storage, and that retained buildings would not constitute an obstruction to flood waters, the nature of the use would not exacerbate the current flood risk status of the site.

8.23 Developer Contributions

8.24 No contributions are sought and it is considered that biodiversity and heritage enhancement can be achieved by way of planning conditions.

8.25 Site Contamination and Demolition

8.26 Land Contamination issues as a result of the former industrial site processes have raised understandable concerns within the neighbouring resident community. Since submission of the application specialist site investigations have been carried out to further inform a comprehensive understanding of the nature and extent of contamination both below ground and on the surface. Following this process the Environmental Protection Team Leader has advised that contamination and pollution together with safeguards necessary during demolition that may have otherwise impacted on the environment can be satisfactorily addressed through condition and has removed earlier objection to the proposal.

8.27 The Environment Agency was responsible for monitoring the site during the latter period of steel production. Although they have noted that initial investigations covered only the western portion of the site, this is understandable as that was the area recorded as being used for storage, burial and deposit of contaminated materials. They have not raised objection to the proposals subject to imposition of conditions, many of which re-iterate the range of conditions required by the Environmental Protection Team Leader.

- 8.28 National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121). The strategy proposed to deal with site contamination is considered acceptable and in compliance with the NPPF.

9.0 Conclusion

- 9.1 The proposed use and associated re-development of the site (including demolition) and the cumulative impact of that use would not give rise to unacceptable harm to the environment or to residential and public amenity, would result in a considerable reduction in environmental impact, would enable the expansion of the Port of Sheerness and as a result would provide opportunities for job creation and provide a boost to the local economy, would make beneficial use of a redundant industrial land resource and would preserve the local heritage. For these reasons the proposed development is considered to represent sustainable development in accordance with Plan Policy and the provisions of the NPPF and is acceptable.

- 10.0 RECOMMENDATION** Approve subject to the following planning conditions.

CONDITIONS

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

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

- 2 No development (include surfacing but excluding demolition) shall take place until details of a soft landscaping works to include the creation of landscape bunds (which shall have regard to the protection of underground services) and planting have been submitted and approved by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, and an implementation programme. All soft landscaping works shall be carried out in accordance with the details and programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and to encourage wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

- 3 No development shall take place until a tree protection plan, arboricultural impact assessment and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the local planning authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access,

demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: In the interests of the visual amenities of the area and to encourage wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

- 4 The use of the site hereby approved shall not commence until a landscape management plan to include new and existing areas of landscaping and the grassed embankment forming the rampart to the visible remains of the Sheerness Lines Moat Rampart defence structure has been submitted to and agreed by the Local Planning Authority. Management of the relevant areas (to be shown on a site plan to be submitted as a requirement of the condition) shall thereafter fully accord with the details specified in the approved plan.

Reason: To ensure that an acceptable standard of landscaping is maintained and in order to maintain the historic integrity of the historic ramparts.

- 5 Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and to encourage wildlife and biodiversity.

- 6 Prior to first use of the site as hereby approved details of security fencing to the site boundary shall be submitted to and approved by the Local Planning Authority. The fencing shall be retained as approved for the lifetime of the development.

Reason: To ensure a satisfactory standard of security and in the interests of visual amenity.

- 7 No development including demolition shall take place until details of any proposals involving below ground excavation including details of remediation works, works to create a level development platform and infilling of the ponds have been submitted to and approved by the Local Planning Authority. Development works shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of important archaeological remains.

- 8 No development including demolition shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
i) archaeological assessment and/or field evaluation works in areas proposed for ground excavation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
ii) further to the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

- 9 The north east part of the site, specifically around the listed building area shown in 'pale blue' on the amended proposed site layout drawing (drawing no. WDK-SI-A-000-013 Rev. P11) for Port multi-user open storage shall not be brought into use for open storage purposes until the following details have been submitted to and subsequently approved in writing by the LPA, and implemented (as appropriate) in accordance with the approved details:

- (a) A boundary treatment scheme for an area around the grade II listed former military hospital building to include walling and/or railings, and/or planting.
- (b) An open storage area site plan showing a buffer area around the curtilage of the listed building and its frontage that shall be kept free from the stacking of materials, that area to be subsequently marked out on site in accordance with a marking out scheme approved as part of the required submission of details.

Reason: In order to preserve the setting of the Grade II listed former military hospital building.

- 10 Prior to the commencement of development including the laying of any surfacing treatment, details of a 'safeguarding' scheme for the surface marking of the site (for the purposes of providing an interpretive aid to the outline of the buried moated defence structure and former military cemetery) shall be submitted and agreed in writing. The approved details shall be implemented prior to first use of the site and thereafter retained as approved.

Reason: In the interests of archaeological preservation.

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting the order) no permanent buildings or structures shall be erected on the areas marked out on the 'safeguarded' areas of the site (in accordance with C5 above) as forming either part of the former moated defence structure or forming part of the military cemetery or forming part of the historic wellhead, without the express consent of the Local Planning Authority.

Reason: In the interests of archaeological preservation.

- 12 The access route to the listed Grade II former hospital building shall be safeguarded and made available for the future use of the listed building.

Reason: To ensure that the potential for a future beneficial use of the listed building is not unreasonably prejudiced by other forms of development or land uses.

- 13 Land Contamination: No development including demolition shall be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- a) A Preliminary Risk Assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site;

b) A site investigation, based on the Preliminary Risk Assessment to provide information for a Detailed Risk Assessment of the risk to all receptors that may be affected, including those off site;

c) A Remediation Method Statement (RMS) based on the site investigation results and the Detailed Risk Assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action;

d) A Closure (Verification) Report to be submitted upon completion of the works. The Closure Report shall include full verification details as set out in RMS. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site and that any material brought onto the site is certified clean;

e) The Closure Report shall also include a “long-term monitoring and maintenance plan” for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure that ‘best practice’ is carried out in dealing with contamination which may pose significant risk to the public and to prevent pollution of controlled waters and comply with the National Planning Policy Framework.

14 If, during development to include demolition, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology;

b) Details of any post-remedial 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;

c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure that 'best practice' is carried out in dealing with contamination, which may pose significant risk to the public and to prevent pollution of controlled waters.

- 15 No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

- 16 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Penetrative methods, such as piling can result in risks to controlled waters from, for example, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

- 17 Landfill gas: In order to safeguard the future occupants of the site, a detailed scheme for the investigation, recording and remediation of gas shall be carried out. Such a scheme to comprise:
- a) a report to be submitted to and approved by the Local planning authority. The report shall include a risk assessment and detail how on site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported;
 - b) Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the Local Planning Authority. The Proposals shall detail sources of best practice employed;

The above works shall be carried out in full on site prior to first occupation/use.

Upon completion of the works a closure report shall be submitted to and approved by the Local Planning Authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme.

Reason: To ensure that 'best practice' is carried out in dealing with potential land gas emissions which may pose significant risk to the public and environment.

- 18 Hours of working (demolition/construction): No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday. [In addition to these hours of working the Local Planning Authority may approve in writing a schedule of activities where it is necessary for safety reasons to conduct

works during a railway possession or road closure, outside the hours specified in this condition].

Reason: To safeguard the amenities of the area.

- 19 Dust, odour and vapour emissions: Full details of all measures to be taken to deal with the emission of dust, odours or vapours arising from the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of site demolition works. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first use of the premises and shall be operated and retained in compliance with the approved scheme.

Reason: To safeguard the amenities of the area.

- 20 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting the order) the following restrictions will apply:
- a) Within the open storage area generally to the south west of the site and shown coloured 'fawn' on the amended proposed site layout drawing (drawing no. WDK-SI-A-000-013 Rev. P13) no building shall be erected or goods stored that exceed 20m in height.
 - b) Within the open storage area generally to the north east of the site coloured 'light blue' on the amended proposed site layout drawing (drawing no. WDK-SI-A-000-013 Rev. P13) and around the grade II listed former military hospital building, no building shall be erected or goods stored that exceed 10m in height.

Reason: In the interests of visual amenity and in order to protect the setting of the listed building.

- 21 Prior to first use of the site hereby approved the overbridge shall be constructed and commissioned to the satisfaction of Highways England.

Reason: Implementation of the use without the overbridge would lead to unacceptable pressure on the highway network and in particular congestion at the roundabout at the east end of Brielle Way.

- 22 Prior to surfacing of the site, surface water drainage works shall be implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SUDS) and the results of the assessment shall be provided to the Local Planning Authority. Where a sustainable drainage system is to be provided, the submitted details shall;
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii) include a timetable for its implementation; and
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme through its lifetime.

Reason: To ensure that surface water run-off is controlled and does not exacerbate the potential for flooding or groundwater contamination.

- 23 Unless otherwise approved in writing the development shall be carried out in complete accordance with the drawings and plans hereby approved.

Reason: To ensure that development is carried out as permitted.

Informatives:

- 1 **Demolition:** Any decommissioning of infrastructure or remediation of impacted ground must be carried out in a strictly controlled manner to ensure that contaminants are not exposed and releases allowed to air, land or controlled waters, which could cause pollution, harm or nuisance. Clearing areas, particularly removing hardcover, must be done in a manner not likely to expose contaminants to flushing by incipient rainfall or surface water run-off on the site. Temporary surface water controls and management of any materials movement on site is critical to ensure protection of controlled waters near the site (Environment Agency Informative).
- 2 **Waste to be taken off site:** Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: □ Duty of Care Regulations 1991 □ Hazardous Waste (England and Wales) Regulations 2005 □ Environmental Permitting (England and Wales) Regulations 2010 □ The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information (Environment Agency Informative).
- 3 **Drainage:** The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:
 - Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods.
 - No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated.
 - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.

A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater (Environment Agency Informative).

- 4 It is recommended that the applicant enter into discussions with Southern Water to confirm acceptability of connection and discharge rates to the public surface water sewer (Southern Water Informative).
- 5 Should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the property served by the sewer and potential means of access before any further works commence on site (Southern Water Informative).
- 6 No development or new planting or new tree planting should be located within 4metres of the centreline of a public sewer (900mmm and 750mm) and within 3.5m of the centreline of a public sewer (525mm). No excavation, mounding or tree planting should be carried out within 4metres of the public water main (250mm), without the consent of Southern Water; All existing infrastructure should be protected during the course of demolition and construction works; No new soakaways should be located within 5metres of public sewers and water mains (Southern Water Informative).
- 7 You are advised to contact Medway Internal Drainage Board for formal consent for any works affecting a watercourse.
- 8 In respect of British Rail land the following comments have been received: the developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:
 - encroach onto Network Rail land
 - affect the safety, operation or integrity of the company's railway and its infrastructure
 - **undermine its support zone**
 - damage the company's infrastructure
 - place additional load on cuttings
 - adversely affect any railway land or structure
 - over-sail or encroach upon the air-space of any Network Rail land
 - cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

Future maintenance

The development must ensure that any future maintenance can be conducted solely on the applicant's land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rail's

boundary. The reason for the 2m (3m for overhead lines and third rail) stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments.

