

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 25 May 2017

Time: 7.00 pm

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

Membership: To be confirmed following Annual Council on Wednesday 17 May 2017.

Quorum = 6

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- Pages
1. Fire Evacuation Procedure

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.

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.

The Chairman will inform the meeting that:

 - (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
 - (b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

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.
 2. Apologies for Absence and Confirmation of Substitutes
 3. Minutes

To approve the Minutes of the Meeting held on 27 April 2017 (Minute Nos. 1300 - 1306) 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 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. Report of the Head of Planning Services

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To consider the attached report (Parts 1, 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 24 May 2017.

6. 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.

7. Report of the Head of Planning Services

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To consider the attached report (Part 6).

Issued on Tuesday, 16 May 2017

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

Chief Executive, Services Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

25 MAY 2017

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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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Part 2

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PLANNING COMMITTEE – 25 MAY 2017

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

REFERENCE NO - 17/501704/PNQCLA			
APPLICATION PROPOSAL			
Prior notification for the change of use of an agricultural building to a dwellinghouse (Use Class C3), and for associated operational development			
For its prior approval to:			
Transport and highways impacts of the development;			
Contamination risks on the site;			
Flooding risks on the site;			
Noise impacts of the development;			
Whether the location or siting of the building makes it otherwise impractical undesirable for the use of the building to change as proposed;			
Design and external appearance impacts on the building			
ADDRESS Agricultural Building North Of Brent Orchard, Halstow Lane, Upchurch, Kent ME9 7AB.			
RECOMMENDATION Prior Approval Not Required			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposal satisfies the requirements of Class Q of the General Permitted Development Order 2015 (as amended).			
REASON FOR REFERRAL TO COMMITTEE			
Cllr Wright (Ward Member) objection			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr M Dugdale AGENT Bloomfields	
DECISION DUE DATE 08/06/17	PUBLICITY EXPIRY DATE 12/05/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/508792/PNQCLA	Prior notification for the change of use of an agricultural building to a dwellinghouse. For its prior approval to Transport and highways impacts of the development Contamination risks on the site Flooding risks on the site Noise impacts of the development Whether the location or siting of the building makes it otherwise impractical undesirable for the use of the building to change as proposed	Prior Approval Not Required	08.12.2015

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The building in question is a detached single storey, four bay steel framed agricultural storage barn. It is clad with a mixture of profiled metal sheeting and weatherboarding with a blockwork lower section.
- 1.02 The building is set back from Twinney Lane by approximately 80m and accessed via an unmade track. The surrounding area is rural in character with two further agricultural buildings located 120m to the south.
- 1.03 The site is located within the countryside, a designated strategic gap, and is on a rural lane as defined by the adopted Swale Borough Local Plan 2008.

2.0 PROPOSAL

- 2.01 Members should be aware that this is not a normal planning application as the principle of conversion of the barn to a residential dwelling is permitted development under Class Q of Schedule 2 to the General Permitted Development Order (England) 2015, which allows for agricultural buildings to be converted to dwellings without the need for planning permission.
- 2.02 Rather, this is a prior notification application submitted on the basis that the conversion of the barn to a Class C3 dwelling is, as stated above, permitted development and that this application is simply for approval of certain detailed matters as set out below.
- 2.03 The proposals would include the following, as set out in the Planning Statement:
- the replacement of the existing external metal cladding with timber weatherboarding, and the replacement of the existing metal roof covering with a clay tile finish;
 - An area around the building to be used as the dwelling's amenity area.

3.0 PLANNING CONSTRAINTS

- 3.01 The site is located in the countryside.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The conversion of agricultural buildings (other than in conservation areas, SSSIs, and Areas of Outstanding Natural Beauty) is now permitted development by virtue of Class Q of the Order, subject to certain limitations and to an application for prior approval in relation to matters of:
- Transport and Highways impacts of the development.
 - Contamination risks on the site.
 - Flooding risks on the site.
 - Noise impacts of the development.
 - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.
 - Design and external appearance impacts on the building

- 4.02 The National Planning Practice Guidance (NPPG) provides commentary on the working of these relatively new provisions, and states the following (my emphasis in bold):

What are the residential uses?

Subject to a number of conditions and restrictions, agricultural buildings and land within their curtilage may convert to a use falling within Class C3 of the Schedule to the Use Classes Order 1987 (dwelling houses). These conditions and restrictions are set out in Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The maximum floor space that may be converted under this permitted development right is 450 square metres of floor space of a building or buildings within a single established agricultural unit. The total number of new homes which may be developed under the right is 3. The right is extinguished once any of the conditions ie the 3 dwellings or 450 square metres threshold, is reached. The total number of new homes (3 dwelling houses) does not include existing residential properties within the established agricultural unit, unless they were created by the use of the permitted development right on a previous occasion, in which case they would be counted.

Are any building works allowed when changing to residential use?

Building works are allowed under the change to residential use. The permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that **for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted.** The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.

Are there any limitations to the change to residential use?

There are some limitations to the change to residential use. The Class Q rights cannot be exercised where works for the building, extending or altering of a building, or the installation of additional or replacement plant or machinery for the purposes of agriculture under the existing agricultural permitted development, have been carried out on the established agricultural unit since 20 March 2013, or within 10 years before exercising the change to residential use, whichever is the lesser. The agricultural permitted development rights are set out in Class A (a) or Class B (a) of Part 6 of Schedule 2 to the General Permitted Development Order (agricultural buildings and operations).

In addition, the site must have been used solely for an agricultural use, as part of an established agricultural unit, on 20 March 2013, or if it was not in use on that date, when it was last in use. If the site was brought into use after 20 March 2013, then it must have been used solely for an agricultural use, as part of an established agricultural unit, for 10 years before the date the development begins. If there is an agricultural tenancy in place, there are separate arrangements set out in Class Q.

Are there any conditions attached to the change to residential use?

There are some conditions attached to the change to residential use. Before beginning the development, an individual will need to apply to the local planning authority for a determination as to whether the prior approval of the local planning authority is necessary for the change of use. This prior approval will be in respect of transport, highways and noise impacts of the development, and also as to the flooding and contamination risks on the site, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to dwelling house. In addition, applicants will need to check whether the prior approval of the authority will be required as to the design or external appearance of the building.

The procedure for prior approval is set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. This procedure was amended in April 2014 to make clear **that the local planning authority must only consider the National Planning Policy Framework to the extent that it is relevant to the matter on which prior approval is sought, for example, transport, highways, noise etc.**

Is there a sustainability prior approval for the change to residential use?

The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.

What is meant by impractical or undesirable for the change to residential use?

Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would “not be sensible or realistic”, and undesirable reflects that it would be “harmful or objectionable”.

When considering whether it is appropriate for the change of use to take place in a particular location, **a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.**

There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors

such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

5.0 LOCAL REPRESENTATIONS

- 5.01 Surrounding occupiers were sent a consultation letter and a site notice was displayed close to the site. No responses have been received as yet, however the closing dates for comments expires on the 12th May 2017. As a result I will update Members at the meeting as to whether any comments were received.

6.0 CONSULTATIONS

- 6.01 **Cllr John Wright** commented – *“Wish to object to this application on all the grounds stated in the decision by officers and committee for the development at Kaine Farm Breach Lane Upchurch. In particular that it is in an unsustainable position and has landscape impacts.”*
- 6.02 **KCC Highways & Transportation** made no comments.
- 6.03 **The Environmental Health Manager** made no comments.

7.0 APPRAISAL

- 7.01 It is important for Members to note at the outset that this is not a full application for planning permission; it is a request to determine only whether or not prior approval is required only in relation to:

- Transport and Highways impacts of the development.
- Contamination risks on the site.
- Flooding risks on the site.
- Noise impacts of the development.
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.
- Design and external appearance impacts on the building

- 7.02 As a result, this is purely a technical assessment of the issues outlined in the GPDO (as at 4.02 above), which itself grants deemed planning permission for the development, and would normally be dealt with entirely under delegated powers. It has been referred to Members because the powers delegated to the Head of Planning require proposals which have a recommendation contrary to a view stated by an elected Member (in this case the Ward Councillor, Councillor Wright, as set out above) to be reported to Planning Committee.
- 7.03 I consider it vital to draw Members attention to the decision of the Council as set out under reference 15/508792/PNQCLA. This previous application related to the same building as now being considered and the Council determined that prior approval was not required. The only differences between the previous application and the one now being considered is that this proposal also seeks prior approval in relation to “Design and External Appearance Impacts on the Building,” and that the configuration of the amenity space has been altered.
- 7.04 I am of the opinion that the proposal now being considered wholly complies with the conditions as set out in Class Q of the GPDO 2015, and the advice of the NPPF (as at 4.02 above). The agent has set out in their Planning Statement how the proposal meets all of the requirements of Class Q and I concur with their views.

- 7.05 I consider below the issues specified in Class Q in accordance with the provisions of paragraph W of the GPDO.

Transport and Highways Impacts of the development

- 7.06 I give significant weight to the decision made by the Council under application reference 15/508792/PNQCLA to which KCC Highways & Transportation made no comment (as is the case with this current proposal). Vehicle parking can be accommodated within the defined curtilage of the dwelling. As a result of the above I believe that prior approval is not required for the transport and highway impacts of the development.

Noise impacts of the development

- 7.07 I again give significant weight to the decision made under 15/508792/PNQCLA which determined that the noise impacts of the development would be minimal. I consider that the conversion of the building to a dwellinghouse would not give rise to a significant noise impact and as a result I believe that prior approval is not required in relation to the noise impacts.

Contamination risks on the site

- 7.08 I note and give significant weight to the decision made under 15/508792/PNQCLA which did not require prior approval in relation to contamination risks. I see no reason why I should come to a different conclusion in this regard, and I note that the Environmental Health Manager raises no objections to this current proposal..

Flooding risks on the site

- 7.09 The site is not in a flood zone and as such the threshold for consulting the Environment Agency set out in paragraph W has not been met. I consider that prior approval is not required for the flood risks on the site.

Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.

- 7.10 I note the objection that has been received on the grounds that the location of the building is unsustainable and has landscape impacts. In this case it is important to note that **the NPPG guidance, as set out in full above, makes it very clear that LPAs can not apply a test of sustainability to such change of use applications in recognition of the rural location of the majority of agricultural buildings.** The tests applied in relation to the sustainable location of the development are not the same as would be applied to a planning application, and in relation to this the NPPG states that *“an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.”*
- 7.11 I also give very significant weight to appeal decisions at Scotts Hill, Hartlip (APP/V2255/W/15/3003010); Norwood Farm, Bobbing (APP/V2255/W/15/3005182) and very recently at Wrens Hill Farm, Wrens Hill, Norton (APP/V2255/W/16/3161427). The Inspector’s decisions for these appeals give very clear indication that the Council should not be refusing such applications on sustainability grounds unless the property is truly inaccessible (at the top of a mountain, for example).

- 7.12 I also give significant weight to the decision issued by the Council under 15/508792/PNQCLA, which considered that the site lies on level ground relatively close to the villages of Upchurch and Lower Halstow.
- 7.13 The host building is accessed by a track, approximately 80m in length. However, I give significant weight to the comments of the Inspector on the Wrens Hill Farm appeal (as above) where it was stated that *“unmade farm tracks of this nature are not unusual as a means of residential access particularly in rural areas”*. I am therefore clear that prior approval is not required in this regard, and would again reiterate that applications for prior notification schemes are (perhaps unfortunately) not subject to the same vigorous policy considerations that apply to applications for planning permission.

Design and external appearance impacts on the building

- 7.14 The objection received also relates to the landscape impacts of the development. The requirements under Class Q do not specifically require the landscape impacts to be assessed. However the design and external appearance impacts on the building are to be considered. In relation to this, it is important to note that Class Q of GDPO does not allow for the dimensions of the building to be increased. As a result, the existing building which is in situ will only be altered by virtue of the the replacement of the existing external metal cladding with timber weatherboarding, the replacement of the existing metal roof covering with a clay tile finish and the insertion of windows and doors.
- 7.15 The NPPG states *“it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house.”*
- 7.16 As such, I am of the view that the proposed appearance of the building, by virtue of the materials chosen and the pattern of fenestration, will be acceptable and that prior approval is not required in this regard.

8.0 CONCLUSION

- 8.01 This application seeks to determine whether the Council's prior approval is required in relation to certain specified criteria in relation to conversion of a barn to a dwelling under Class Q of the GPDO (England) 2015. It is not an application for planning permission to which the Council can apply its usual policy considerations, but is instead a technical assessment of the facts provided.
- 8.02 I note the objection from the Ward Councillor, but the issues raised amount to policy considerations which, as above, do not apply to applications for prior approval.
- 8.03 I consider that prior approval is not required for the proposed development.

9.0 RECOMMENDATION – Prior Approval Not Required

- 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.

PLANNING COMMITTEE – 25 MAY 2017

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

REFERENCE NO - 17/500392/FULL			
APPLICATION PROPOSAL Erection of 2 No. detached dwellings to replace existing chalet bungalow			
ADDRESS 177 Wards Hill Road Minster-on-sea Kent ME12 2JZ			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION This application is a revision to the proposal allowed on appeal under reference APP/V2255/W/16/3149881. I do not believe that the proposals are significantly different as to alter the decision reached on appeal - the site is within the built up area boundary where the principle of residential development is accepted and would in my view not give rise to serious concerns regarding visual or residential amenities or the streetscene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Andy Booth			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr & Mrs T Harris AGENT Design Quarter UK Ltd	
DECISION DUE DATE 30/05/17	PUBLICITY EXPIRY DATE 17/03/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/503681/FULL	Erection of 2 detached dwellings to replace existing chalet bungalow	Refused – allowed on appeal, PINS reference 3149881	Refused on 26.01.2016. Allowed on appeal 02.09.2016
SW/08/0096	Outline application for erection of 3 bungalows to replace existing chalet bungalow.	Approved	23.05.2008

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 No.177 Wards Hill Road is a detached, split level bungalow situated within a large plot in the built up area of Minster-on-sea.

- 1.02 The existing property sits to the rear of three existing dwellings, known as Four Winds, Carousel and Mwalimu. The land that these dwellings are located upon used to form part of the garden to No.177. Permission was granted for the three dwellings now situated there under reference NK/4/72/7.
- 1.03 The site is accessed via a driveway located between Four Winds and No.181 Wards Hill Road which opens out into the site at the bottom of Four Winds' garden. The siting of the property means that it is hidden from Wards Hill Road, and it effectively fronts onto Clovelly Drive, although there is currently no vehicular access from that side.
- 1.04 The plot slopes downwards from Wards Hill Road to Clovelly Drive so that the existing property is located on a higher level than those properties to the south.
- 1.05 Both Wards Hill Road and Clovelly Drive have a wide range of housing types and designs. To the north of the site are chalet bungalows with traditional bungalows either side and a terrace of three properties to the south.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the construction of two properties.
- 2.02 The properties would be located towards the southern boundary of the site, fronting Clovelly Drive with a landscaped garden and parking space to the front and private amenity space to the rear. The existing access from Wards Hill Road to an existing area of hardstanding would be retained.
- 2.03 Due to the sloping nature of the site from north to south the properties will be split level, with a lower ground floor, ground floor and first floor as viewed from the front elevation and a ground and first floor as viewed from the rear.
- 2.04 Both properties, as viewed from the front will have a finished ground floor level below that of the existing ground levels. As such, when viewed from the front elevation,(Clovelly Drive) the property on plot 1 will measure 9.2m to the ridge from the existing lowest site level.
- 2.05 The roof for plot 1 would comprise of hipped ends and a portion of flat roof, although there will also be a pitched roof element with front facing gable. Within the front roof slope there will be two pitched roof dormers. Due to the change in site levels, on the rear (north) elevation the roof space will effectively be the first floor level with three pitched roof elements above the first floor windows.
- 2.06 This property on plot 1 would have a footprint of 12m in width and be between 11.2m and 15.2m in depth. The materials have been indicated on the application form as brown interlocking concrete roof tiles, white painted render walls and white uPVC windows and doors. The rear garden would vary between 11m and 13.6m in depth, 14.8m in width. This property would be sited 2.52m from the boundary with No.16 Clovelly Drive and 1.94m from the boundary with plot 2.
- 2.07 The property on plot 2 would measure 8.8m to the ridge from the lowest natural ground level. The property will have a pitched roof with front and rear facing gables, a flat roofed dormer window on the east facing roofslope and three rooflights on the west facing roofslope.

- 2.08 Due to the change in site levels, the property on plot 2 would appear as a chalet bungalow from the rear(north) but as a two storey house with rooms in the roofspace from the front elevation (Clovelly Drive). The footprint of the property measures 8m in width and 12m in depth. The materials have been stated in the application form as set out above for plot 1..
- 2.09 The rear garden measures approximately 13.6m in depth and 11m in width. The flank wall of the dwelling would be 1.4m away from the boundary with plot 1 and on the opposite side a gap of 1.53m is proposed between the flank wall and the adjacent property, Lyndale.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 2

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 Policies, CP4 (Requiring good design), DM14 (General Development Criteria) and DM7 (Vehicle parking) are also relevant.

5.0 LOCAL REPRESENTATIONS

- 5.01 Three letters of objection and one letter of support have been received. The objections raise the following summarised points:
- Loss of light, outlook and privacy to the properties fronting the development on Clovelly Drive;
 - Loss of light to adjacent property;

- Proposed dwellings not in keeping with the rest of the properties in this road;
- The road will not be able to cope with lorries delivering heavy materials;
- Water will run from the site towards properties on the opposite side of Clovelly Drive;
- Car headlights will shine into the opposite dwellings;
- Clovelly Drive already experiences parking pressure and this development will only add to it;
- Emergency services are unable to gain access along Clovelly Drive when cars are parked either side of the road;
- High risk of flooding from surface water after heavy rainfall;

5.02 The letter of support raised the following summarised points:

- The existing bungalow on the site is an eyesore;
- The design of the proposed properties is impressive and fits well into the road which includes a variety of house types;
- There is an abundance of off road parking;
- The houses will be energy efficient;
- The proposal will contribute to the housing need in the Borough.

6.0 CONSULTATIONS

6.01 **Minster-on-sea Parish Council** support the application.

6.02 **KCC Highways & Transportation** *“confirm that subject to the amended plans I would raise no objection on behalf of the highway authority.”*

6.03 The **Environment Agency** have stated that *“Flood zone 2 at this location does not accurately show the 1 in 1000 year tidal flood outline. Therefore if the lower ground floor level is at approximately 16m AOD, then we would have no objections to residential development. The finished floor levels should be confirmed within the application.”*

6.04 **Environmental Health** raised no objection subject to conditions relating to dust suppression, hours of construction and asbestos. I have not included the condition related to asbestos as this is not dealt with via the planning process.

6.05 **Cllr Andy Booth** commented *“I'd like to see this before committee”*

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/503681/FULL; appeal reference APP/V2255/W/16/3149881 and planning reference 17/500392/FULL.

8.0 APPRAISAL

8.01 The application as now submitted is broadly similar to the proposal for two dwellings allowed on appeal in September 2016. I have included this appeal decision as an Appendix for ease of reference.

Principle of Development

- 8.02 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. It should also be noted that outline planning permission for three dwellings on this site was granted under SW/08/0096 as well as the permission granted on appeal for two dwellings as set out above. In my view this firmly establishes the principle of residential development in this location.

Residential Amenity

- 8.03 The layout and scale of the dwellings differs slightly from that previously approved. In terms of the impact upon adjacent dwellings, it is noted that the property on plot 1 has been moved approximately 1m further away from the common boundary with the existing adjacent property, No.16 Clovelly Drive. As a result the proposed property would be 2.5m away from the common boundary and 4.8m away from the flank wall. I note that the dwelling as now proposed would be 1m higher than previously allowed on appeal. However, I am of the view that the 1m increase in height will be offset by the increase of 1m to the boundary and as such would not be any more harmful than the previous proposal in this regard. Further to this, the proposed property does extend rearwards of No.16 by an additional 0.5m in comparison to what was previously allowed on appeal. However, I again take the view that the increased gap to the boundary would mean that this would not be significantly harmful to residential amenities. As a result I am of the view that this property would have not give rise to a more harmful impact upon this neighbouring property than what was considered acceptable by the Inspector.
- 8.04 On the opposite side, the property on plot 2 would be 5.8m away from 'Lyndale'. The proposed dwelling is 1.1m higher than that allowed on appeal however it is 0.53m further away from the common boundary with Lyndale than the previously approved dwelling. In this case I am of the view that the limited increase in height, combined with the gap between the proposed and existing property, which has now been increased, would in my view not give rise to unacceptable harm to the residential amenities of this neighbouring property. I also take into consideration that this property does not project as far rearwards as Lyndale. I believe that the Inspector's comments in relation to the layout of the properties (which are largely the same in this application) are relevant and state *"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"*.
- 8.05 I also note in paragraph 6 of the 2016 appeal decision that the Inspector found that the scheme would not affect the primary outlook from No16 and Lyndale (i.e. their front and rear facing windows) and similarly it is considered this application would not impact significantly on the primary outlook of these properties identified by the Inspector .
- 8.06 The objection letters also raise the point regarding loss of privacy for the dwellings facing the front of the proposed properties in Clovelly Drive. In response to this I take the view that the properties would be constructed in a manner addressing the street in a conventional manner. This would reflect the relationship between the existing properties in Clovelly Drive. I also give significant weight to the Inspector's comments as follows, *"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 metres, 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." The properties as now proposed would also be approximately 25m away from the front elevation of Nos 13, 15 and 17. Therefore I do not believe that the small increase in height of the buildings, over what has previously been approved would give rise to significantly levels of overlooking. I also note in paragraph 6 of the appeal decision that the Inspector found the scheme would not affect the primary outlook from within the interior of No.16 and Lyndale (i.e the front and rear elevations), and similarly this application would not impact upon this primary outlook identified by the Inspector.

- 8.07 I note that the scheme as now submitted does include flank windows on plot 1 which serve bedrooms. Therefore in order to protect the amenities of adjacent occupiers I have included a condition requiring these windows to be obscure glazed. Taking all of the above into account I do not believe that the proposal would have an unacceptable impact upon the amenities of surrounding occupiers.