Drainage

No Storm/surface water or effluent should be discharged from the site or operations on the site into Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 - 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

Plant & Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must

consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing /wall must not

be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Noise and Vibration

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to

Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "**Zebrina**"¹¹

Not Permitted: Alder (Alnus Glutinosa), Aspen – Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

Vehicle Incursion

Where a proposal calls for hard standing area / parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.

As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts AssetProtectionKent@networkrail.co.uk prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from our website at www.networkrail.co.uk/aspx/1538.aspx.

Council's approach to the application

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

This application was considered to accord with the provisions of the Development Plan and NPPF.

Case Officer: Jeff Sadler

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

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PLANNING COMMITTEE – 13 OCTOBER 2016

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

REPORT SUMMARY

3.1 REFERENCE NO - 16/500006/FULL			
APPLICATION PROPOSAL Erection of a new detached two storey dwelling and garage			
ADDRESS 106 Scrapsgate Road Minster-On-Sea Kent ME12 2DJ			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR REFUSAL The proposed property due to its scale in the context of surrounding development and layout would have an unacceptable impact upon the streetscene, visual amenities and residential amenities.			
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to Parish Council view			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr A Brooks AGENT Anderson Design	
DECISION DUE DATE 04/04/16	PUBLICITY EXPIRY DATE 18/3/2016		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/01/1087	Outline application for a detached house	Approved	21.12.2001

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises a vacant parcel of land located between No.106 and No.104 Scrapsgate. The site measures approximately 45m in depth and 14m in width. Open land is situated to the rear of the site.
- 1.02 Although Scrapsgate in the wider sense is characterised by a variety of housing types and designs both adjacent properties are bungalows.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a detached two storey dwelling with rooms in the roofspace.

- 2.02 The dwelling would measure 13.6m in depth at its deepest point and 9.7m at its shortest point. The property would also have a frontward projecting attached garage measuring 5.7m in depth and 6m in width. The main dwelling would measure 5.8m to the eaves and 9.7m to the ridgeline. A chimney is also proposed finishing 0.6m above the ridge line of the property.
- 2.03 The rearward projecting element of the property measures 2.9m to the eaves and 5.3m in overall height whilst the frontward projecting garage measures 3m to the eaves and 5.4m in overall height.
- 2.04 The rear private amenity space will measure 18m in depth and an indicative planting scheme has been shown which includes a laurel hedge in front of the proposed garage and planting on each common boundary to the rear.
- 2.05 The internal layout of the property will be comprised of kitchen / dining room, living room, study, bathroom and utility at ground floor level, 3 bedrooms, 2 en-suites and a separate bathroom at first floor level and a bedroom and bathroom at second floor level within the roofspace.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and 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;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.04 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.05 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.
- 4.06 The Swale Borough Local Plan Proposed Main modifications 2016 policies ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3

(Delivering a wide choice of high quality homes); DM14 (General development criteria) are also relevant.

5.0 LOCAL REPRESENTATIONS

5.01 Surrounding properties were sent a consultation letter and a site notice was displayed. No responses were received.

6.0 CONSULTATIONS

6.01 **Minster-on-sea Parish Council** support the application.

6.02 The **Environment Agency** (EA) initially objected to the proposal as the Flood Risk Assessment (FRA) did not confirm ground levels of the site or finished ground floor levels of the proposed new dwelling. Subsequent to this further information was submitted and on this basis the EA have confirmed that the objection can be removed.

6.03 **Natural England** raise no objection to the proposed development. Natural England state that the consultation documents do not include information to demonstrate the requirements Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA). In advising your authority on the requirements relating to the HRA, and to assist you in screening for the likelihood of significant effects, based upon the information provided, Natural England offers the following advice:

- The proposal is not necessary for the management of European sites;
- Subject to appropriate financial contributions being made to strategic mitigation, the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment.

Natural England are also of the view that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSIs named above have been notified. The authority is therefore advised that these SSSIs do not represent a constraint in determining this application.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 16/500006/FULL and SW/01/1087.

8.0 APPRAISAL

Principle of Development

8.01 The application site lies within the built up area where the principle of residential development is accepted. I also note that an outline application submitted under SW/01/1087 approved in principle the development of a dwelling on this site (although not the siting, design, external appearance, means of access or landscaping). Although a period of time has passed between the granting of the outline permission and the consideration of this current application I am of the opinion that both national and local policies still support the principle of residential

development in this location. On this basis I am of the view that the principle of development is accepted.

Visual Amenity and Impact upon Streetscene

- 8.02 As set out above, Scrapsgate, considered in its overall context is a street comprised of a variety of properties, both in terms of scale and design. However, in the immediate vicinity of the application site the properties which flank the location of the proposed property are both bungalows. The result of this is that the built form in this specific part of Scrapsgate is characterised by single storey development which has a very modest impact upon visual amenities and the streetscene.
- 8.03 The proposal would introduce a two storey property with rooms in the roofspace, measuring 9.7m to the ridgeline. The result of the introduction of a property of this imposing scale and bulk would in my view be at odds with the immediately adjacent dwellings, would appear incongruous in the streetscene and result in a development which in my opinion would give rise to significant harm to the existing character of the streetscene and to visual amenities. On this basis I am of the view that the proposal would look significantly out of keeping, is unacceptable and should be refused for this reason.

Residential Amenity

- 8.04 The two adjacent properties, No.106 to the north and No.104 to the south are staggered with No.104 situated approximately 6.8m from the highway and No.106 set back by 15m.
- 8.05 As set out above, the proposed dwelling has a frontward projecting garage located 1.4m away from the flank wall of the existing property at No.106. The garage will project 6m beyond the front elevation of No.106, furthermore the proposed property is located to the south of this neighbouring property. I also take into consideration that the garage will be 5.4m in height. As such, when the depth of the projection is combined with its height and positioning south of the existing property at No.106 I am of the view that this element of the proposal would have a significantly overbearing impact upon the neighbouring property leading to a sense of enclosure and unacceptable loss of light.
- 8.06 On the opposite side the flank wall of the proposed property is separated from the flank wall of No.104 by 4.6m. The proposed property projects to the rear of No.104 at two storey height by 3.8m and a further 4m at single storey height. As such, the proposed property as a whole would project by 7.8m past the rear wall of No.104. I note that No.104 has outbuildings which project rearwards along the common boundary with the application site, however these are single storey and limited in height. As such, even though the proposed property is situated to the north of No.104 I believe that a rearward projection to this depth, a proportion of which would be at two storey height, would create a significant sense of enclosure and would lead to an unacceptably overbearing impact upon the occupiers of No.104.
- 8.07 As a result of the above assessment I am of the view that the proposal would introduce a dwelling which would cause significant harm to the residential amenities of the occupiers of both adjacent properties and for this reason is unacceptable.

Flood Risk

- 8.08 The application site lies within Flood Zone 3 and on this basis the EA were consulted. They initially objected to the proposal as the FRA did not confirm ground levels of the site or finished ground floor levels. After liaising with the agent additional information was included in the FRA and I re-consulted with the EA. They have confirmed that the additional information is acceptable and have removed their objection. As such I do not consider that the proposal would give rise to unacceptable risk of flooding to future occupants of the dwellings.

Impact Upon SPA and Ramsar Sites

- 8.09 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

9.0 CONCLUSION

- 9.01 Overall I consider that although the principle of development is accepted, the scale and layout of the proposed property would have an unacceptable impact on the streetscene, visual amenities and residential amenities. For these reasons I recommend that the application is refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The proposed property by virtue of its large scale and bulk would appear significantly out of character in the context of the adjacent properties and would give rise to unacceptable harm to the streetscene and visual amenities contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.
- (2) The proposed property by virtue of the forward projecting garage would have a significantly overbearing impact upon the occupiers of No.106 leading to an unacceptable sense of enclosure and loss of light causing unacceptable harm to residential amenities contrary to policies E1 and E19 of the Swale Borough Local Plan 2008 and the Council's adopted Supplementary Planning Guidance - Designing an Extension: A Guide for Householders.
- (3) The proposed property by virtue of its layout and projection past the rear elevation of No.104 would have a significantly overbearing impact upon the occupiers of this property leading to an unacceptable sense of enclosure contrary to policies E1 and E19 of the Swale Borough Local Plan 2008 and the Council's adopted Supplementary Planning Guidance - Designing an Extension: A Guide for Householders.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4.2km east of Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring

migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in

order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion as this is a replacement dwelling, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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

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PLANNING COMMITTEE – 13 OCTOBER 2016

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 16 Stiles Close, Minster**

APPEAL ALLOWED

Observations

COMMITTEE REFUSAL – against officer’s recommendation

The Inspector considered that the proposed extension would not harm visual or residential amenity, contrary to the decision of the Planning Committee.

- **Item 5.2 – Brook Farm, Butler Hill, Dargate**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council’s decision.

- **Item 5.3 – Land adjacent to 27 Waverley Avenue, Minster**

APPEAL ALLOWED

Observations

COMMITTEE REFUSAL – against officer’s recommendation

The Inspector was of the view that the development would not harm residential or visual amenity, contrary to the decision of Members.

- **Item 5.4 – 177 Wards Hill Road, Minster**

APPEAL ALLOWED

Observations

COMMITTEE REFUSAL – against officer’s recommendation

The Inspector considered that the proposed extension would not harm visual or residential amenity, contrary to the decision of the Planning Committee.

- **Item 5.5 – 19 South Road, Faversham**

APPEAL DISMISSED

Observations

COMMITTEE REFUSAL– in accordance with officer’s recommendation

Full support for the Council’s decision.

- **Item 5.6 – Lamberhurst Farm, Dargate Road, Yorkletts**

APPEAL DISMISSED

Observations

Appeal Against Non-Determination

This appeal was actually lodged on the same day and just after the application was refused under delegated powers, but the Planning Inspectorate still insisted in treating it as for non-determination despite our objection to this. The decision fully accords with the Council’s decision.

- **Item 5.7 – 16 Hawthorn Road, Sittingbourne**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL

Full support for the Council’s decision.

- **Item 5.8 – Glenlodge, Queenborough Drive, Minster**

APPEAL ALLOWED

Observations

COMMITTEE REFUSAL – against officer’s recommendation

The Inspector was of the view that the development would not harm residential or visual amenity, contrary to the decision of Members.

- **Item 5.9 – 6 Meadow Rise, Iwade**

APPEAL DISMISSED

Observations

COMMITTEE REFUSAL– in accordance with officer’s recommendation

A disappointing decision where the Inspector has given little weight to the Council’s adopted SPG.

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Appeal Decision

Site visit made on 30 August 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 1 September 2016

Appeal Ref: APP/V2255/D/16/3151559
16 Stiles Close, Minster-on-Sea, Kent, ME12 2TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs D Price against the decision of Swale Borough Council.
 - The application Ref 15/503342/FULL, dated 14 April 2015, was refused by notice dated 4 April 2016.
 - The development proposed is to demolish existing garage and construct two storey side extension.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and construction of two storey side extension and single storey rear extension at 16 Stiles Close, Minster-on-Sea, Kent, ME12 2TQ in accordance with the terms of the application, Ref 15/503342/FULL, dated 14 April 2015, subject to the conditions set out in Appendix A.