Visual Amenities and the streetscene

- 8.08 Although there have been some slight amendments at ground floor level to the property on Plot 1, and the scale and height would be slightly greater, the design of the dwellings is very similar to the development allowed on appeal. I note that the application previously refused at Planning Committee was not refused on the basis of the impact on visual amenities or the streetscene. Furthermore, the Inspector on allowing the appeal considered the visual impact to be acceptable.
- 8.09 The property at plot 1 would have an element of flat roof, due to the depth of the property and the falling gradient on the site. A design which incorporates an element of flat roof would not usually be encouraged, however in this case I am of the opinion that views of the flat roof from public vantage points would be largely unobtainable. From the front of the property the roof would appear as being pitched with hipped ends whilst to the side and rear, views towards the flat roofed area would be largely blocked by existing residential development. As such I consider the design of the property to be acceptable. I also note a small scale flat roofed dormer window on the side elevation of the property on plot 2. Due to its scale and that it sits comfortably within the roofslope I consider this to be acceptable. To ensure that an appropriate blend of materials are used I have included a condition which requires details of materials in the interests of visual amenities.
- 8.10 As referred to above, the existing site is fairly large with a split level bungalow situated some 21m away from the boundary with Clovelly Drive. The properties as proposed will address Clovelly Drive in a similar fashion to the existing properties located along this road and will broadly follow the established building line of the existing dwellings. As such, I consider that the construction of dwellings in the location proposed would be in keeping with the surrounding area, which is predominately residential in nature.
- 8.11 Clovelly Drive is made up of a wide variety of property types and designs and therefore the scale and designs of the proposed development would not be out of keeping with the built form within the existing streetscene, despite being flanked by bungalows. As such, in overall terms I consider that the properties would not have an unacceptable impact upon visual amenities and would not significantly harm the existing character of the streetscene.

Flood Implications

- 8.12 Flood Zone 2 cuts across the application site. A Flood Risk Assessment has been submitted with the application which includes details showing the site levels in relation to Ordnance Datum. This application does differ from the scheme previously allowed on appeal by virtue of including a bedroom at lower ground floor level in the property on plot 1. As a result I have contacted the EA for their views. Due to the site levels above Ordnance Datum the EA do not raise an objection to the application. I have included a condition which requires compliance with the submitted drawings, which includes finished floor levels and as a result in line with the EA's comments I do not believe that the application would give rise to unacceptable risk to the occupiers of the development.

Protected Species

- 8.13 In the Minute's of the 14th January 2016 Planning Committee it was noted that if the application had been delegated to approve then it would have been subject to the receipt of a bat survey and no subsequent objection from the KCC Ecologist. The Inspector paid close attention to this and stated *"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. On this issue I therefore conclude that the development would not be harmful to protected species."* As a result of these comments I am of the view that it would be unreasonable to request further details in relation to protected species or to impose a condition on this basis.

Impact upon SPA and Ramsar sites

- 8.14 Natural England have suggested that developer contributions are required for off site mitigation of the impacts of new residential developments on the nearby SPA and Ramsar sites. However, as set out in the Habitat Regulations Assessment below, 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

- 8.15 Parking has been raised as a concern in the objection letters, however, the amount of parking, due to the rear access also being made available is above that which the Inspector considered acceptable. Although the property on Plot 1 does include an additional bedroom, it is noted that there is now a large amount of parking space at the rear of the dwelling, in addition to the spaces at the front and the garages. Therefore I believe that the parking provision is acceptable.
- 8.16 In relation to the remaining concerns raised I make the following points. I do not consider the road to be in such a poor condition that construction vehicles and / or emergency vehicles would be unable to gain access. The flood risk at the site has been discussed above and is not considered unacceptable. For a scheme of this

size, drainage would be dealt with by Building Regulations and as such I will not elaborate further on this. Finally, in this residential area I do not believe that car headlights from the proposed development shining into surrounding properties could reasonably substantiate a reason for refusal.

9.0 CONCLUSION

- 9.01 In this case I give very significant weight to the decision of the Inspector for a similar development on this site. I am of the view that the amendments to the scheme do not create a proposal which mean that a different view to the Inspector's should now be reached. Furthermore, I am of the opinion that due to the similarities between the scheme and what was previously allowed on appeal if the Council were to refuse this application then there is the strong possibility that the Council would be at risk of an award of costs being made against it in a subsequent appeal. However, notwithstanding the above I am of the view that the proposal as now submitted does not cause unacceptable harm to residential, visual or highway amenity and does not pose an unacceptable flood risk to future occupiers of the development. I note the conditions that the Inspector imposed on the previous scheme and consider these also to be appropriate in this case. On this basis 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 be carried out in accordance with the following approved plans: 694-PL-05B (received 14th March 2017) 694/PL/06A (received 21st February 2017); 694/PL/07B (received 27th April 2017).

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

- 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.

Reason: In the interests of visual amenities.

- 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 (which shall be native species and of a type that will encourage wildlife and biodiversity), 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.

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

- 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.

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.

- 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.

Reasons: In the interests of visual amenities.

- 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.

Reason: In the interests of visual amenities.

- 8) Before the dwelling on plot 1 hereby permitted is occupied, the two flank windows at first floor level serving bedrooms shall be obscure glazed and remain as such in perpetuity.

Reasons: To protect the privacy of neighbouring occupiers.

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

Reasons: for the sake of clarity and in order to ensure a satisfactory form of development having regard to the sloping nature of the site.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 3km north of The Swale Special Protection Area (SPA) and Ramsar site and 4.2km 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, 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:

- 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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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)

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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

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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

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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.

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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.

Appeal Decision APP/V2255/W/16/3149881

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.

REPORT SUMMARY

REFERENCE NO - 17/500397/FULL			
APPLICATION PROPOSAL Conversion of existing 3 bedroom dwelling into 1no one bedroom flat and 1no. two bedroom flat, including the erection of a two storey and single storey rear extension			
ADDRESS The Laurels Darlington Drive Minster-On-Sea ME12 3LF			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would provide an additional dwelling in a sustainable location and would not give rise to significant harm to the character of the area and would not unacceptably impact upon residential, visual or highway amenities.			
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Lambkin AGENT Woodstock Associates	
DECISION DUE DATE 28/03/17	PUBLICITY EXPIRY DATE 24/02/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises a two storey end of terrace dwelling with hardstanding to the front and side and private amenity space to the rear.
- 1.02 The surrounding area is predominately residential in nature and is comprised of terraced, semi detached and detached dwellings in a variety of styles.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the sub-division of the existing 3 bedroom single dwelling into 1 x 1 bedroom residential unit at ground floor level and 1 x 2 bedroom unit at first / second floor level and the construction of a ground and first floor rear extension.
- 2.02 The ground floor extension will measure 4.7m in depth and 4.6m in width. The first floor extension will measure 1.8m in depth and 4.6m in width. The ground floor will have a monopitch roof with an eaves height of 2.7m. The first floor will have a pitched roof with rear facing gable, an eaves height of 5.5m and a ridge height of 6.6m.
- 2.03 The amenity area to the front, side and rear of the property would remain unchanged.

3.0 PLANNING CONSTRAINTS

3.01 None

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 E24 states that the Borough Council will only grant planning permission for alterations and extensions to existing buildings provided they are of a high quality design; are in scale in relation to the building's surroundings; maintain or enhance the character of the streetscene; preserve architectural, landscape, or nature conservation features of interest; and protect residential amenity.
- 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) and DM16 (Alterations and extensions).

Supplementary Planning Guidance

4.08 The Conversion of Buildings into Flats & Houses in Multiple Occupation and Designing an Extension – A Guide for Householders

5.0 LOCAL REPRESENTATIONS

5.01 Neighbouring properties were sent a consultation letter. One response was received which raised the following objection:

- *“We were never contacted re the loft extension and feel that this is the main point considering that the window for the loft extension looks straight into my rear two bedrooms and into my back garden losing all privacy I had.”*

The loft conversion has been completed and having assessed the drawings I am of the view that it satisfies the requirements to constitute permitted development. As a result the Council have no control over this and furthermore, the application now submitted does not seek permission for this (as none is needed). Therefore I will make no further reference to it in the remainder of this report.

6.0 CONSULTATIONS

6.01 **Minster-on-sea Parish Council** objects to the application and states that it has *“concerns that the proposal may set a precedent for the subdivision of properties.”*

6.02 **Environmental Health** raised no objection subject to an hours of construction condition.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 17/500397/FULL.

8.0 APPRAISAL

8.01 The application site lies within the built up area boundary. As such the principle of additional residential units on this site is compliant with the broad aims of both local and national policy. The main considerations in my view comprise the impact upon the character of the area and residential, visual and highway amenities.

8.02 Although the surrounding properties in Darlington Drive itself are in single occupation there are several properties in Barton Hill Drive, approximately 100m away from the application site that have been sub-divided into flats. I also note that in nearby Minster Road, Sanspereil Avenue and Summerville Avenue there are purpose built flats. As a result, due to the context of the surrounding area I do not believe that the proposal to sub-divide this one unit into two would be so significantly out of keeping with the area that unacceptable harm would arise.

8.03 The application proposes a two storey rear extension. At ground floor level, the adjoining property, ‘The Limes’ already extends as far as the extension now proposed. On the opposite side, due to the depth of No.11 Darlington Drive, this adjacent property will still extend 1.2m beyond the rear wall of the ground floor element of the extension proposed at full two storey height. I note that No.11 has a number of flank windows facing towards the application site, however, there would still be a reasonable gap of 3.8m between the host property and this adjacent dwelling which would in my view limit any harm to the amenities of the occupiers of this property. Furthermore, notwithstanding the above, flank windows are afforded less weight when considering the impact upon neighbouring dwellings as to do so would give occupiers with flank facing windows significant rights over land that they do not own. At first floor level the extension will project 1.8m. This is compliant with the SPG and as a result, taking the above into account I do not believe that the two storey rear extension would give rise to unacceptable harm to residential amenities.

- 8.04 The extension has been designed with a combination of monopitch and pitched roofs. Furthermore, as the proposed extension would be to the rear of the property, views towards it from public vantage points would be extremely limited. No changes to the front of the property are proposed and as a result I am of the opinion that the proposal would not give rise to unacceptable harm to visual amenities of the surrounding area including the streetscene..
- 8.05 The vehicle parking arrangements remain unchanged from the existing layout. At the current time there is hardstanding to the front of the property where one vehicle could be parked. The existing property is a three bedroom dwelling. In this location the KCC Interim Guidance Note 3 (20th November 2008) – Residential Parking requires 1.5 spaces per unit for a 3 bedroom house in a suburban location (which I consider this to be). 1 and 2 bedroom flats in this location require a single parking space each. Therefore, the existing requirement for 1.5 spaces would be rounded up to 2 which is the same provision as would be needed for the units proposed. Therefore, I do not believe that the proposal would be any more harmful in this regard than the existing arrangement.
- 8.06 The proposed units meet the requirements of the SPG in terms of floor area in all respects and in addition to this a reasonably sized private amenity space of 13.4m in depth and 5.4m in depth would be provided. As a result I consider that the provision of the amenity space for future occupiers would be acceptable.
- 8.07 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 the proposal provides an additional residential unit in a sustainable location without giving rise to unacceptable harm to residential, visual or highway amenities. Although the Parish Council raised concern regarding this application setting a precedent, each case would be required to be judged on its merits and would need to provide enough space for future occupiers of the dwelling including outside amenity space. I also consider that in this specific case there are existing flats within close enough proximity to the application site as not to cause unacceptable harm to the character of the area. 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: LA/15/149.02; LA/15/149.03; and LA/15/149.04 (all received 31st January 2017).

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

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

Reasons: In the interests of visual amenity.

- 4) 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 08.00 – 18.00 hours, Saturdays 08.00 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4km north of The Swale Special Protection Area (SPA) and Ramsar site and 3.8km 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, 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:

- 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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REPORT SUMMARY

REFERENCE NO - 15/510051/FULL			
APPLICATION PROPOSAL Retrospective planning application for the retention of the existing laundry building in its as built condition			
ADDRESS 29 Ashford Road, Faversham, Kent ME13 8XN			
RECOMMENDATION: Grant of Planning Permission subject to:- 1) The comments of the Economy and Community Services Manager 2) The signing of a suitably worded legal agreement ;and 3) Conditions as set out below			
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is in line with the aims of the NPPF and the Borough Council's employment policies, and brings significant economic benefits. With use of appropriate landscaping it is considered that the laundry building as built sits comfortably within existing development. The noise insulation of the building has been improved, and an acoustic fence will be built to further ameliorate noise from activities associated with this site, and as such it is considered that impact of the development on neighbour amenity is considered to be acceptable. The Environmental Protection Team Leader raises no objection.			
REASON FOR REFERRAL TO COMMITTEE At request of Cllr Mike Henderson for reasons that it is important that any planning permission is conditioned very tightly as the applicants ignored many detailed requirements of the previously granted application, and that time limits should be set for the implementation of the acoustic fence and hedge.			
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Richard Cope AGENT Bedfords Surveyors Ltd	
DECISION DUE DATE 04/02/16	PUBLICITY EXPIRY DATE 18/04/17	OFFICER SITE VISIT DATE various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): The site has an extensive planning history which includes additions and extension to the now demolished original laundry building.			
App No	Proposal	Decision	Date
SW/14/0582	Variation to condition 30 (hours of operation) of approved SW/13/1075.	Refused	22.11.2016
SW/13/1075/CCA	Compliance with conditions 2 (dust suppression), 3 (loading & unloading provision), 4 (details of parking for site personnel), 5 (cycle shelter), 6 (samples of materials), 7 (sustainable measures), 8 (mechanical ventilation system), 9 (ventilation details), 10 (disposal of foul & surface water drainage), 11 (means of enclosure & soft landscaping), 12 (details of soundproofing), 13 (contaminated land assessment) and 15 (watching brief) of approved SW/13/1075. Pending consideration.	Pending decision	

	This application will be concluded once a decision has been issued for ref 15/510051/FULL		
SW/13/1075	Reconstruction of industrial premises following demolition due to serious fire. The decision notice is appended.	Approved	20.12.2013
SW/11/0951	Extension of commercial yard for car parking with associated boundary treatment.	Approved	30.09.2011
SW/10/1162	Extension of existing commercial yard and the erection of a retaining wall and a fence with proposed planting and hedging for provision of a car parking area.	Refused	12.11.2010
SW/00/1064	Erect single storey extension to laundry.	Approved	22.12.2000

Members will also note that there is currently an application ref 16/508602/OUT pending determination for up to 250 dwellings on the Preston Fields site (Policy AX4 in the Emerging Local Plan Bearing Fruits 2031) located immediately to the east.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is Faversham Laundry Services, 29 Ashford Road in Faversham. It is located to the south of Canterbury Road and immediately to the east of Ashford Road. To the north it shares a common boundary with no. 1 Orchard Cottages (formerly known as 9 Canterbury Road). Orchard Cottage and no.1 Orchard Cottage lie to the north of the site and are listed buildings. To the west the site shares common boundary with 31, 33 and 35 Ashford Road, whilst to the south the site shares common boundary with no. 35 Ashford Road and a field. The residential gardens of no. 31 and 33 back onto the west elevation of the laundry building. The site adjoins the Faversham Conservation area, and is located within the countryside.
- 1.02 The application site has an irregular shape, and narrows in width towards the rear, and has an area of approximately 0.3614 ha (or 0.8930 acres). The site is accessed via an access track taken from Ashford Road, which runs along the northern (side) boundary of no. 31 Ashford Road. The plot is occupied by a rectangular shaped building that has its western elevation approximately 3m from common boundary with the rear garden of no. 31 and 33 Ashford Road. The southern elevation of the building is located approximately 2m from common boundary with no. 35, and an adjoining field. There is an area of car parking to the rear of the laundry building, and there is a 1.8m high close boarded wooden fence at common boundary with neighbour at no.1 Orchard Cottage to the north. There are differences in land levels between the laundry site and adjoining neighbour to the north, with the adjoining land being at lower land levels than the laundry site.
- 1.03 The original, purpose-built laundry building was demolished following a fire in June 2013, and a new building was built following the grant of planning permission in December 2013 under ref SW/13/1075 for a replacement laundry building. The Laundry employs a total of 100 staff (50 at any one time), and the business received funding from the Government to help with its reconstruction.

2.0 PROPOSAL

- 2.01 The scheme approved under SW/13/1075 for a replacement laundry building following demolition of the original structure after fire damage was subsequently not built out in accordance with the approved drawings, and as such this application seeks to regularise a number of discrepancies between the building as originally approved (under SW/13/1075), and the scheme as subsequently built. This application seeks the retention of the laundry building in its as built condition.
- 2.02 The differences are as follows:
- that the built structure has flue and ventilation ducting that is not shown on the approved drawings,
 - the north elevation windows have been reduced in size,
 - windows/doors have been repositioned.
 - A pedestrian door at east elevation has been omitted,
 - roller shutters have been reduced in height from 4m to 3m high on the north elevation
 - the loading bay canopy has been reduced in height and projection
 - PV cells have been installed on south elevation,
 - the front entrance porch has been built using unauthorised materials
 - lighting and security installed without permission,
 - the brick finish used to construct the building is not the approved brick type.
- 2.03 In addition, some of the pre-commencement conditions attached to planning permission ref SW/13/1075 have not been satisfied and as such this application also seeks to satisfy all outstanding conditions. There is currently an application to confirm compliance with conditions (ref SW/13/1075/CCA) and seeks to discharge all outstanding conditions (see summary above). If planning permission is granted for the structure in its built form, this application will be closed given that there will be no need to discharge such conditions as the acceptability of details (such as drainage, materials, acoustic fence, sound insulation, landscaping etc) would have been assessed in the consideration of the acceptability of this application.
- 2.04 The applicant has submitted an amended site plan, and an elevation drawing showing the building in its as-built form, together with an acoustic report. The drawings show a 4-metre high fence that reduces part way to 1.8m high at eastern end of the northern boundary close to the cycle shelter, and a vehicle parking area with 26 car parking spaces, and also shows where the fence stops being 4-metres high at western end. The fence has a pedestrian gate at the eastern end of the boundary so as to enable access to the adjoining plot for installation and maintenance. Ivy planting is proposed against the fence and this planting will be planted against a trellis on the northern side, facing the Conservation Area.
- 2.05 Officers have been working with the operator and his agent in an effort to arrive at a scheme (including an acoustic fence) that would not only fully address issues relating to impacts on neighbouring residents but also be workable for the applicant, whose business is a significant local employer.
- 2.06 The replacement structure measures 68m by 28m in area and has a maximum height that ranges from 8m to 8.8m. The building has openings to the north elevation to allow access, loading and unloading. The building in its built form now features a stepped approach to the elevations and roof line which creates a broken up façade. A varied selection of materials are used which includes composite wall cladding (olive green and moorland green in colour), cedar vertical boarding, facing brickwork (brick slips),

Kingspan roof cladding in Goosewing grey, Goosewing grey powder coated galvanised roller shutters, powder coated aluminium doubled glazed windows and doors, and brackets to the main entrance. The building has PV Cells to the south pitch roof (towards the western end), and there are no windows on this elevation (rear).

- 2.07 The building has been carefully designed so as to minimise noise impact onto the living conditions of neighbouring properties by minimising openings. There are no windows on the south elevation (rear), east elevation (side) and west elevation (side) of the building. There are two roller shutter doors to the north elevation (side of the building), whilst the south elevation has 3no. pedestrian door openings. In addition there are no openings on the west elevation (side elevation facing the rear gardens of No 31 and 33 Ashford Road).
- 2.08 There are also exit shutter doors located on the east elevation, to the rear of the building away from the residential properties. These are used for loading up delivery vehicles.
- 2.09 The existing drainage system along the southern boundary is to be retained and re-used; this was specifically designed to accommodate the building usage. There is no proposed change to the waste discharge.
- 2.10 The applicant advises that whilst the original laundry building had no restriction on opening hours, they have considered concerns raised by neighbours and propose noise mitigation measures so as to enable the relaxation of hours of operation. An acoustic fence is proposed along the northern boundary of the site (as shown on amended drawing nos. INF/3540/1 Rev C (site plan) and INF/3540/2 Rev D (boundary treatment), the building is sound insulated (as detailed in paragraph 9.14 herein) and the submitted acoustic report confirms that with such mitigation measures no significant harmful noise impact would be caused to neighbouring properties as a result of the development. Based on these mitigation measures, the applicant requests that opening hours of the laundry business be as follows:-

7am -10.30pm Monday to Friday

7am - 4.30 pm Saturday (seasonal)

Occasional Sunday working to cover emergency's such as power losses and other conditions such as traffic delays or hold ups which affect vehicle movements to and from the site

Delivery hours are proposed to be as follows:-

4.00am – 10.30pm Monday to Friday (including weekends and Bank Holidays as and when necessary).

- 2.11 The applicant further advises that drivers arrive at the laundry at about 4.00am to collect their vehicles and leave the premises. No loading of vehicles takes place in the early hours before the laundry is open for the normal business. Vehicles generally return to the laundry during working hours ready for loading of deliveries for the following day. On rare occasions vehicles might arrive at the laundry after it has closed for business because of traffic hold ups or if there has been a delay leaving the customer for a variety of reasons.
- 2.12 The applicant has submitted a copy of a deed of transfer dated 25 February 2009 between no.1 Orchard Cottages and Faversham Laundry which has a covenant in favour of Faversham Laundry allowing it, upon the giving of reasonable notice to enter

onto the retained land with or without workmen, plant and machinery to renew and maintain the boundary fence or structure. In addition, the applicant has also submitted a draft legal agreement (unilateral undertaking) to secure the implementation and maintenance of the acoustic fence and ivy planting.