Preliminary Matters

2. The appeal scheme has been amended since its original submission to the Council. I understand that it is drawing 002 stamped 'amended' and dated 10 April 2015 for which permission is sought, and have proceeded on this basis.
3. The description in the above header derives from the original planning application form. It is clear that since the original application was submitted, the scheme has been amended. For example a single storey front extension has now been omitted, but a single storey rear extension added. The description on the decision notice appears to reflect these later changes. For the avoidance of doubt, I have adopted its usage to describe what permission has been granted for in this case.

4. As notified prior to my site inspection, I undertook an access required site visit from 08:00 onwards. I viewed the appeal site from within the site, from the street scene, and also from No 15 Stiles Close and Nos 10 and 12 Appleford Drive. I was unable to gain access to No 14 Appleford Drive. However, I am content I was able to see what I needed to make an informed decision from the above viewpoints.

Main Issues

5. The main issues are;
 - The effect of the proposed development on the character and appearance of the street scene, and;
 - The effect of the proposed development on the living conditions of neighbouring occupiers with specific regard to outlook and overshadowing.

Reasons

Character and appearance

6. The appeal site comprises a two storey detached house, located within a residential cul-de-sac in the built-up area of Minster-on-Sea. The immediate street scene is characterised by properties of a similar design and size, with the area appearing as a planned estate layout. To the west lies Appleford Drive, the gardens of Nos 10 and 12 of which I was able to see directly about the appeal site. Within the street scene it is possible to see other alterations to buildings, for example conservatories.
7. The appeal scheme seeks the erection of a two storey side extension on the western side of No 16 Stiles Close, together with a single storey rear extension element, as shown on drawing 002 (Stamped Amended by the Council), dated 10 April 2015.
8. The appeal site lies at an angle to Stiles Close. This means that any development on the western flank of No 16 would be visible when entering the Close. However, the two storey extension would be of a traditional design, and would utilise matching materials so as to ensure visual conformity with the main dwelling. What is more, the proposed extension would be set back from the prominent projecting gable at No 16, and thus help maintain its noticeable and important architectural status within the front façade of the building. The strong and prominent sloping gable end is a key feature of other dwellings within the Close.
9. I note the comment made in respect of the minimalist nature of the proposed flank elevation, with only a window at ground floor level. However, windows in this elevation have been purposely kept to a minimum in order to reduce the potential for overlooking towards the gardens of properties facing Appleford Drive. It may be possible to use some form of decorative brickwork or relief to reduce the blandness of a blank side wall when viewed from the private gardens of Appleford Drive. However, to control such matters by planning condition would be onerous. In any case, the degree of any harm arising in terms of the appearance of the flank wall would not be materially harmful given that the wall would not be dissimilar to others in the locality. These findings echo those of the Planning Officer in their report to the Planning Committee.

10. The rear extension proposed would be of a typical appearance and size, in terms of height and depth, for a residential property. Furthermore, views of it would be restrained by its rear of site location and the surrounding forms of boundary treatments. I do not find that this element of the scheme would be harmful to the street scene.

11. I therefore conclude that the proposed development would not result in material harm to the character and appearance of the street scene. Accordingly, the proposal would accord with Policies E1, E19 and E24 of the *Swale Borough Local Plan 2008* (SBLP), which, amongst other aims, seek to protect and enhance the built environment, reinforce local distinctiveness and ensure that alterations and extensions are of high quality design.

Living conditions

12. The appeal site is located to the east of properties facing Appleford Drive. The proposed extension would be situated about 11 metres or so from the rear elevations of these dwellings. The Committee report indicates that typically a distance of at least 11 metres is sought. Design codes, or other such guidance, should avoid unnecessary prescription or detail and should instead guide development. Nevertheless, a gap of at least 11 metres between the proposed flank wall and the rear of adjoining properties would assist in ensuring that the two storey extension element does not visually dominate outlook. Indeed, I saw that whilst the two storey extension would bring the footprint of No 16 closer to the rear gardens, the gardens themselves would retain their fairly open outlook.

13. In terms of overshadowing, it is almost inevitable that the proposal would lead to some loss of direct light in the gardens of properties facing Appleford Drive. However, the modest gardens serving those dwellings are situated on a roughly north-east to south-east axis. What this would mean is that even with the proposed extensions, the garden areas of these adjoining dwellings would still maintain a high level of sun and day light into their rear gardens and rear windows for a majority of the day, including the morning, afternoon and early evening. I am supported in this assessment by the fact that I saw the sun clearly in the gardens of Nos 10 and 12 Appleford Drive when undertaking my site inspection and could see that even with a two storey extension, the sun in that location at that time of day would still be visible from the patio of No 12 for example.

14. I therefore conclude that the proposed development would not result in material harm in respect of the living conditions of neighbouring occupiers with specific regard to outlook and overshadowing. Accordingly, the proposal would accord with Policies E1, E19 and E24 of the SBLP, which, amongst other aims, seek to protect residential amenity.

Other Matters

15. A number of concerns have been raised by the Parish Council and local residents. I now consider these before coming to an overall conclusion. In terms of parking provision, the proposed drawing shows that off street parking can be provided for two vehicles. The Council's report explains that this would be in accordance with the Kent County Council Vehicle Parking Standards, as set out in Interim Guidance Note 3, which sets out that for a suburban area,

2 spaces is the minimum requirement for a 4+ bedroom dwelling. There also does not appear to have been any objections from the local highways authority. With no evidence to the contrary, I see no reason to disagree with the local planning authority's assessment that the parking provision would be sufficient in this case.

16. In terms of vermin infestation, access onto adjoining properties, health issues from dust, and health and safety concerns from things such as falling nails; these are matters typically subject to other regulatory controls or are private matters between other parties. I have not considered them further and they do not weigh within any planning balance.
17. In terms of flood risk, the site lies within Flood Risk Zone 3. However, conditions can be used to ensure resilience measures are used so as to mitigate and reduce any harm to life or property arising from any flood related incidents. What is more, such flood risk is unlikely to significantly increase from the erection of a two storey extension to a residential property when taking into account the size and nature of the wider Flood Zone.
18. Concerns raised in respect of the circulation of the committee report prior to the meeting, the provision of pre-application advice and how the Council conducted itself prior to the appeal are beyond the remit of a Section 78 appeal. I have not considered this matter further, and instead have concentrated on the planning merits of the proposal.
19. I do not, therefore, find that these other matters raised, whether individually or in combination, justify the dismissal of the appeal scheme.

Conditions

20. A number of conditions are suggested in the Council's Committee report. I have considered these in light of Paragraph 206 of the Framework and the Planning Practice Guidance in respect of the use of planning conditions.
21. A condition requiring the use of matching materials is necessary to protect the character and appearance of the street scene. A condition requiring that no openings be placed in the proposed flank wall is reasonable given that such insertions may result in unacceptable levels of overlooking. The suggested condition relating to the retention of the parking spaces is not reasonable given that part of the area is already used for such purposes.
22. Conditions requiring finished floor levels to be no lower than existing and that details of flood resilience measures are submitted to the local planning authority are reasonable and necessary so as to reduce the potential risk to life or property within an area identified as Flood Zone 3. However, the latter condition should have a requirement that it is implemented in order for it to achieve its aim.
23. Lastly, although not suggested by the Council, given the location of the appeal site within a residential area, a condition restricting hours of building works and deliveries is reasonable in this case, so as to reduce the impact of these activities on neighbouring occupiers.

Conclusion

24. For the reasons given above, and having taken into account all matters raised,

I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appendix A – List 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 following approved plans: 002 (labelled amended) dated 10 April 2015.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows/doors/voids or any other openings, other than those expressly authorised by this permission, shall be constructed on the proposed elevation facing the rear gardens of Appleford Drive.
- 4) The finished floor level of the development hereby approved shall not be set lower than that of the existing dwelling.
- 5) No development shall take place (including demolition works) until details of flood resistance and resilience measures to be incorporated in the development have been submitted to and approved in writing by the local planning authority. Thereafter, such details shall be implemented as approved.
- 6) Demolition or construction works (including deliveries of materials) shall take place only between 08:00 to 18:00 on Mondays to Friday, and between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

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Appeal Decision

Site visit made on 1 August 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 2 September 2016

Appeal Ref: APP/V2255/W/16/3148613

Brook Farm, Butlers Hill, Dargate, Kent ME13 9HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Whittlesea against the decision of Swale Borough Council.
 - The application Ref 15/510551/FULL, dated 22 December 2015, was refused by notice dated 24 March 2016.
 - The development proposed is convert existing, redundant outbuilding into single dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has drawn my attention to an extensive list of new build and conversion proposals (the history cases) that have been permitted by the Council or allowed on appeal, which he considers lend support for the appeal development. However, no details¹ for these history cases were included with the appellant's originally submitted case, with it being mistakenly presumed that part of my role would be to research this planning history. Accordingly, and in recognition of the fact that the appellant is unrepresented, I have given him the opportunity to submit further details for up to six of the history cases for me to consider. I shall comment further on those history cases in my reasoning below.

Main Issue

3. The main issue is whether the appeal site would be an appropriate location for a dwelling having regard to local and national planning policies concerning the provision of housing in the countryside.

Reasons

4. The appeal building is a small detached outbuilding that is sited a little to the west of Brook Farm, a detached house. The appeal development would involve the conversion of the outbuilding into a one bedroom dwelling and this proposal would include some limited alterations to the building's fenestration.
5. The dwelling would be located within the countryside and accordingly on the face of it there would be conflict with Policies E6 and RC6 of the Swale

Borough Local Plan of 2008 (the Local Plan), which discourage new dwellings in a location such as this.