2.13 The application is supported by a number of reports including the following:-

- A Design and Access Statement (November 2015)
- An Acoustic Report (February 2017)
- Ivy Planting and Maintenance Schedule (February 2017)

2.14 From the above listed reports, I draw the following summarised key points:-

Design and Access Statement

- The original laundry building was demolished by fire in 2013 and planning permission for a new replacement structure was given under planning permission ref SW/13/1075.
- During the course of construction changes were made to the design of the building hence the submission of this application
- The footprint and maximum height of the building is as originally approved
- The new building is a steel framed structure with a colour graded profile sheet system to the roof and upper walls and a brick finish at the lower level. The walls and roof are insulated.
- The accommodation provided is comprised of a machine room which occupies the majority of the ground floor, together with a reception office, transport office, and an access to the first floor mezzanine area. The first floor provides a storage area and ancillary spaces such as an offices, canteen, and WC facilities.
- The laundry employs approximately 100 staff
- The ducting and ventilation has been installed to facilitate operation of the laundry, and the cross flow ventilation system has been sympathetically designed so that the ventilation grilles used are acoustic ventilation louvres and in addition, further attenuation has been provided to the flue ducting in order to reduce breakout noise
- The first floor windows at north elevation have been reduced in size to minimise overlooking onto neighbouring property
- There have been a few alterations to previously approved doors/windows. The changes relate to window/ door sizes and positions.
- Roller shutter doors have been reduced to two, rainwater drainage and steps and handrails have been designed to comply with Building Regulations
- PV cells are shown on the south elevation, emergency lighting and security measures such as CCTV are shown. CCTV does not overlook neighbouring properties
- A brick slip facing type Monolith Red Rustic Multi Finish instead of the approved material. The new brick gives the appearance of a solid brick construction.
- There is an acoustic fence proposed on north elevation that will attenuate noise breakout from roller shutter doors to and will also shield the building from view
- Overall the development is supported by policies. It will support the needs of an existing company and will create local jobs

Acoustic Report

- The most sensitive receptors are nos. 1 Orchard Cottage and Orchard Cottage located to the north of the site
- Linen is loaded at the side and rear of the building. The north elevation (side) of the building faces Orchard Cottages.

- The laundry operated from the site since 1898 and had no restrictions on operating hours
- Planning permission ref SW/13/1075 has a condition that restricts hours of operation
- Planning application was sought under ref SW/14/0582 to relax the operating hours. This was refused on unacceptable noise impact and lack of a noise assessment and acceptable mitigation measures.
- The submitted acoustic survey looks at noise impact based on extended operating hours
- The survey concludes that (without mitigation).the increase in operating hours would have an impact that is 'adverse' to 'significant' and as such it is recommended that a 4m high barrier is installed at common boundary with Orchard Cottage and this barrier can be reduced in height at rear of the site.
- If the barrier is 4m high at western end and is reduced to 1.8m high towards the eastern end the impact of the laundry to neighbouring properties would be less than adverse
- With mitigation measures, the proposals would bring noise levels that do not exceed the WHO guidelines and as such is considered acceptable, and given this the application is in accordance with Government Policy.

Ivy Planting and Maintenance Schedule

- The planting of ivy is to be carried out by trained operatives.
- Spacing of plants is to be every 3m along the length of the fence
- Monthly maintenance schedule is proposed
- Any plants which do not take due to poor establishment will be replanted between November and March
- Tree guards and ties to check upon each visit and all vegetation will be cleared around the base of the plants and along the fence line and area to be kept weed free.
- 26x Hedera Hibernica (150-175cm 10lt) to be planted every 3m along the length of the fencing
- A leaky pipe irrigation system is to be installed with a Hoselock connection

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.3614 hac	0.3614 hac	-
Approximate Ridge Height (m)	8.8m	8.8m	-
Approximate Eaves Height (m)	7.04m	7.04m	-
Approximate Depth (m)	68m	68m	-
Approximate Width (m)	28m	28m	-
No. of Storeys	2	2	-
Net Floor Area	-	-	-
Parking Spaces	26	26	-

4.0 PLANNING CONSTRAINTS

Adjacent to Faversham Conservation Area

There are listed buildings to the north of the site (Orchard cottages - and formerly known as nos.9 and 11 Ashford Road)
 Countryside location as defined in both the Adopted Local Plan and the Emerging Local Plan Bearing Fruits 2031

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage Local Planning Authorities to support existing businesses and encourage development that would support a sustainable economy, subject to amenity considerations.
- 5.02 Para 7 of the NPPF identifies three dimensions to sustainable development; economic, social and environmental, subsequently ascribing these “roles” to the planning system.
- 5.03 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.
- 5.04 Paragraph 56 attaches great importance to design which should contribute positively to making places better for people, and 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.”*
- 5.05 Paragraph 109 requires the planning system to; contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing gains where possible; prevent new development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil or water pollution and remediating and mitigating contaminated land where appropriate.
- 5.06 Paragraph 123 of the NPPF specifically states that:-
- “Planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions
- 5.07 Paragraphs 129 -132 advise Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal including by development affecting the setting of a heritage asset. Significance can be lost through development affecting its setting.

The Development Plan

- 5.08 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP3 (Economy), SP5 (rural communities), SP6 (transport and utilities), SP7 (Transport and Utilities), E1 (general development criteria), E6 (countryside); E9 (protecting the quality and character of the Borough's Landscape); E10 (trees and hedges); E11 (biodiversity and geological interests), E14 (Development Involving Listed Buildings); E15 (Development Affecting a Conservation Area); E19 (achieving high quality design and distinctiveness); T1 (safe access), T3 (vehicle parking for new development); and T4 (cyclists and pedestrians); B1 (Supporting and Retaining Existing Employment Land and Businesses), B2 (Providing for New Employment), and T3 (Vehicle Parking for New Development),
- 5.09 The Emerging Swale Borough Local Plan "Bearing Fruits" 2031 – ST1 (sustainable development), ST2 (targets for homes and jobs), ST4 (meeting local plan development targets), CP2 sustainable transport), CP4 (good design), CP7 (conserving and enhancing the natural environment - providing green infrastructure), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM14 (general development criteria), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM32 (Development Involving Listed buildings), DM 33 (Development Affecting a Conservation rea), and DM34 (Archaeological sites).

6.0 LOCAL REPRESENTATIONS

- 6.01 6 letters of representation received from neighbours raising the following concerns:
- The vents on the building cause impact on neighbours in terms of noise, smells and steam vapour
 - Have works being carried out to reduce the noise emitted from the roof vents?
 - There is one vent that that emits large amounts of steam and also noise that can be heard form neighbours bedroom window
 - Additional operating hours should not be given to this business
 - The boundary fence is inaccurately shown on submitted plans as it does not run straight
 - The acoustic fence shown on the drawing has not been built
 - There are flues that have been installed without planning permission and are harmful to the appearance of the area and do not adequately deal with air pollution
 - Working hours should be restricted to those granted
 - Doors to the factory must be closed at all times
 - Sound levels are excessive and the application does not propose adequate mitigation measures
 - The business is operating outside authorised hours yet this application does not propose to relax the operating hours
 - Landscaping and the acoustic fence are to be planted on land that is not within the ownership of the applicant
- 6.02 Subsequent to submission of amended drawings, 3 letters were received from neighbours with the following comments:
- The proposed acoustic fence and ivy planting is supported. The proposed height is acceptable.
 - Applicants should be given 2 to 4 months to erect the fence and plant the landscaping
 - No application for increased hours shall be looked at until the fence has been erected.

7.0 CONSULTATIONS

- 7.01 KCC Highways and Transportation advise that this development does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
- 7.02 Environment Agency advises that they have no objection to the application. However, KCC Flood and Water Management should be consulted on the drainage as they are the Lead Local Flood Authority.
- 7.03 KCC Flood and Water Management initially raised concerns regarding the submitted drainage details. Subsequent to this, additional drainage details were submitted by the applicant and KCC advise that they are satisfied with the submitted additional information.
- 7.04 Environmental Protection Team Leader (EPTL) initially objected to the development on grounds that in its as built condition the laundry building would cause noise, nuisance and disturbance to neighbouring properties to the detriment of their living conditions. Subsequent to this an acoustic survey and revised drawings were received from the applicant showing the construction of an acoustic fence, and confirming that the walls and roof of the building have been noise insulated. EPTL were consulted on these amendments and they advise that the design and specification for the acoustic fence will provide an acceptable level of noise attenuation for neighbouring residents; that there should be a requirement for roller shutter doors to remain closed except when required for deliveries; and that noise emanating from the roof duct outlets during operation of the laundry was dealt with following a noise abatement notice served on the owner of the business in 2014. In addition, they advise that if the acoustic fence is satisfactorily installed, Faversham Laundry would have achieved the best practical means to prevent or counteract the effects of noise insulation from their operation. Overall they have no objection to the development as amended.
- 7.05 SBC Trees Consultant advises that he has no objection to the proposed landscaping details as amended.
- 7.06 Faversham Town Council initially objected to the original submission, however they have now withdrawn their initial objection and advise that they do not have an objection to the development as amended subject to the installation of a 4m high acoustic fence as proposed, and a 3 month time limit on the erection of the fence.
- 7.07 The comments of the Council's Economic Development Officer are awaited and I will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

Planning application forms and documents submitted to support ref 15/510051/FULL.

9.0 APPRAISAL

- 9.01 The main considerations in the determination of this planning application are the principle of the development, the impact on the setting of the listed building and the special character of the conservation area, the impact on the surrounding residential amenity, landscaping matters, and highway implications.

The Principle of development

- 9.02 As an existing business policy B1 of the Adopted Local Plan 2008 seeks to retain and support the expansion of existing businesses either on site or onto adjoining land. Members should note that Faversham Laundry has been located on the site for a long time, and certainly prior to the creation of the planning system (the Town and Country Planning Act in 1947). The site was originally occupied by a Victorian purpose built building which was destroyed by fire. Following this, planning permission was granted in 2013 for a replacement laundry building under ref SW/13/1075. However, the building was not built in accordance with the approved scheme, and some of the pre-commencement conditions were not discharged prior to construction of the building. As such this planning application seeks to regularise all of the unauthorised works as detailed in paragraph 2.01 herein. Members should note that in broad terms what was approved in 2013 has been built, however, there are a few variations which need to be regularised.
- 9.03 National planning policies generally encourage development that would positively contribute to sustainable economic development and employment. Paragraph 17 of the NPPF, in particular sets out that planning should proactively drive and support sustainable economic development to deliver business and industrial units, infrastructure and thriving places. Paragraph 19 of the NPPF continues to state that significant weight should be placed on the need to support economic growth through the planning system.
- 9.04 The Swale Local Plan 2008 and the corresponding policies of the Emerging Bearing Fruits 2031 generally seek to retain and support expansion of existing employment sites unless they are inappropriately located or have an unacceptable environmental impact. Whilst the site lies within a countryside location where policies restrict the development of new buildings, the site has been host to an existing laundry for a significant time from around 1900, and, in 2013 gained planning permission for a replacement building to replace the fire damaged structure. Bearing in mind the history of the site, that Policy B1 seeks to retain existing businesses, and that the NPPF is supportive of economic generating businesses in the countryside such as this one, it is considered that the principle of use of this site as a laundry is established and in any case is supported by the Council's employment policies. As such, the principle of retaining the laundry building is considered to be acceptable, and Members will note that the development supports approximately 100 jobs.