6. Policy E6 is a general policy that seeks to protect the countryside from inappropriate development, although the conversion of buildings and the provision of affordable housing may be permissible, subject to compliance with Policy RC6. Policy RC6 in addressing the re-use of rural buildings for residential purposes indicates, amongst other things, that permission will not be granted unless it has been demonstrated that a reasonable and sustained effort has been made to secure an acceptable employment or community use (market testing) or the building would be undesirable or unsuitable for a non-residential use in its own right or by way of its location.
7. However, the appellant contends that the Council cannot currently demonstrate the availability of a five year housing supply (HLS) within its area and the Council has not refuted that contention. In the absence of comments to the contrary the available evidence suggests that a HLS is currently absent. I consider Policies E6 and RC6 are ones that affect the location of housing and are thus relevant to its supply and in the absence of an HLS should not be treated as being up to date for the purposes of paragraphs 14 and 49 of the National Planning Policy Framework (the Framework), as clarified by a recent Court of Appeal judgement².
8. Taking the above into account the presumption in favour of sustainable development referred to in the Framework is engaged. Accordingly permission should be granted unless ‘... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole ...’ (paragraph 14 of the Framework).
9. Paragraph 55 of the Framework is of particular relevance to this case and while it promotes sustainable development in rural areas, it states that housing should be located where it will enhance or maintain vitality in rural communities, with development within one village in some instances having the potential to support services in others nearby. Paragraph 55 goes onto to state that isolated homes in the countryside should be avoided unless there are special circumstances such as an essential need to accommodate rural workers (first bullet point) or a scheme would involve the re-use of a redundant or disused building and lead to an enhancement to the immediate setting (the third bullet point).
10. Dargate is a hamlet which is characterised by a dispersed pattern of ribbon residential development along various roads. Those roads being narrow, unlit and lacking footways, factors discouraging their use by pedestrians or cyclists. Dargate has very few local facilities of its own, with the only facilities of particular note being The Dove Inn public house and a bus stop, both of which are situated approximately 800 metres (half a mile) from the appeal site, at the northern extremity of Bunters Hill. The 638 bus service operates between Faversham and Whitstable, however, this service operates on a quite limited basis³, with a frequency of: between one and two hourly on Mondays to

² Suffolk Coastal District Council v Hopkins Homes Ltd and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP v Cheshire East Borough Council and the Secretary of State for Communities and Local Government [2016] EWCA 168

³ According to the timetable displayed at the bus stop opposite the public house

Fridays; only two hourly in the middle of the day on Saturdays; and no services at all on Sundays. The Hernhill Church of England Primary School is around 1.6 Km (one mile) from the appeal site and I am mindful that within Dunkirk there is a post office and some other shops and commercial premises.

11. While there is some residential development along Butlers Hill, as I have indicated above, this together with the other housing in Dargate is of a dispersed nature and given the absence of a range of readily accessible facilities within this hamlet, I find the appeal development would amount to the provision of an isolated home in the countryside. In this respect it is of particular note that the closest towns providing a full range of facilities are Whitstable, Faversham and Canterbury, all of which are several miles away. Having regard to the limited facilities that are available within Dargate and the restricted bus service that is in operation, I find it likely that there would be a high level of private vehicle dependency amongst occupiers of the dwelling. In my opinion when considering whether a development would or would not be sustainable in transportation terms, proximity to public transport services is only one factor that needs to be taken account of, with the frequency of the services also being of significance.
12. There would be poor accessibility to local facilities and public transport and this weighs significantly against the sustainability of this development in locational terms. In this respect I note that two other Inspectors in determining three recent appeals⁴ have similarly concluded that Dargate is subject to a poor level of accessibility. I am also of the opinion that while the conversion of this building into a dwelling would bring some economic and social benefits, in terms of the provision of a dwelling and employment opportunities during the construction phase, those benefits would be very limited, particularly in the context of enhancing or maintaining Dargate's economic vitality and that of the other nearby rural communities.
13. For the purposes of paragraph 55 of the Framework I consider the only special circumstance relevant to this proposal is that relating to the conversion of an existing building. However, while the appellant has referred to this building as being a redundant one, at the time of my site visit it was being put to some use, with a car being parked within it and there also being some vehicle repair equipment and bikes in it. The building did not appear to be redundant or disused to me and the application form refers to it being used for storage (part 14) and this is consistent with my observations.
14. I found the outbuilding and its immediate surroundings to currently have an appearance that is appropriate to a location such as this and the building's setting is one that is not in need of enhancement, not least because the majority of the site is well screened from Butlers Hill by a mature hedgerow. I therefore find that the special circumstances referred to in paragraph 55 of the Framework needed to justify a proposal such as this not to be evident.
15. It is suggested that this dwelling could help in meeting the local need for housing, including that of some of the appellant's family members, in line with the results of the local housing needs survey commissioned by Hernhill Parish Council and the Council. While this proposal could assist with meeting local affordable housing needs, that contribution would be very modest and no

⁴ APP/V2255/A/14/2223979, APP/V2255/W/15/3135870 and APP/V2255/W/16/3144387

mechanism⁵ has been put forward by the appellant to secure the delivery of housing to meet any such local need. I therefore find that this aspect of the appellant's case attracts limited weight.

16. While there is no evidence that the appeal building has been marketed for non-residential occupation, the appellant has submitted that it has been used by a number of occupiers 'over the past few years', with those occupiers vacating it because its location was 'too distant' and/or there were issues with its security. The absence of any formal marketing having been undertaken is a factor that I find not to count to any significant degree against this proposal, having regard to the reduced weight that can be attached to Policy RC6 of the Local Plan and its inconsistency with the Framework, in that the need to provide evidence of market testing is not referred to in the Framework. However, the fact that the building's location has been a deterrent to its use by non-residential occupiers is a factor that lends support to my finding that this would be an isolated location for a dwelling.
17. With respect to the history cases I would make the following comments, although for the cases concerning the Granary at Place Farm, Sandhole Farm and Dorothy Caravan no Council officer reports have been provided to assist my understanding of the decisions made by the Council.
18. I find the case at Black Barn Farm not to be directly comparable because that site benefits from a prior approval consent (as opposed to an express planning permission) issued pursuant to the permitted development (PD) rights available under the provisions of secondary planning legislation⁶ for the conversion of agricultural buildings to dwellings. The Black Barn Farm application sought confirmation of the availability of the PD rights and as such the consideration of national and local planning policy was not relevant.
19. With respect to the Granary at Place Farm some of the planning conditions (11 to 13) that have been imposed refer to matters of detail suggesting that this building may be of greater architectural or historic interest than the appeal building, given the conditions that the Council has suggested be imposed in the event that this appeal is allowed. Accordingly on the available evidence it appears to me that the circumstances of the appeal development and the Granary are not comparable with one another.
20. With respect the proposal concerning Sandhole Cottage I note that the development type identified on the Council's decision notice is described as 'Householder' and this suggests to me that permission was sought for ancillary accommodation to the host property, as opposed to a freestanding dwelling. The decision notice for the appealed application describes the development type as being for 'Minor Dwellings' and this is consistent with this being for a standalone dwelling. I therefore find the Sandhole Cottage case not to be comparable with the appeal development.
21. With regards to Dorothy Caravan the proposed dwelling would replace a caravan and in my experience such a proposal is likely to have been subject to some form of special justification, such as a residential presence being required and a caravan initially being sited while a rural enterprise becomes

⁵ For example a planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

⁶ The Town and Country Planning (General Permitted Development) (England) Order 2015

- established and then being replaced by a permanent dwelling when it is demonstrated that the business is viable. On the available evidence I find it unlikely that the circumstances that gave rise to the permission at Dorothy Caravan to be comparable with the appeal development.
22. I do not consider the permission for the new primary school in Hernhill to be comparable with the appeal proposal as this involved the provision of a community facility, with it being envisaged that the redevelopment of the original school site would generate enabling funding for the new school. The circumstances surrounding the provision of the new school were therefore somewhat unique. I find the proposal concerning Black Oast, Godfreys Grave not to be comparable because it involved a conversion scheme for the provision of dyslexia teaching area and a holiday let rather than a single dwelling.
23. The appeal development would involve the formation of an isolated dwelling in the countryside for which no special justification has been demonstrated under the provisions of paragraph 55 of the Framework. I therefore conclude that this would be an inappropriate location for a dwelling and that there would be conflict with paragraph 55 of the Framework, with there being no particular support for this scheme under other parts of the Framework, most particularly paragraph 7, given the limited social and economic benefits that would arise. This proposal would also be contrary to Policies E6 and RC6 of the Local Plan, a factor weighing against this development. However, the absence of an HLS and the lack of full consistency between paragraph 55 of the Framework and Policies E6 and RC6 means that I find that the conflict with the Local Plan is, of itself, not determinative in this instance.

Other Matters

24. The appeal development would involve minimal external alterations to the building and I accept that the resulting development would have an acceptable appearance. While that matter weighs to a limited degree in favour of this proposal, it is a factor that I find to be outweighed by the harm that I have identified, harm which could not be overcome by the imposition of reasonable planning conditions.
25. The absence of any objections from Hernhill Parish Council or local residents does not persuade me that permission should be granted.

Conclusions

26. For the reasons given above I find that the benefits of this proposal are outweighed by its disadvantages and that this would be an inappropriate location for a dwelling. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

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Appeal Decision

Site visit made on 1 August 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 2 September 2016

Appeal Ref: APP/V2255/W/16/3148600

Land adjacent to 27 Waverley Avenue, Minster-on-Sea, Kent ME12 2JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Bagri against the decision of Swale Borough Council.
 - The application Ref 15/506114/FULL, dated 24 July 2015, was refused by notice dated 25 January 2016.
 - The development proposed is new 4 bedroom dwelling with integral garage.
-

Decision

1. The appeal is allowed and planning permission is granted for a new 4 bedroom dwelling with integral garage at Land adjacent to 27 Waverley Avenue, Minster-on-Sea, Kent ME12 2JL in accordance with the terms of the application, Ref 15/506114/FULL, dated 24 July 2015, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 29 Waverley Avenue (No 29), with particular regard to outlook and light.

Reasons

3. The appeal site comprises an overgrown and vacant plot of land between Nos 27 and 29, which are respectively a bungalow and a two storey house. This plot slopes downwards from front to rear and from No 27 towards No 29. Waverley Avenue is characterised by a mix of houses and bungalows of varied designs.
4. The appeal development would involve the construction of a four bedroom, two storey, detached house which would have an integral garage. The new dwelling would project by around 4.0 metres¹ beyond the rear elevation of No 29 and while it would be visible in outward views from some of No 29's windows, I find that there would be no unacceptable loss of outlook from those windows given their positions and the distances involved.
5. The house would similarly be visible from within No 29's rear garden. However, allowing for the new dwelling's height and the differences in levels between the appeal site and No 29's garden level, I find that the dwelling's siting would not have an overbearing presence when viewed from within

¹ Dimension taken from the Council's statement of case

No 29's rear garden. In this respect there would be no unacceptable loss of outlook for the occupiers of No 29.

6. The house would be sited due south of No 29 and consequently there is some potential for that neighbouring property's rear garden to experience some overshadowing. However, I consider that any such overshadowing would be of a limited extent, given the height and siting of the new dwelling, and that this would not adversely affect the living conditions of the occupiers of No 29.
7. There is potential for some overlooking of the rear gardens of No 27 and 29 to arise from the use of the proposed decked patio, given the height of the proposed balustrade. However, this concern could be addressed by the installation of privacy screening and this is something that could be secured by the imposition of a planning condition. With the installation of privacy screening I find that the use of the decked patio would not give rise to any unacceptable loss of privacy for the occupiers of Nos 27 and 29. I am also consider that the degree of physical separation that there would be between the new dwelling and the properties to the rear in The Broadway would be such that no unacceptable overlooking of those properties would arise.
8. For the reasons given above I conclude that this development would not be harmful to the living conditions of the occupiers of the properties adjoining the appeal site. In this respect I find there to be no conflict with Policy E1 of the Swale Borough Local Plan of 2008 in that no demonstrable harm would be caused to residential amenity.