Design, Visual Impact and Impact on the setting of the listed buildings and conservation area.

- 9.05 The site lies in a sensitive location adjacent to the boundary of the designated Faversham Conservation area and is within the setting of two grade II listed properties (Orchard Cottages). It is therefore important to consider whether the proposed design has a detrimental impact on these heritage assets.
- 9.06 Since the submission of the application, every effort has been made to work with the applicant and his agent to arrive at a situation where officers could support the application. The submitted revised drawings are accurate and show the laundry building in its as built condition. In addition, the amended drawings show an acoustic fence with a pedestrian gate, ivy planting against the fence, together with a management plan for the ivy planting and the acoustic fence.

- 9.07 The building in its as built form is some 28m wide and 68m deep with a height of 8m increasing to 8.7m to the rear. Walls are constructed of a red brick slip at lower levels whilst the upper levels are constructed of wall cladding that is olive green for the lower panels and moorland green for the upper panels. Sections of the walls of the building are finished off with vertical timber boarding panels to add variety to the appearance of the building. All windows and doors are made of light grey powder coated aluminium, and roller shutters are grey galvanised roller shutters.
- 9.08 Whilst the elevational changes do have a visual effect upon the conservation area and upon the setting of the listed buildings, this is inevitable given the size of the laundry building and its dominant form and that there has been a building of substance on this site for some time. It is considered that with an effective screen as proposed by the applicant, the building will not cause significant harm to the setting of the adjoining conservation area and the listed buildings.
- 9.09 A bolder screening arrangement is needed to minimise the visual intrusion. The applicant has agreed to plant ivy against the acoustic fence as detailed in amended drawing no. INF/3540/2 Rev D and elsewhere. With use of a living fence as proposed, the exposed brickwork would be screened thereby mitigating any visual impact to acceptable levels. The proposed ivy planting will need to be properly managed and maintained in order to achieve the desired outcome, and as such it is recommended that its implementation and management should be secured. Given that implementation and management of the planting and fencing will be carried out from land that is outside the application site, their provision and maintenance will be secured by a legal agreement. The applicant has submitted a draft legal agreement to secure the provision of the acoustic fence and ivy planting, and to guarantee access across third party land to allow regular maintenance of the fencing and planting.
- 9.10 Given the above, it is considered that as amended, the development would be in context, and would be seen as a conventional industrial building in-keeping with the established use of the site, and in harmony with the surrounding character of the area. With use of appropriately managed ivy planting, any harm that would be caused to the setting of the heritage assets by the laundry building is not considered to be significant enough to justify a refusal of the application on this ground, and the development is therefore in accordance with the relevant paragraphs of the NPPF and the relevant policies in the Adopted and Emerging Local Plans.

Residential Amenity

- 9.11 The laundry building is sited at least 3m from common boundary with neighbours at nos. 31 and 33 Ashford Road, and more than 30m from the listed Orchard Cottages to the north of the site. The building has been designed to reduce its mass and bulk so as to keep the impact onto neighbours to acceptable standards. Given the design of the building, and the available distance separation from neighbouring properties, it is considered that any of these neighbours suffer harmful overbearing or overlooking as a result of the development.
- 9.12 The Adopted Local Plan 2008 Policy E1 specifically advises that when considering new development proposals, the Council seeks to minimise the impact of noise between new and existing uses. Proposed developments should not create noise that would need lengthy and costly solutions later on.

- 9.13 Noise generated by a commercial laundry business of this nature use would be either noise emanating from within the laundry building, or noise that is generated by vehicular movement associated with the laundry business. In regards to noise from mechanical ventilation, and flues on the structure, the agent advises that all ventilation and flues have been carefully designed so as to minimise noise impact on neighbours. The Environmental Protection Team Leader confirms that the cross flow ventilation system in place has been sympathetically designed so that the ventilation grilles used are acoustic ventilation louvres and that further attenuation has been provided to the flue ducting in order to reduce breakout noise.
- 9.14 In regards to the building itself, the applicant advises that the laundry building has been insulated to minimise noise emissions, by increased façade treatment and by the installation of additional insulation to the roof. The Environmental Protection team Leader confirms that such works have been implemented, and the works have been carried out to their satisfaction. In regards to vehicular movement the applicant advises that drivers arrive at the laundry at about 4.00am to collect their vehicles and leave the premises and no loading of vehicles takes place in the early hours before the laundry is open for the normal business. Vehicles generally return to the laundry during working hours ready for loading of deliveries for the following day.
- 9.15 I note that neighbours raise concern regarding impact of the steam vents on their living conditions. Whilst steam venting might be an unwelcome irritation, it is not within the Planning remit. The views of the Environmental Protection Team Leader have been sought on this matter and they advise that they do not consider that such an impact would constitute an actionable nuisance within the statutory nuisance provisions of Part III of the Environmental Protection Act 1990.
- 9.16 In addition, neighbours raise concern regarding noise breakout from the laundry through two roller shutter doors and fire doors (to the north elevation of the building) when they are left open whilst the use is in operation. It is acknowledged that the predicted noise will affect the garden / orchard area to the north to a degree. If the doors were left open, then this noise would be much higher and potentially affect these neighbouring properties. To mitigate this, the applicants have submitted an acoustic survey which recommends the installation of a 4m high acoustic fence (which decreases to 1.8m high at rear end of the site) on common boundary with neighbours at Orchard Cottages (formerly known as 9 and 11 Ashford Road) so as to mitigate noise to acceptable levels. It is considered that an acoustic fence of this height as proposed is considered to be sufficient to reduce the noise breakout and deflect a significant amount of the noise.
- 9.17 Whilst officers are sympathetic to the concerns raised by the objectors, who all live in close proximity to the site, they are firmly of the view that the main reasons of objection have been overcome, these mainly being the noise impact suffered by neighbours as a result of operations within the building, and vehicles going in and out of the site. The building has been sound insulated as detailed herein in paragraph 9.13 and 9.14, and an acoustic fence is proposed at common boundary with neighbours as detailed herein in paragraph 9.16, and as such it is considered that any noise impact that may be caused to neighbours (Orchard Cottages - nos. 9 and 11 Ashford Road in particular) would be mitigated to acceptable levels and will not harm the living conditions of these neighbouring properties.
- 9.18 Members should note that officers consider that the applicant has gone a significant way to amend the application to reduce the impact on the neighbouring residential properties to acceptable levels, and that the submitted amendments reflect the advice given by officers.

Landscaping

- 9.19 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 views into and out of the adjoining conservation area and nearby listed buildings are not harmed, and that the rural character of the area is not harmed. The submitted amended drawings include landscaping proposals which show that the acoustic fence will be screened by ivy planting at north elevation and as such would have limited impact on the character and appearance of the adjoining conservation area, the setting of the listed buildings and the rural character of the area. Whilst the proposed ivy planting is generally acceptable, regular maintenance is required to ensure a high standard of landscaping. The landscaping and acoustic fence would be installed and maintained from the adjoining neighbour and a pedestrian gate is proposed that would enable access to the adjoining site. The applicant has agreed that the provision and maintenance of the acoustic fence and ivy planting be secured via a legal agreement. A draft unilateral undertaking has been submitted to the Borough Council for consideration. Given this, there is no objection to the development.

Highways

- 9.20 The development provides a cycle shelter with 10 rack stands at rear of the site near the parking area, together with 26 car parking spaces, and a turning area for vehicles. It is considered that the building in its existing form does not generate additional vehicular traffic beyond that was previously experienced before the fire. There is no expansion of the business, and parking is already provided at the rear of the site, and is to remain as existing.
- 9.21 The existing access is acceptable and sight lines for vehicles leaving and entering the site are standard. KCC Highway Services advise that the proposal does not meet the criteria to warrant involvement from the Highway Authority. Given this, there is no objection to the development on this ground, and Members will note that this highway arrangement has been implemented and was agreed by the Council for the permission given under SW/13/1075.

10.0 CONCLUSION

- 10.01 The application site is an established employment site occupied by the Faversham Laundry business for a long time, and certainly prior to the creation of the planning system (the Town and Country Planning Act in 1947). In regards to the principle of development, the proposed development is in line with the aims of the Borough Council's employment policies and would bring significant economic benefits. It is considered that the laundry building as built sits comfortably within existing development. 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 The development would be within context, and seen as a conventional industrial building in-keeping with the established use of the site, and in harmony with the surrounding character of the area. With use of appropriately managed ivy planting, any harm that would be caused to the setting of the heritage assets (the adjoining

Conservation Area and the neighbouring listed buildings) is not considered to be sufficient to justify a refusal of the application on this ground.

- 10.03 The noise insulation of the building has been improved, and an acoustic fence will be built to further ameliorate noise from activities associated with this site, and as such it is considered that impact of the development on neighbour amenity is considered to be acceptable. Given this, and given the hours of operation and vehicle movements proposed as detailed in paragraphs 2.10 and 2.11 herein, it is considered that neighbour's living conditions will not be harmed by the development.
- 10.04 If Members find this application acceptable, it is considered that planning application ref SW/13/1075/CCA submitted to discharge conditions can be closed as further assessment will no longer be required.
- 10.05 Taking the above into account, and subject to the receipt of comments from the Economy and Community Services Manager, the completion of a Legal Agreement (possibly a Unilateral Undertaking) to secure the provision and future maintenance of the acoustic fence and ivy planting, and subject to conditions proposed in paragraph 11.0 it is recommended that planning permission is granted.

11.0 RECOMMENDATION – GRANT Subject to the comments of the Economy and Community Services Manager, the signing of a Legal Agreement to secure the provision and maintenance of the acoustic fence and ivy planting, access to third party and for maintenance, and to the following conditions:-

CONDITIONS

1. The development hereby approved shall be carried out and maintained in accordance with the following:
 - INF/3540/3 C (elevation drawing), and amended drawing nos. INF – 3540-2 Rev D (boundary treatment); INF-3540-1 Rev C (site plan)
 - Brochure of Jakoustic barrier,
 - Ivy Planting and maintenance schedule,
 - Acoustic Report prepared by Sharps Gayler and dated 10 February 2017,
 - Drainage details received by the Council on 17.01.20.17.

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

2. The external finishing materials incorporated into the development shall be maintained in accordance with the approved details.

Grounds: In the interest of visual amenity and the special character and appearance of the Faversham conservation area and the setting of the listed building.

3. The renewable sustainable techniques (as specified on elevation drawing no. INF/3540/3 C - elevation drawing), hereby incorporated into the development shall be maintained in accordance with the approved details.

Grounds: In the interest of promoting energy efficiency and sustainable development

4. All mechanical ventilation system incorporated into the development shall be 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

5. All dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be as incorporated into the development and shall be maintained in accordance with the approved details.

Grounds: To safeguard the amenities of nearby residential properties

6. The method of disposal of foul and surface waters incorporated into the development shall be maintained in accordance with the approved details.