Other Matters

9. Concern has been raised that construction of this dwelling could give rise to subsidence, however, this is a matter that is addressed by the Building Regulations and/or other non-planning legislation and is therefore not for my consideration.
10. I am aware from the Council's committee report of 17 December 2015 that this site is located to the north of the Swale Special Protection Area for Birds (SPA) and Ramsar site and to the east of the Medway Estuary and Marshes SPA and Ramsar site, which are afforded protection under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). The occupiers of this development have the potential to be visitors to the SPAs and activities associated with those visits could cause disturbance to the wildlife occupying the SPAs. To reduce the potential for such disturbance to arise Natural England promotes the collection of developer contributions as a means of funding an Access Management and Monitoring (SAMM) strategy for the designated areas.
11. However, I note that the SAMM strategy promoted by Natural England will involve the participation of several Councils and it remains to be adopted. The Council has also stated that as things currently stand it considers it inappropriate to collect developer contributions for schemes of less than ten dwellings because it may not be cost effective to do so and when the SAMM is adopted the contributions collected from developments of ten or more dwellings will provide a level of mitigation that will address the cumulative effects of the new residential development on the SPAs. The Council's Committee report further advises that Natural England recognises that the SAMM strategy remains to be adopted by the relevant north Kent authorities.

12. The Council determined that it would not be necessary for it to undertake an Appropriate Assessment under the Habitat Regulations because this scheme's implications for the SPA would be 'extremely minimal' and that its contribution to any cumulative effects would be addressed by the collection of contributions from larger schemes in the future.
13. Having regard to the scale of this development and its distance from the SPAs I am of the opinion that it would not of itself have a significant effect upon the designated areas. With respect to any cumulative effects on the SPAs limited information about the scale of future residential development in the area is before me. However, the Council's strategy of seeking SAMP contributions from larger scale developments in the future appears to be an appropriate approach and I am therefore content that this development would not give rise to an adverse cumulative effect upon the SPAs.

Conditions

14. The Council has suggested various conditions and I have considered the need for their imposition, having regard to the provisions of the Framework and the Planning Practice Guidance (the PPG).
15. Apart from the standard time limit condition, I find it necessary that the development should be built to accord with the submitted plans for certainty. In order to safeguard the appearance of the area it is necessary that details of the external materials be submitted for the Council's approval. It is also necessary that the garage and drive are available for use prior to the first occupation of the house and then retained thereafter. I have therefore imposed conditions to address the aforementioned matters.
16. There is some scope for the site to be providing habitat for wildlife, as recognised in the ecological advice received by the Council. I therefore consider it reasonable to impose a condition requiring the submission of a biodiversity method statement for the Council's approval. However, while this site might support nesting birds, I do not consider that the scale of the proposed development justifies a requirement to provide bird nesting boxes.
17. As explained in my reasoning above, it is necessary that details for the installation of privacy screening for the decked patio are submitted to and approved by the Council prior to the first occupation of the house. This site lies in close proximity to other residential properties and there is therefore potential for construction noise to cause disturbance at sensitive times. I therefore consider a condition limiting the hours of construction to 07.30 to 19.00 on Mondays to Fridays and 07.30 to 13.00 on Saturdays to be necessary.
18. Having regard to the restricted nature of this plot and the permitted development rights that are currently available for extensions, I consider it necessary for the rights relating to the construction of extensions to be withdrawn in order to safeguard the living conditions for the occupiers of the neighbouring properties and those of the house. I have therefore imposed a condition to this effect.
19. A condition requiring the submission of details for the use of sustainable construction techniques has been suggested. However, no policy justification for this suggested condition has been provided and the imposition of such a

condition could duplicate matters covered by the Building Regulations. I am therefore not persuaded of the need to impose a sustainable construction techniques condition.

20. The application site is quite modest in scale and I am therefore not persuaded of the need to impose the suggested landscaping conditions with the plans and elevations drawing (drawing 11/1203) showing that the frontage area would be hard and soft landscaped (garden area and drive), with this provision being governed by the condition requiring compliance with the approved application plans. Given the comparatively open nature of the dwelling's frontage and the visibility that there would be for drivers and pedestrians, I consider it unnecessary to impose a condition requiring the provision of visibility splays.
21. The site lies within a Flood Zone 2 and accordingly the application is accompanied by a flood risk assessment (FRA). However, the FRA does not identify any specific need for flood resilience measures to be installed or any managerial measures that should be adopted by the occupiers of this development. Accordingly I find there to be no need to include the FRA as an approved document under the terms of the plans condition. The arrangements for surface and foul water drainage are covered by the Building Regulations or legislation administered by the local water company and I therefore consider the imposition of the suggested drainage condition to be unnecessary.

Conclusion

22. For the reasons given above I conclude that this appeal should be allowed.

Grahame Gould

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) With exception of the arrangements for the enclosure of the decking/patio area shown on drawing 11/1203 the development hereby permitted shall be carried out in accordance with the following approved plans: the unnumbered 1:1250 scale Location Plan; 11/1201 - Site Levels and Sections; and 11/1203 - Plans and Elevations.
- 3) No development shall take place until a biodiversity method statement for the clearance of the site has been submitted to and approved in writing by the local planning authority. Thereafter the site clearance works shall be undertaken in accordance with the approved biodiversity method statement, with those works being overseen by an ecologist.
- 4) No development above foundation level shall take place until details and samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 5) Notwithstanding the details shown on drawing 11/1203 the dwelling hereby permitted shall not be occupied until details for the installation of privacy screening for the rear decking and patio area have been submitted to and approved in writing by the local planning authority. The approved privacy screening arrangements shall be installed prior to the first occupation of the dwelling and shall thereafter be retained for the duration of the development.
- 6) Before the dwelling hereby permitted is first occupied the garage and drive shown on drawing 11/1203 shall be provided and made available for use. The garage and drive shall be retained thereafter and not be used for any purposes other than the parking and manoeuvring of vehicles.
- 7) Demolition and construction works shall take place only between the hours of 07.30 to 19.00 on Mondays to Fridays inclusive and 07.30 to 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Class A, of Part 1 of Schedule 2 of the Order shall be carried out.

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Appeal Decision

Site visit made on 1 August 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 2 September 2016

Appeal Ref: APP/V2255/W/16/3149881

177 Wards Hill Road, Minster-on-Sea, Kent ME12 2JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Timothy Harris against the decision of Swale Borough Council.
 - The application Ref 15/503681/FULL, dated 9 May 2015, was refused by notice dated 26 January 2016.
 - The development proposed is erection of 2 No. detached dwellings to replace existing chalet bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings to replace an existing chalet bungalow at 177 Wards Hill Road, Minster-on-Sea, Kent ME12 2JZ in accordance with the terms of the application, Ref 15/503681/FULL, dated 9 May 2015, subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. Prior to the application's determination by the Council various amended drawings¹ were submitted to it and I have determined the appeal on the basis of those amended drawings.

Main Issues

3. Based on the reason for refusal and the Council's appeal case the main issues are the effect of the development on: the living conditions for the occupiers of neighbouring properties, with particular regard to outlook and privacy; and protected species.

Reasons

Living Conditions

4. The appeal site is a comparatively large plot and is occupied by a split level bungalow (No 177) and has a vehicular access onto Wards Hill Road, while it backs onto Clovelly Drive. The topography of the area is such that existing dwelling is elevated almost a storey above the road level in Clovelly Drive and its rear garden slopes downwards to that street.

¹ PL03 rev A, PL04 rev A, PL05 rev A, PL06 rev A, PL07 rev A, PL08 rev A, PL09 rev A, PL10 rev A, PL11 rev B and PL14 (the latter in substitution for drawing PL13)

5. The development would involve the demolition of No 177 and the construction of two detached, split level dwellings. The replacement dwellings would each in part provide accommodation on three levels, with the upper level being in the roof space, and given the sloping nature of the site they would in part be cut into it. These dwellings would be sited on a slight stagger, between Lyndale and 16 Clovelly Drive (No 16) and these neighbouring properties are both bungalows.
6. While No 16 and Lyndale both have windows in their side elevations, the primary outlook from within the interior of these properties is via glazed areas in their front and rear elevations. I accept that the appeal development would result in some loss of outlook from the neighbouring side windows. However, I consider that effect would not affect the primary outlook from within the interior of No 16 and Lyndale and given that there would be some space between the side elevations of the existing and proposed dwellings, I find that the occupiers of No 16 and Lyndale would not experience an unacceptable loss of outlook or sense of overbearing from within the interior of these properties. In this respect I consider it of note that some of the windows in No 16's side elevation are obscured glazed, restricting the outlook possible from them, while the side window towards the front of Lyndale appeared to serve a room that also has patio type doors in that property's front elevation.
7. No 177 is set behind No 16 and Lyndale and the existing property's siting has some effect upon the outlook from with the rear gardens of these neighbouring properties. I consider that the demolition of No 177 and the siting of the replacement dwellings closer to Clovelly Drive would to some degree improve the outlook from within the gardens of the immediately neighbouring properties.
8. Although the proposed dwellings would stand taller than the immediately neighbouring bungalows, I find that the relative differences in height would be such that the new properties would not have an overbearing presence.
9. Clovelly Drive is a street that is characterised by properties on both sides of the road and some mutual overlooking between the properties is therefore a characteristic of this street. The proposed dwellings would be sited opposite Nos 13, 15 and 17, however, the distance between the front elevations of those properties and the new dwellings, at around 25 metres², would be similar to that found throughout Clovelly Drive. Based upon my observations on site and allowing for the fact that the proposed dwellings would have accommodation on three floors, I find that their presence, including the use of Plot 1's balcony area, would not give rise to any unacceptable loss of privacy for the occupiers of Nos 13, 15 and 17.
10. Concern has also been raised about the loss of light to the interior of No 16. However, given the window arrangement within this property's side elevation and the height and siting of the house within in plot 1, I am of the opinion that the occupiers of No 16 would not experience an unacceptable loss of light within the interior of their property.
11. For the reasons given above I conclude that this development would not be harmful to the living conditions for the occupiers of the properties adjoining No 177. In this respect I find there to be no conflict with Policy E1 of the

² Dimension taken from the Planning Committee Minutes of 14 January 2016

Swale Borough Local Plan of 2008 in that no demonstrable harm would be caused to residential amenity.

Protected Species

12. The Council's ecological advisor has commented that the implementation of this development '... has potential to result in ecological impacts' and that a preliminary ecological appraisal of the site and species surveys should be undertaken in advance of the application's determination. The possible presence of bats, in particular, has been highlighted in the advice received by the Council. Despite this advice no ecological information has been submitted by the appellants. However, it appears that the advice received by the Council was offered on a precautionary basis, given that it relied upon an assessment of aerial photographs, local biological records and photographs included with the application, as opposed to a site visit.
13. Paragraph 99 of Circular 06/2005³ advises that the presence or otherwise of protected species and the effect new development might have upon them should be established before planning permission is granted and the need for ecological surveys should generally not be left to conditions imposed on planning permissions. However, paragraph 99 goes on to advise that '... developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development'.
14. The evidence with respect to the likelihood of protected species, most particularly bats, being present on this site is far from conclusive, with no ecologist representing either the appellants or the Council having visited the site. However, the appellants assert that while they have been resident at the property over the last three years they have been unaware of roosting bats.
15. On the available evidence, and having regard to the provisions of paragraph 99 of Circular 06/2005, I am not persuaded that this is a case where there is a reasonable prospect of protected species being present. I therefore consider that this is an instance when it would not be appropriate to dismiss this appeal because of the absence of ecological survey information. I also consider that it would be inappropriate to impose a condition requiring ecological survey work to be undertaken, given that it has not been demonstrated that there would be a reasonable prospect of protected species being found on site.
16. On this issue I therefore conclude that the development would not be harmful to protected species. With respect to this issue the Council has not drawn my attention to any relevant Local Plan policy or policies. I therefore find that there would be no conflict with paragraphs 109 and 118 of the National Planning Policy Framework (the Framework) in that no significant harm to biodiversity would arise from this development.

Other Matters

17. The dwellings would have on-site parking available to them at levels that are typical for modern housing and I see no reason why this development would result in undue levels of on-street parking in Clovelly Drive. Concern has been raised that this development might not make adequate provision for the

³ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system

disposal of surface water, however, this is a matter that is addressed by the Building Regulations and is therefore not for my consideration.

18. I am aware from the Council's committee report of 17 December 2015 that this site is located approximately 3Km to the north of The Swale Special Protection Area for Birds (SPA) and Ramsar site and 4.2Km to the east of the Medway Estuary and Marshes SPA and Ramsar site, which are afforded protection under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). The occupiers of this development have the potential to be visitors to the SPAs and activities associated with those visits could cause disturbance to the wildlife occupying the SPAs. To reduce the potential for such disturbance to arise Natural England promotes the collection of developer contributions as a means of funding an Access Management and Monitoring (SAMM) strategy for the designated areas.
19. However, I note that the SAMM strategy promoted by Natural England will involve the participation of several Councils and it remains to be adopted. The Council has also stated that as things currently stand it considers it inappropriate to collect developer contributions for schemes of less than ten dwellings because it may not be cost effective to do so and when the SAMM is adopted the contributions collected from developments of ten or more dwellings will provide a level of mitigation that will address the cumulative effects of the new residential development on the SPAs. The Council's Committee report further advises that Natural England recognises that the SAMM strategy remains to be adopted by the relevant north Kent authorities.
20. The Council determined that it would not be necessary for it to undertake an Appropriate Assessment under the Habitat Regulations because this scheme's implications for the SPA would be 'extremely minimal' and that its contribution to any cumulative effects would be addressed by the collection of contributions from larger schemes in the future.
21. Having regard to the scale of this development and its distance from the SPAs I am of the opinion that it would not of itself have a significant effect upon the designated areas. With respect to any cumulative effects on the SPAs limited information about the scale of future residential development in the area is before me. However, the Council's strategy of seeking SAMM contributions from larger scale developments in the future appears to be an appropriate approach and I am therefore content that this development would not give rise to an adverse cumulative effect upon the SPAs.

Conditions

22. The Council has suggested various conditions and I have considered the need for their imposition, having regard to the provisions of the Framework and the Planning Practice Guidance.
23. Apart from the standard time limit condition, I find it necessary that the development should be built to accord with the submitted plans for certainty. In order to safeguard the appearance of the area it is necessary that details of the external materials and landscaping be submitted for the Council's approval. It is also necessary that the garages and drives are available for use prior to the first occupation of the dwellings and then retained thereafter. I have therefore imposed conditions to address the aforementioned matters.

24. This is a site that lies in close proximity to other residential properties and there is potential for construction noise to cause disturbance at sensitive times. The Council has suggested that with respect to the undertaking of impact piling that activity should be subject to slightly more restrictive hours than any other general construction works. While I consider it necessary to impose a condition regulating the construction working hours to safeguard the living conditions for neighbouring residents, given the scale of this development I do not consider it necessary to draw a distinction between the hours when piling and other constructions activities can be undertaken. I have therefore imposed a single condition limiting the construction hours to those of 07.30 to 19.00 on Mondays to Fridays and 07.30 to 13.00 on Saturdays.
25. There is potential for dust to be generated during the construction works, which could be prejudicial to the living conditions for the occupiers of neighbouring properties. I have therefore imposed a condition requiring dust suppression details to be submitted to the Council for approval. I, however, do not see the need to impose a condition requiring details of measures to prevent mud or other debris being brought onto the highway during the construction works, because the Highway Authority has not identified a need for such a condition.
26. A condition requiring the submission of details for the use of sustainable construction techniques has been suggested. However, no policy justification for this condition has been provided and such a condition could duplicate matters covered by the Building Regulations. I am therefore not persuaded of the need to impose a sustainable construction techniques condition.
27. This site lies within a Flood Zone 2 area, as identified by the Environment Agency and a flood risk assessment (FRA) has been submitted. However, the FRA does not identify any specific physical flood risk prevention measures that should be incorporated into the design of the dwellings or any managerial measures that should be adopted by the development's occupiers. I therefore find the suggested condition requiring compliance with the FRA would serve no purpose. However, the plans condition referred to above will require the dwellings to be constructed in accordance with the levels shown on the approved drawings. That would ensure that the upper floors and the rear gardens would be above the identified flood level.
28. The Council has suggested a condition requiring Plot 2's side dormer should be fitted with obscured glazing to safeguard the privacy of the occupiers of Lyndale. However that window would illuminate a stairwell and as such would not serve primary habitable accommodation. I am therefore not persuaded that the dormer window needs to be fitted with obscured glazing. I am similarly not persuaded of the need for the rooflights facing towards the dwelling within Plot 1 to be fitted with obscured glazing, because any outward views from them would be towards a roof slope that would be occupied by solar photovoltaic panels.

Conclusion

29. For the reasons given above I conclude that this appeal should be allowed.

Grahame Gould

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL01 - Location Plan; PL03 rev A - Site Plan as Proposed; PL04 rev A - Lower Ground Floor Plans as Proposed; PL05 rev A - Ground Floor Plans as Proposed; PL06 rev A - First Floor Plans as Proposed; PL07 rev A - Roof Plans as Proposed; PL08 rev A - Elevations Sheet 1 of 3 as Proposed; PL09 rev A - Elevations Sheet 2 of 3 as Proposed; PL10 rev A - Elevations Sheet 3 of 3 as Proposed; PL11 rev B - Sections AA & BB as Proposed; and PL14 - Elevations Street Scene.
- 3) No development above foundation level shall take place until details and samples of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development above foundation level shall commence until hard and soft landscaping details have been submitted to and approved in writing by the local planning authority. These details shall include: existing trees and shrubs, schedules for new planting, noting species, plant sizes and numbers and densities; planting plans; written specifications for the establishment and cultivation of the plants; and an implementation and maintenance programme. The hard and soft landscaping works shall be carried out in accordance with the approved details, including the agreed implementation programme. Thereafter the planting shall be maintained in accordance with the approved maintenance programme.
- 5) Before the dwellings hereby permitted are first occupied the garages and drive parking spaces shown on the approved drawings shall be provided and made available for use. The garages and drive parking spaces shall be retained thereafter and not be used for any purposes other than the parking and manoeuvring of vehicles.
- 6) Demolition and construction works shall only take place between the hours of 07.30 to 19.00 on Mondays to Fridays inclusive and 07.30 to 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall take place, including any works of demolition, until details for the suppression of dust during the demolition and construction phases of the development have been submitted to and approved in writing by the local planning authority. The approved details for the suppression of dust shall be adhered to throughout the demolition and construction phases of the development.



Appeal Decision

Site visit made on 9 August 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 05 September 2016

Appeal Ref: APP/V2255/W/16/3150520
19 South Road, Faversham, Kent ME13 7LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs L.C Guthrie against the decision of Swale Borough Council.
 - The application Ref 15/509814/FULL, dated 18 November 2015, was refused by notice dated 17 March 2016.
 - The development is proposed new dwelling to the rear of 19 South Road, Faversham, Kent ME13 7LR.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised in respect of the appeal is the effect of the development on the character and appearance of the surrounding area, and, whether the Faversham Conservation Area would be preserved or enhanced.

Reasons

3. The proposed development site would comprise that part of the rear garden of No 19 South Road positioned at an angle behind the rear gardens of dwellings fronting on to South Road. The appeal site abuts and relates more closely to Cross Lane, a narrow well-used pedestrian route linking South Road and Bank Street. Cross Lane is bounded on each side by high walls which are mainly of brick construction and incorporate pedestrian gate accesses. To the eastern end of Cross Lane are public car parks and the modern public buildings of Faversham Health Centre, Arden Theatre and Faversham Pools with the outdoor swimming pool with diving platform abutting the boundary of the appeal site. The rear gardens of surrounding dwellings border either side of the walkway over much of its route. With the exception of the single-storey outbuildings to the rear of Nos 29 and 31 South Road and 54 South Street there is a general absence of built development within the abutting gardens. The vegetated gardens with trees and plant growth oversailing the boundary walls along Cross Lane gives the area an open verdant feel to its character. This section leading to South Road is relatively tranquil, leafy and largely undeveloped in nature and contrasts with the busier more developed eastern end of the passageway. I observed that the appeal site relates to this part of the street scape.

4. The proposal would create a substantial building with first storey and pitched roof visible over the Cross Lane boundary high wall. Although Cross Lane is narrow with high walls either side, this would not restrict views of the proposed dwelling as a result of its height and closeness to the pathway. Whilst the eaves height have been kept low and the trees on the swimming pool site would, to some extent, screen the site, the proposed dwelling would be prominently visible in views when travelling in both directions along Cross Street and would be particularly prevalent when viewed immediately adjacent to the site. It would also be visible from neighbouring properties and their gardens and users of the outdoor swimming pool.
5. Whilst I agree with both parties that the design of the proposed development is not intrinsically poor and indeed may reflect other developments in the wider area, a dwelling of this height is not in context with the immediate environment. I note the plot size may have increased and the footprint of the proposed dwelling has reduced from that of the earlier concept schemes. However, the resulting dwelling would not, to my mind, be perceived akin to an ancillary building in the way that the outbuilding to the rear of Nos 29 and 31 South Road appear with a relatively small part of its pitched roof visible over the boundary wall. The proposed development would be out of keeping with the landscaped gardens that form the character and appearance of this part of Cross Lane.
6. I observed that some pedestrian access gates have been boarded up and a small amount of graffiti is present along the pathway. In addition, a section of wall to the western end of the route is topped with a security installation. The appellant suggests that these features degrade the appearance of the area. However, these elements do not detract from the overall appearance of the pathway appreciated by those that use the route. In addition, it is suggested that a dwelling in this location would create a greater sense of security and safety to people using Cross Lane, particularly at night. Nonetheless, any such benefits would not outweigh the harm I have identified above.
7. The appellant refers me to planning permissions for dwellings granted within the surrounding area. I have insufficient information before me to be able to determine the planning circumstances of these developments and the similarities, if any, to the proposed development. The appeal before me relates to a different site and therefore can and should be considered in its own right.
8. Both parties appear to accept that the site has relatively low heritage significance. The appellant's Heritage Appraisal identifies a degree of change to garden boundaries and other land between South Road and the western section of Cross Lane over the past 150 years or so. However, the verdant and largely undeveloped nature of this area that gives distinctiveness to the character and appearance of the appeal site and the surrounding area outweighs the limited heritage significance of the site.
9. The appeal site falls within Faversham Conservation Area and as such the proposal would have an effect on the setting of this part of the Conservation Area. For the reasons given above, I conclude the proposed development neither preserves or enhances the Conservation Area. Given the size and scale of the proposal in the Conservation Area, I consider there would be less than substantial harm to the character and appearance of the Conservation Area. In accordance with paragraph 134 of the National Planning Policy

Framework (the Framework), I must weigh the harm against the public benefit of the proposal. Although the development would bring forward a dwelling, the benefit to the public, in my view, would be limited, and insufficient to outweigh the harm identified. I conclude therefore that the proposal would fail to accord with national policy.