Grounds: In order to prevent pollution of water supplies

7. The scheme of soundproofing incorporated into the construction of the building shall be maintained as approved.

Grounds: In the interests of local amenity

8. The acoustic fence and ivy planting shall be carried out in accordance with the details specified on amended drawing nos. INF – 3540-2 Rev D (boundary treatment) and INF-3540-1 Rev C (site plan), and such works shall be carried out within 2 months from the date of this planning permission, and shall thereafter be maintained in accordance with the approved maintenance schedule (JB Landscape letter dated 14/2/17).

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

9. Upon completion of the approved landscaping scheme (as detailed on amended drawing no. INF/3540/1 rev C and elsewhere, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

10. Notwithstanding the landscaping detail shown on amended drawing no. INF/3540/1 rev C and elsewhere, a landscaping scheme for the car parking area shall be submitted to and approved in writing within 1 month from the date of this planning permission, and the scheme shall be implemented within 1 month from the date of approval of such detail. Any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

11. The floodlighting, security lighting and external lighting installed or operated at the site, shall be maintained in accordance with the approved details (specified on INF/3540/3 C (elevation drawing)).

Grounds: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

12. The area shown on the submitted site plan for loading, off-loading and vehicle parking space shall be maintained as approved and no permanent development 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.

Grounds: Development without provision of adequate space for the loading, offloading and parking of vehicles is likely to lead to parking inconvenience to other road users and be detrimental to highway safety and amenity.

13. The cycle shelters hereby approved shall be maintained in accordance with the approved details.

Grounds: In the interests of ensuring that proper provision is made for cycle parking.

14. The use of the premises hereby permitted shall be restricted to the hours of 7 am to 10.30 pm on weekdays and 7 am to 4.30 pm on Saturdays and the use shall not operate on Sundays or on Bank Holidays unless for planned maintenance that has been agreed in writing by the Local Planning Authority.

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

15. Deliveries (or other vehicle movements to and from the site) shall only take place between 4.00am and 10.30pm Monday to Friday and no more than a total of four lorry movements shall take place between 4am and 7.00am and between 7.00pm and 10.30 pm on any day. No deliveries shall take place on Saturdays, Sundays and Bank Holidays.

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

16. The operating hours and hours of delivery detailed herein under condition 12 and 13 shall only be operational after the acoustic fence and ivy planting have been implemented in full.

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

17. The roller shutter doors shall be kept closed except for when vehicles need to pass in or out of the building.

Grounds: In the interests of the amenities of the area

Appendix: Decision Notice for SW/13/1075.

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:

- 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 instance, the applicant/agent was advised of changes required to the application and these were agreed and the application was amended.

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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UKP SCANNED

Making Swale a better place

TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/13/1075 ✓

CASE NO. 00045

NOTIFICATION OF GRANT OF PERMISSION TO DEVELOP LAND

TO: Mr Richard Cope
C/o Mr Michael Bedford
Bedford Surveyors Ltd
Bedford House
62 London Road
Maidstone
Kent ME16 8QL

TAKE NOTICE that Swale Borough Council, in exercise of its powers as a Local Authority under the Town and Country Planning Acts, HAS GRANTED PERMISSION for development of land situated at:

Faversham Linen Services, 29 Ashford Road, Faversham, Kent, ME138XN

and being Reconstruction of industrial premises following demolition due to serious fire

referred to in your application for permission for development accepted as valid on the 22nd August 2013 and as amended by plans received on 9 October 2013 and as clarified by additional information received on 9th October 2013

SUBJECT TO THE CONDITIONS specified hereunder:-

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

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

Pre-commencement conditions

2. 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

Grounds: In the interests of residential amenity.

3. During construction of the development adequate space shall be provided on site, in a position previously agreed, in writing by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Grounds: In the interests of highway safety and convenience.

FOR FURTHER CONDITIONS AND GROUNDS – PLEASE SEE ATTACHED SHEET
YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

- 1 -



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UKP SCANNED

TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/13/1075

CASE NO. 00045

Conditions & Grounds (Contd)

4. Prior to the works commencing on site details of parking for site personnel/operatives/visitors shall be 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

Grounds: In the interests of highway safety and convenience.

5. The development hereby approved shall not be occupied or the use commenced until details of cycle shelters have been submitted to and approved in writing by the Local Planning Authority, and the approved details have been implemented in full.

Grounds: In the interests of ensuring that proper provision is made for cycle parking.

6. Prior to the commencement of development, details in the form of samples and details of colouring of external facing 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 shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity and the special character and appearance of the Faversham conservation area and the setting of the listed building.

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

Grounds: In the interest of promoting energy efficiency and sustainable development

FOR FURTHER CONDITIONS AND GROUNDS – PLEASE SEE ATTACHED SHEET



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- 2 -



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TOWN AND COUNTRY PLANNING ACT 1990

Application: SW/13/1075

CASE NO. 00045

Conditions & Grounds (Contd)

8. 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

9. No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority and it shall be implemented in strict accordance with the agreed details.

Grounds: To safeguard the amenities of nearby residential properties

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

Grounds: In order to prevent pollution of water supplies

11. No development shall take place until full details of means of enclosure and soft landscape works, including details of the replacement hedge along the northern boundary, 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 and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

12. A scheme of soundproofing, including the recommended additional noise insulation as outlined in the Acoustic Consultancy report dated 9th October 2013, for the building shall be submitted to and approved by the Local Planning Authority and upon approval shall be carried out to the satisfaction of the Local Planning Authority before the use hereby permitted is commenced.

Grounds: In the interests of local amenity.

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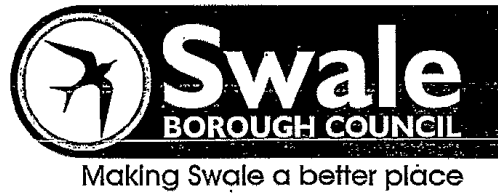


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Conditions & Grounds (Contd)

13. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 1. 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.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Grounds: To protect groundwater because the site is located on a Principal Aquifer and within a source protection zone. The site investigation identified the presence of VOCs in the ground but did not identify any of the same VOC's in the groundwater. The groundwater contained concentrations of BTEX, TPH, SVOC's and VOC's but no source of hydrocarbon was identified in the site investigation. Therefore, we recommend submitting the desk study written by South East Steel Ltd and providing additional information to indicate where the contaminants have come from.

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Conditions & Grounds (Contd)

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

Grounds: In order to secure a satisfactory form of development having regard to the nature of the site.

15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Grounds: To ensure that features of archaeological interest are properly examined and recorded

During construction

16. Adequate precautions shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Grounds: In the interests of highway safety and convenience

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

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

Grounds: In the interests of residential amenity

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Conditions & Grounds (Contd)

18. 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 any other day except between the following times:-

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity

Post construction

19. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (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.

Grounds: To protect groundwater because the site is located on a Principal Aquifer and within a source protection zone.

20. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Grounds: To ensure any land contaminated is adequately dealt with.

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Conditions & Grounds (Contd)

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

Grounds: To ensure any contaminated land is adequately dealt with.

22. If, during development, 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.

Grounds: To protect groundwater because the site is located on a Principal Aquifer and within a source protection zone.

23. No infiltration of surface water drainage into the ground at the site is 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 approval details.

Grounds: To protect groundwater because the site is located on a Principal Aquifer and within a source protection zone. Unless carefully managed surface water can enter and pollute controlled waters. For example, percolating surface water drainage from a soakaway may open up pore spaces reducing the attenuation capacity to remove dissolved contaminants in the drainage percolating through the of the unsaturated zone. There must be no direct discharge to groundwater or discharge through land affected by contamination.

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Conditions & Grounds (Contd)

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

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

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

Grounds: In the interests of the visual amenities of the area.

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

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted luminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Grounds: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

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Conditions & Grounds (Contd)

27. The access details shown on the approved plans shall be completed prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced and the access shall thereafter be maintained.

Grounds: In the interests of highway safety.

28. The area shown on the submitted plan as loading, off-loading and parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

Grounds: The development without the provision of the loading, off-loading and parking space would be detrimental to amenity and likely to lead to inconvenience and danger to road users by virtue of vehicles parked on the public highway amenity

29. The area shown on the submitted layout as vehicle parking 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) Order 1995 (or any order revoking or 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.

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

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Conditions & Grounds (Contd)

30. The use of the premises hereby permitted shall be restricted to the hours of 8 am to 10.30 pm on weekdays and 8 am to 4.30 pm on Saturdays; vehicle loading shall not take place outside of the hours of 6pm and 8am on any day; no more than four lorry or van movements are permitted between the hours of 10.30pm and 7am on any day and these lorry / van movements shall only take place between the hours of 4am and 7am; and the use shall not operate on Sundays or Bank Holidays unless for planned maintenance that has first been agreed in writing by the Local Planning Authority.

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

31. The roller shutter doors shall be kept closed except for when vehicles need to pass in or out of the building.

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

Council's Approach to this Application

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

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

20th December 2013

Dated:

James Freeman
Head of Planning



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REPORT SUMMARY

REFERENCE NO - 16/507673/FULL			
APPLICATION PROPOSAL Erection of cherry coverings and framework (Swale Borough Council).AS AMENDED BY SITE PLAN C 120916V3 Rev 240217 and PLAN C 12092016V3 Rev 240217 RECEIVED ON 24 TH FEBRUARY 2017			
ADDRESS Land At Swanton Farm Bicknor Lane Bredgar Kent ME9 8AY			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal is in accordance with National and Local Policy			
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection and Ward Councillor request			
WARD West Downs	PARISH/TOWN COUNCIL Bredgar	APPLICANT FW Mansfield & Son AGENT Mr Nicholas Rooke	
DECISION DUE DATE 09/02/17	PUBLICITY EXPIRY DATE 14/03/17	OFFICER SITE VISIT DATE 18.01.2017	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/504659	Erection of Cherry coverings and framework	Approval	07.09.16
15/510363	Erection of cherry coverings and framework	Approval	04.05.16
SW/11/0001	Erection of cherry coverings and framework	Approval	14.03.11

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site is located to the east of the village of Bicknor and Swanton Farm adjacent to Swanton Street with access to the orchards from the lane leading to Swanton Farm.
- 1.02 The reduction in the proposal for the coverings to be over 3 of the orchards, orchard 1 to the south of this lane is 4.6ha and will require 2.96ha of coverings, Orchard 2 is 6.9ha with coverings of 5.07ha and finally orchard 3 is 6.3ha with coverings of 5.2ha .
- 1.03 All the orchards are surrounded by an established shelter belt of mature Poplar windbreaks of approx. 4m tall on all sides, although there are some gaps in this screening in the vicinity of the road junctions with the lanes leading to Bedmorton and Swanton Farm allowing views into the site.
- 1.04 There is also vegetative screening along Swanton Street to the east of the orchards and along the lane leading to Swanton Farm, here too there are some gaps. It is noted that the deciduous nature of the vegetation would open up views of the site in the winter months.