10. For the above reasons, the proposed development would be harmful to the character and appearance of the surrounding area. The proposal is contrary to Policies E1, E19 and H2 of the Swale Borough Local Plan that requires development to reflect the positive characteristics and features of the site and locality and requires development to be appropriate to its context in respect of scale, height and massing, amongst other matters. The proposal is also contrary to Policies DM14, DM33 and CP8 of the Bearing Fruits 2031: Swale Borough Local Plan that seek development to be sited and be of a scale, design, appearance and detail sympathetic and appropriate to the location, and, within a conservation area to preserve or enhance all features that contribute positively to the area's special character or appearance, including spaces, amongst other matters.

Other Matters

11. The appellant comments that there is a present shortfall in future housing provision for the area. The proposal would provide one additional home within the urban area in a sustainable location. Whilst the proposal would contribute a dwelling to the Borough's overall housing supply, this benefit would not outweigh the harm identified above.
12. I note the appellant's wish to remain resident in the area and to provide extended living accommodation for ageing family members. Whilst I sympathise with the personal circumstances of the appellant and the future accommodation needs of her family, I am mindful that the harm identified would be permanent and is not outweighed by the appellant's particular circumstances.
13. I have had regard to other matters raised, including those of loss of privacy and overlooking, noise disturbance, impact on trees and services, parking problems in area, and precedent raised by interested parties, however these matters do not outweigh my findings in respect of the effect of the proposed development on the character and appearance of the area.

Conclusions

14. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

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Appeal Decision

Site visit made on 23 August 2016

by K H Child BSc (Hons) MA MRTPI

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

Decision date: 9 September 2016

Appeal Ref: APP/V2255/W/16/3148862

Lamberhurst Farm, Dargate Road, Yorkletts, Kent ME13 9EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr. J. Smith against Swale Borough Council.
 - The application Ref 16/501519/FULL is dated 20 February 2016.
 - The development proposed is industrial building comprising of four units with associated parking.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matter

2. The appeal results from the Council's failure to determine the planning application within the statutory period. The submitted documentation indicates that had it done so the Council would have refused the scheme due to concerns regarding its effects on the character and appearance of the surrounding area.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

4. The appeal site is located to the south-east of the village of Yorkletts, in the open countryside. The site has an established use certificate for storage and repair of heavy plant and vehicles and adjoins a MOT vehicle testing centre to the east. To the west the site adjoins the residential property of the White House, whilst there are open fields to the front and rear. The site is accessed along a private road which leads to a number of industrial buildings at Lamberhurst Farm, which have been converted from agricultural use.
5. The site is located in an elevated position in the landscape, and can be clearly seen from along the access road and the surrounding countryside. To the north, the public open space of Victory Wood slopes upwards from the site and provides attractive far reaching views across the site towards the south.
6. The proposed scheme would involve the construction of a commercial building

close to the site frontage, with car parking to the rear. The building would be substantial in size, measuring some 36 metres long by 10 metres wide, with a ridge height of some 5.4 metres. The building would be clearly visible in the landscape, including in views from Victory Wood above the intervening vegetation.

7. On my site visit I observed that some of the other industrial buildings in the vicinity are also large in size. However, the MOT centre to the east is set back from the road frontage, whilst other buildings at Lamberhurst Farm are in a less visually prominent position in the landscape and have an agricultural appearance. The proposed building on the appeal site would, by virtue of its bulk, height and position on the elevated site frontage, be a prominent and incongruous feature that would detract from the character of the area and the quality of the landscape. I note that part of the building would be clad in dark stained timber which would help it to integrate better in a rural setting, and furthermore that the scheme includes parking to the rear and landscaping. However, taking account of the scale and position of the building and other urbanising aspects of the scheme, including roller shutter doors and formal car parking, I consider these factors would be insufficient to overcome the visual harm identified above.
8. I have also had regard to the current use of the site in assessing the effect of the proposed development. At the time of my visit there were some shipping containers and vehicles on the site, along with other equipment and machinery. Nevertheless, although usage could potentially be more dense, storage is temporal, and the site is not currently occupied by permanent buildings. I consider that the proposed scheme, with its substantial permanent built form extending along much of the site frontage, would have a more harmful and urbanising effect.
9. A number of other recently approved industrial schemes have been highlighted in rural parts of the district. However, many of these appear to have been in less visually sensitive locations than the appeal site. Nevertheless, each case needs to be determined on its own merits, and it is on this basis that I have determined this appeal.
10. For the reasons above I conclude that the proposed scheme would cause material harm to the character and appearance of the surrounding area. As such it would be contrary to Saved Policies SP1, SP2, B2, RC1, E1, E6, E9 and E19 in the Swale Borough Local Plan (2008) insofar as they seek to ensure development respects the character of its surroundings, and does not detract from the quality of the countryside or the local environment. Taking account of the elevation and prominence of the site I also consider that the proposal would fail to accord with guidance on development within visually sensitive high ground, as set out in the Council's Supplementary Planning Document 'Swale Landscape Character and Biodiversity Appraisal' (1991). The proposal would also be contrary to relevant provisions of the National Planning Policy Framework (NPPF) relating to the protection of the countryside and landscape quality. Furthermore, I consider that it would fail to accord with the principles of sustainable development, as defined in paragraph 7 of the NPPF, given the

environmental harm identified above which would not be outweighed by economic benefits arising from the scheme.

11. In determining this appeal I have taken account of the previous appeal decision on this site (APP/VV2255/W/15/3130656), and note the reduced building dimensions and other modified aspects of the current proposal. Nevertheless, I have assessed the scheme before me on its own merits, and accordingly this has not led me to a different overall conclusion.

Other Matters

12. The proposed scheme would provide additional local commercial units to let, and the appellant has indicated it could lead to the creation of perhaps 30-40 jobs in an area of high unemployment. There is no substantive evidence before me to support these figures or regarding the state of the local economy. Nevertheless, I consider that any such economic benefits, or benefits arising from more efficient use of land, would not outweigh the significant harm to the character and appearance of the area identified above.
13. The appellant has indicated that the proposed scheme would benefit the living conditions of occupiers of the White House in terms of noise, as the building would be set back from the common boundary and additional landscaping would be provided. However, given the relatively small distances involved and the lack of information before me regarding noise generation from current or future uses, or evidence of previous noise problems, I have attached little weight to this matter.
14. The appellant has indicated that the proposed development would generate fewer vehicle movements than the current use, and would therefore be more sustainable. However, although the Highways Authority has not raised an objection on traffic grounds, there are no precise figures before me regarding levels of current and future traffic generation from the appeal scheme. Conversely, the Planning Officer's report indicates that the proposal may result in a slight increase in highway movements, although not to a material degree. In the absence of compelling evidence I have attached little weight to the matter.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, including the absence of objections from others, I conclude that the appeal should be dismissed.

Katie Child

INSPECTOR



Appeal Decision

Site visit made on 23 August 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 13 September 2016

Appeal Ref: APP/V2255/W/16/3151076

16 Hawthorn Road, Sittingbourne, Kent ME10 1BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Ken Crutchley on behalf of Hawthorn Convenience Store Ltd against the decision of Swale Borough Council.
- The application Ref 15/509793/FULL, dated 17 November 2015, was refused by notice dated 11 March 2016.
- The development proposed is a single storey bedsit for use by store manager for security of shop premises.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposal on: -
 - (a) The living conditions of future and adjoining occupiers; and,
 - (b) The character and appearance of the area, particularly in relation to the flat roof design.

Reasons

Living conditions

3. The appeal property comprises two independent commercial premises at the end of a row of terraced residential properties. The ground floor of the two-storey property is occupied by a convenience store and has residential accommodation above. The adjoining single storey side extension is occupied by a hairdressing salon. Both commercial units have access to the rear grassed garden area that is generally triangular in shape because of its skewed alignment with the adjacent highway. The appeal development would be constructed along the boundary with the adjoining occupiers at No. 18 Hawthorn Road and be linked to the single storey washroom to the rear of the convenience store.
4. As a consequence of the shape of the rear garden the proposed flat would have a kitchen/livingroom window and glazed entrance door and bedroom window with outlook onto the high side boundary fence less than a metre from these openings. This would provide the occupier with a very poor

outlook because of the close proximity of the boundary fence. In addition, a kitchen/livingroom window would be sited at an angle to the rear of the convenience store, however outlook would be, in part, onto the back of the building a relatively short distance away, as well as to the side passageway. Whilst some outlook would be achieved from this window it would be limited given the proximity of the rear of the convenience store. Outlook would be further restricted by the side boundary fence. Observation from this window would be of small area of pathway immediately to the rear of the commercial units. In my opinion the outlook, that is, views of the outside world from the kitchen/livingroom and bedroom of the proposed flat would be severely compromised and would provide an oppressive living environment for the occupiers of the flat harmful to their living conditions.

5. The proposed flat extension would be positioned along the common boundary with No 18 and project beyond the existing rear single storey extension of this adjoining property. The rear garden is relatively narrow. According to the dimensions shown on drawings 151028 & 151029 the development would be over 3 metres in height for a length in excess of 9 metres abutting the side boundary of the rear garden of No 18. The proposed extension would create a substantial amount of built development along the common boundary. This would have a significant overbearing effect on the outlook of the occupiers of this property as viewed from their garden.
6. The Council is also concerned that the proposed flat would result in the significant loss of sunlight to the outdoor space associated with No 18. Although some overshadowing of the garden area of No.18 would occur during the course of the day, either as a result of existing surrounding development or by that of the proposed flat, in my judgement the effect would be quite limited.
7. For these reasons I conclude that the proposal would be harmful to the living conditions of future and adjoining occupiers and would conflict with Policy E1 of the Swale Borough Local Plan (the Local Plan) which seeks all development proposals to cause no demonstrable harm to residential amenity, amongst other matters.

Character and appearance of the area

8. The Council highlights that it does not encourage flat roof structures. I have not been provided any specific explanation from the Council as to why it considers the flat roof to be an unacceptably poor design, nor have any specific design codes, in accordance with the National Planning Policy Framework, been supplied or cited by the Council. Notwithstanding this, I observed that whilst the properties along Hawthorn Road to the north east of the appeal site have been, to differing extents, extended and altered to the rear and that some properties host outbuildings in the rear garden areas, there is a general absence of large flat roof structures to the rear of properties nearby.
9. I appreciate the flat roof design is intended to reduce the visual impact to the occupiers of surrounding properties. However, the proposed accommodation would occupy almost the entire remaining space to the rear of the plot. The size of the proposed development with its expanse of flat roof would be unrelated to the existing development in the area. It would not therefore be, in my opinion, an appropriate form of development in this location. Whilst the development would not be readily visible from Hawthorn Road it would, nonetheless, be visible to adjoining occupiers, including those in Arthur Street.

10. I appreciate that the General Permitted Development Order may enable extensions to dwellings and note the appellant's point that this can include extensions of flat roof single storey design to the rear of properties. However, such permitted development rights do not apply in this case and, in any event, I must consider the appeal scheme on its own merits.
11. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area and would conflict with Policies E1 and E19 of the Local Plan which seek all development proposals to be both well sited and of a scale, height, massing, design and appearance appropriate to the location, amongst other matters.

Other matters

12. The fact that the flat would be provided for shop security purposes in my opinion is largely irrelevant in terms of determining whether or not an acceptable level of living conditions and design standard is achieved. The benefits that the flat may bring about in respect of the operational management of the premises, including the security of stock or safety of patrons or generally adding to the security in the local area do not, in my opinion, outweigh the harm identified above. Although support for the proposal has been raised by some local occupiers, the proposal should nonetheless be considered in terms of the wider public interest.
13. I appreciate the development will be subject to requirements under other legislation, such as, Building Regulations, however I have considered the wider effects of the proposed flat over and above other building construction matters.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

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Appeal Decision

Site visit made on 16 August 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/V2255/W/16/3150836

Glenlodge, Queenborough Drive, Minster, Kent ME12 2JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Dean Flannery against the decision of Swale Borough Council.
 - The application Ref 15/505601/FULL, dated 15 July 2015, was refused by notice dated 9 December 2015.
 - The development proposed is the demolition of existing dwelling. Erection of three detached dwellings with integral double garage and new access.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and erection of three detached dwellings with integral double garage and new access at Glenlodge, Queenborough Drive, Minster, Kent ME12 2JN in accordance with the terms of the application, Ref 15/505601/FULL, dated 15 July 2015, and the plans submitted with it, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. The appellant has put forward an additional plan, reference 1374/1. The plan shows existing and proposed site sections and the separation distance to No 31 Glenwood Drive and has been produced to inform the appeal process. This information does not change the proposal and, as such, the plan would not, in my view, prejudice the interests of third parties. For this reason I have had regard to this plan.

Main Issue

3. The main issue in this case is the effect upon the living conditions of the adjoining occupiers of No 31 Glenwood Drive, particularly in respect of outlook.

Reasons

4. The appeal site is located within a residential area. I observed that properties on the north side of Queenborough Drive are sited in an elevated position relative to the public highway and No 31 Glenwood Drive opposite is sited at a lower level. No 31 fronts onto the highway at a right angle to Queenborough Drive and its rear private garden runs parallel to Queenborough Drive.
5. Although the proposed dwellings would be larger in overall footprint, height and

bulk to that of the existing dwelling on site, as well as that of the properties to

the east of the appeal site, the new dwellings would be set behind reasonably sized front gardens, on much the same building line as those dwellings to the east. Between the appeal site and No 31 is the public highway. The position of the proposed dwellings would have an elevated siting to the public highway and, whilst No 31 would be situated at a lower level to that of the proposed development, there would be a reasonable offset between respective developments. Moreover, the main aspects of No 31 appear to be to the front and rear rather than facing the appeal site. This separation would, in my opinion, safeguard against the proposed development being intrusive upon the adjoining occupiers living conditions.

6. Overall on this issue, I consider that the proposed dwellings would not be harmful to the living conditions of the occupiers of No 31 Glenwood Drive, despite being reasonably large and positioned at an elevated siting. The proposal broadly accords with Policies E1 and H2 of the Swale Borough Local Plan which expect all development proposals to be both well sited and be of a scale, design and appearance that is appropriate to the location and that cause no demonstrable harm to residential amenity, amongst other matters.

Other Matters

7. Although some local residents have concerns regarding increased on-street parking and traffic as a result of the development, I am satisfied that the increased parking provision would be adequate to serve the proposal and highway safety would not be materially compromised. I have also had regard to other matters raised including the amount of development proposed and how this would appear within the street scene, alongside potential overlooking, amongst other matters. Again I am satisfied that the character and appearance of the area and the living conditions of adjoining occupiers would not be materially compromised.

Conditions

8. I have had regard to the planning conditions that have been requested by the Council. Those relating to materials and hard and soft landscaping are appropriate in the interests of the character and appearance of the area. Given the residential character of the area, it is appropriate that controls are placed upon hours of demolition and construction alongside measures to suppress dust. A condition setting a time limit for the commencement of development is necessary in the interests of proper planning. For the avoidance of doubt and in the interests of proper planning it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. I agree that a condition relating to pedestrian visibility splays is necessary to ensure that sight lines are secured and maintained for continued highway safety. I also agree that a condition relating to the provision of off-street parking, garaging and turning is required, and, for any entrance gates to be recessed for the same reason. I consider a condition relating to sustainable construction techniques to be reasonable and consistent with the Government's move toward a low carbon future.
9. I do not, however, find it necessary to regulate construction related traffic or the deposit of mud or similar material on the public highway. The access surfacing can be controlled by the imposition of Condition 4. I do not agree that a condition restricting additional openings on the south facing elevation to

be necessary as there would be no further effect upon the living conditions of adjoining occupiers.

Conclusions

10. For the reasons given above, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDIITONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule 2293/1C, 2293/3C, 2293/5 and 2293/6.
- 3) No development shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 4) No development shall commence until a scheme of both hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees, shrubs and hedgerows on the land, planting schedules of plants, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscaping shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing by the local planning authority.
- 5) Upon completion of the approved landscaping scheme, any trees or plants that, 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.
- 6) Demolition and construction works shall take place only between 07:30 to 19:00 hours on Monday to Friday and 07:30 to 13:00 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall take place until a scheme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the local planning authority. The measures shall be employed throughout the period of demolition and construction.

- 8) No dwelling shall be occupied until the vehicle parking, turning area and garages has been laid out in accordance with the approved plans and thereafter shall be kept available at all times for those purposes.
- 9) No dwelling shall be occupied until pedestrian visibility splays of 2 metres x 2 metres at either side of the vehicle accesses behind the carriageway edge have been put in place and no structure or obstruction exceeding 0.6 metres in height above the carriageway level shall be placed within the pedestrian visibility splays. The visibility splays shall thereafter be maintained as such.
- 10) Any entrance gates erected shall be set back a minimum distance of 5.5 metres from the carriageway edge and shall be hung to open away from the highway. The entrance gates shall thereafter be maintained as such.
- 11) No development shall take place until details have been submitted to the local planning authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques, such as, water conservation and recycling, renewable energy production, including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. The details shall be incorporated into the development as approved.

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Appeal Decision

Site visit made on 6 September 2016

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 20th September, 2016

Appeal Ref: APP/V2255/D/16/3153368

6 Meadow Rise, Iwade, Kent ME9 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Seitz against the decision of Swale Borough Council.
 - The application Ref 15/510564/FULL, dated 22 December 2015, was refused by notice dated 1 June 2016.
 - The development proposed is a two storey side extension.
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Procedural Matter

1. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the submitted plans that the proposed development also comprises a single storey rear extension, front porch and alterations to front fenestration. The Council dealt with the proposal on this basis and so shall I. Nevertheless, the Council's reason for refusal relates solely to the two storey element of the proposed development.

Decision

2. The appeal is allowed and planning permission is granted for a two storey side extension, single storey rear extension, front porch and alterations to fenestration at 6 Meadow Rise, Iwade, Kent ME9 8SB in accordance with the terms of the application, Ref 15/510564/FULL, dated 22 December 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the approved plans.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. 6 Meadow Rise (No 6) is a semi-detached house situated in a close of properties of similar character. Various alterations and extensions are evident

to properties in the vicinity, including side extensions. There is an existing detached garage and workshop at No 6, which is situated adjacent to the

- boundary with No 8. There is also an existing single storey covered area and office at the rear of the property. The development would require the removal of the existing garage/workshop and rear extensions.
5. The side extension would cover the full depth of the house and would maintain the roof slope, ridge height and eaves height of the host property. As a result it would not be set back from the front elevation of the house, as is considered advisable in the adopted Swale Borough Council 'Designing and Extension: A Guide for Householders' Supplementary Planning Guidance (SPG). I agree with the Council that in this instance this would not be harmful to the character and appearance of the house or the surrounding area. The extension has been designed to be in keeping with the host property and its bulk and scale would not adversely affect the character of the area. There are a few other examples nearby of side extensions at similar properties that have not been set back from the front elevation and these do not have a significant effect on the character and appearance of the locality.
 6. I note that the SPG advises that a gap of 2m between a first floor extension and the side boundary is normally required. This is because the Council is anxious to see that areas of predominantly detached or semi-detached housing should not become 'terraced' in character, and thereby lose their sense of openness. In this case a gap of more than 2m from the side extension to the side boundary would result at the front corner of the two storey extension. However, a 2m gap would not be maintained at its rear corner, where the extension would fall closer to the boundary due to the way the properties respond to the slight bend in the road at this point.
 7. No 8 is set away from the side boundary, with a single detached garage and garden path situated between its side elevation and the boundary. While the gap between the side elevations of No 6 and No 8 would be reduced at first floor level this would not result in a terracing effect as a clear separation between the properties would remain. Moreover, the removal of the existing garage/workshop at No 6 would recover a little openness at ground floor level between the properties. Accordingly, I consider that the relatively minor reduction in gap at first floor level, compared to the SPG 2m guideline, would not have a significant impact on the openness of the street scene and would not be detrimental to its character and appearance in this case.
 8. I note the Council's concerns that should the occupants of No 8 wish to extend their property at the side in the future, this might have some terracing effect, and also its related concerns about precedent should such development be repeated elsewhere. However, there is no significant evidence before me that this scenario is especially likely to occur in this locality, or indeed that the cumulative effect of a number of such developments would necessarily be harmful to the character and appearance of the area. Furthermore, I must determine the appeal on the basis of the proposal and evidence before me and any subsequent application or appeal must also be considered on its own merits.
 9. I conclude that the development would not harm the character and appearance of the area. Accordingly I find no conflict with saved Policies E1, E19 and E24 of the Swale Borough Local Plan 2008, which among other things seek to ensure development is of high quality design that is appropriate to its

surroundings. I also find no conflict with paragraphs 5.0 and 5.1 of the adopted SPG, which seek to maintain a sense of openness between properties.

Conditions

10. In addition to the standard three year time limit for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans, as this provides certainty. I have also imposed a condition relating to external materials as this is necessary to ensure the satisfactory appearance of the development.

Conclusion

11. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR

By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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