- 1.05 To the north of the orchards are two public footpaths, to the north west of the site to the north of Swanton Farm and a further public footpath from Bicknor Lane to the north of Swanton Court (with uncovered orchards 4 and 5 in between it and the covered site) to the north
- 1.06 The nearest residential property to the covered orchard is Swanton Court to the north which lies approx. 400m away and the village of Bicknor to the west at approx. the same distance.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for the erection of cherry coverings and the associated framework to cover part of an existing area of cherry orchard at Swanton Farm, Bicknor Lane, Bredgar.
- 2.02 The area of orchard was originally to cover 24.20 hectares, with the orchard amounting in total to 30.914 hectares over 5 orchards. No additional trees are proposed to be planted and the proposal is to cover the existing trees. Following concerns raised during the consultation period the application site was amended and orchards 4 and 5 were removed and the area now to be considered is the 13.23 hectares of coverings over the trees in orchards 1, 2 and 3 totaling 17.96 hectares.
- 2.03 The cherry coverings themselves would measure approx 7.6m wide by 4.7 m high. The area to be covered would have a minimum 10m separation margin around the field edges. The tunnels themselves would be covered in a translucent plastic, which would be removed in October and be stored away for the winter and replaced in March. Each tunnel would have an open gutter and the frameworks are secured by screws and anchors and would have no permanent fixtures or footings and would be oriented in the same South West/North East direction as the rows of trees.

3.0 SUMMARY INFORMATION

- 3.01 The applicant has provided supporting information with the submission and they state that *"the tunnels are needed at Swanton Farm as it is the land best suited for growing cherries. Two other farms in the North Kent 'fruit belt' at Norton and Owen's Court, Selling also grow cherries - cherry growing has been a feature of the area for many hundreds of years and clearly, agricultural practices evolve... cherries are no longer grown on large, spreading trees with sheep grazing beneath them. As set out in the Design and Access Statement (parag 10.6), consumers will simply not buy secondary quality produce – requiring it to be grown under cover.*
- 3.03 *FW Mansfield & Son are probably the largest agricultural employer in Kent and almost certainly the largest agricultural employer in the AONB, the economic success of their farms in turn allows environmental benefits to be carried out. Currently about 113 employees can be accommodated at Swanton Farm – just under 10% of the peak workforce of FWM and their contribution to the local economy through employment and local spending is immense. If Swanton Farm was not an intensive fruit farm, but farmed as an arable unit, it would be unlikely to employ more than 1 person, so there is an indisputable financial benefit to the district here."*

We are happy to bolster the existing planting along the road frontages to further obscure the views of the tunnels from passing traffic.

4.0 PLANNING CONSTRAINTS

4.01 This application is located within the Kent Downs Area of Outstanding Natural Beauty

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 **The National Planning Policy Framework (NPPF)** Para 115 advises that “*Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.*”

5.02 Para 116 continues that “*planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:*

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*”

5.03 Para 110 considers that in the preparation of development plans... “*the aim should be to minimise pollution and other adverse effects on the local and national environment and that the plans should allocate land with the least environmental or amenity value, where consistent with other policies in this framework.*” However this land has been designated as countryside and this allocation is not changed by the content of this application.

5.04 Para 109 advises that “*the planning system should contribute to an enhance the natural and local environment by, amongst other things protecting and enhancing valued landscapes, geological conservation interests and soils, minimising impacts on biodiversity and providing net gains in biodiversity were possible*” This needs to be read in association with the other relevant paragraphs of the framework as listed above.

5.05 **Development Plan: Swale Borough Council Adopted Local Plan 2008** In Policy RC1 (Helping to Revitalise the Rural Economy) the Council wishes to support those businesses that can help provide local employment opportunities and maintain the vitality or viability of other rural services. Additionally, it sees the provision of rural business as fundamental in supporting the market towns and local service centres. The Policy therefore states that “*proposals that would help to diversify the rural economy, provide new rural jobs and services or provide environmentally positive countryside management, will be permitted provided that:*

the proposal is appropriate in scale with its locality and the site retains its rural character;

there is a positive impact upon, or no detriment to, landscape character, biodiversity or countryside conservation;

the use would not result in a significant increase in traffic to the detriment of the character, quiet enjoyment or safety of the lanes to and from the site, or be of a scale as to create unsustainable travel patterns;

maximum use is firstly made of existing buildings, or, if not suitable, their modest redevelopment, followed by use of other previously developed land, in preference to

development on greenfield land, except where this would result in a more acceptable and sustainable development than might be achieved through conversion; and the reuse of such buildings, or their extension, do not detract from their historical, architectural or landscape interest, character, or appearance”.

- 5.06 Policy E9 states that *“The quality, character and amenity value of the wider landscape of the Borough will be protected and, where possible, enhanced. Within the Kent Downs Area of Outstanding Natural Beauty (AONB), the priority is the long-term conservation and enhancement of natural beauty (including landscape, wildlife, and geological features) of this national asset over other planning considerations.*

Suitably located and designed development necessary to facilitate the economic and social well-being of the area and its communities, will be permitted, whilst major developments will not be permitted unless there is a proven national interest and no suitable alternative sites”

- 5.07 **Bearing Fruits: Main Modifications June 2016** Policy DM3 is the means to highlight the needs of specific sectors and the protection and expansion of rural services, whilst balancing support for the sustainable growth and expansion of business and enterprises with limiting and managing adverse impacts upon the wider countryside.

It states that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area for the agricultural/forestry sectors:

- to enable the diversification of a farm; or
- to extend the growing season or improve the reliability and availability of local crops; or
- to provide for the storage, distribution or added value activities in central hubs located close to crop sources and the primary and secondary road networks; or
- increase the availability of locally grown food sold direct to the consumer; or
- increase the sustainable management of woodlands; or
- increase the use of renewable energy sources in accordance with Policy DM20.

- 5.08 Proposed policy DM24 in the emerging plan advises that within the AONB planning permission will only be granted where it conserves and enhances the special qualities and distinctive character of the AONB, that it furthers the delivery of the AONB Management Plan and minimise the impact on the AONB and its setting and being appropriate to the economic, social and environmental wellbeing of the area.

- 5.09 Supplementary Planning Documents:

In the Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document of 2010 the application site is found within the Bicknor Orchards area which is described as falling within the Dry Valley and Downs Landscape area. The Bicknor Orchards area is described as being in good condition, with low sensitivity. It further states that *“the strong network of shelterbelts, orchards and hedgerows create an area that is low in terms of visibility”*. It also says that *“the distinct traditional character of the landscape has been well maintained and the strong pattern of mature shelterbelts helps to screen any visually intrusive elements and maintain a sense of place”*.

The landscape appraisal expects that development within this area should conserve the shelterbelts, hedgerows etc, use local materials and refer to the Kent Downs AONB management plan.

- 5.10 The Kent Downs Management Plan provides the following advice in terms of Orchards within the Kent Downs AONB *"The area of orchards and hop gardens in the AONB has decreased by nearly 50% since 1961. There has however been a recent upturn in orchard planting including walnuts and fruits such as apricots as well as wine growing which could increase significantly if the predicted climate changes take place. Additionally the use of polytunnels has increased slightly, while currently covering a small area of the AONB the use of polytunnels is anticipated to increase (together with the associated transport and storage infrastructure), in order to meet quality standards and a longer season as required by customers. The horticultural sector is a small but important component of the landscape and the rural economy of the AONB"*.

Policy FL8 of the plan states: *"Proposals for polytunnels will be assessed for their impact on the AONB landscape, including by reference to their siting and mitigation. Proposals for polytunnels should be justified by an integrated whole farm plan. Best practice guidance for the use and landscaping of polytunnels will be pursued."*

6.0 LOCAL REPRESENTATIONS

- 6.01 3 letters of objection have been received. One submission also included a Visual Impact Study, a Landscape Statement, and a Surface Water and Flooding Assessment and a Drone Photo Survey. These comments were received in relation to the original scheme (**prior to its reduction**) and Members will note that the reduction in the extent of the proposed cherry coverings is described in paragraph 2.02 above.

The issues raised in these letters included the following:

- The application would have a significantly adverse effect upon the AONB in this location
- Do not object in principle to cherry coverings even in the AONB but this location is too sensitive
- Suggest that Orchards 4 and 5 should not have cherry coverings on them
- Visual impact study identified the adverse impact from a number of public vantage points of the proposal
- Adverse effect on the setting of the listed building (Swanton Court)
- Noted NPPF paras, 109, 110, 115 The Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019 inc Policy FL8, Swale Borough Council Policy DM24
- The proposal will create a noise disturbance
- Reflection of the sun from the tunnels will produce glare
- support and understand the need for agricultural development and generally support it, this development so close to a local landmark listed property is a step too far.
- No consideration seems to have been taken of the water run-off from the development which already happens on a small scale causing flooding in Swanton Street considerable and massive protections need to be put in place
- If redirected towards the north it will run through the fields towards Bredgar and cause flooding risk to properties on the north side of Swanton Street, a problem that is currently experienced from time to time.

Following the submission of the new reduced scheme the following further comments were received:

- Appreciate orchards 4 and 5 have been removed from the proposal and welcome it
- They request a revised Heritage Impact Assessment is submitted
- Note orchard 3 will be very visible from Swanton Court
- The remaining cherry coverings may be glimpsed in the background from the public footpath to the north
- The applicant needs to demonstrate how the scheme “enhances and conserves the AONB landscape”
- The cherry coverings will be visible from Swanton Street
- Consideration of planting to screen and integrate the scheme need to be addressed
- Likely to be audible noise nuisance from the cherry coverings
- Applicant should give justification as to why his land outside the AONB is not being used instead

7.0 CONSULTATIONS

7.01 Bredgar Parish Council commented on the original application stating that they have in general been supportive of applications relating to reasonable developments for the benefit of agricultural businesses and raised no objection to previous applications for smaller areas of covering, at Swanton Farm, as those coverings, because of their scale and location, were viewed as being reasonable in terms of visual impact (summarised in section 6 of the Design and Access Statement (‘DAS’).

However, having reviewed the above application for the erection of a large area of cherry coverings, Councillors raise these concerns:-

1. The proposed, very large area of imposing metal structures with plastic coverings is out of place in the Kent Downs AONB, and will impact negatively on the intrinsic character of the AONB and the approach to Bredgar Village itself.

2. The site concerned adjoins the road into Bredgar and the lane down to Bicknor, as well as the garden of Grade II listed Swanton Court. The proposed structures would have a serious detrimental impact on the view from those areas, currently across the orchards and open landscape, which characterise this part of Kent.

3. Particular regard should be had to conserving the landscape surrounding the Listed Building, and thought should be given to the potential noise pollution which may be suffered by residents at the property, and into Bicknor, as a result of wind in the cherry coverings.

4. In relation to the current draft Local Plan, we note the references in the DAS to Policy D24, but we reach a differing conclusion in respect of the interpretation of section A, which states that “permission for major developments should be refused unless exceptional circumstances prevail”. The above referenced letter of 14th November describes the application as being a ‘large major’ application, and it is difficult to see that ‘exceptional circumstances prevail’ in this case.

Following the submission of the reduced scheme they commented:

“We welcome the reduction in the area proposed for the covering. However, the majority of our concerns listed earlier still apply.”

Since our previous letter, we have become aware of an issue with the run off of water, from the coverings, which is potentially hazardous to the adjoining road.

5. Again in relation to the current draft Local Plan, we note the references in the DAS to Policy D24, but we reach a differing conclusion in respect of the interpretation of section A, which states that “permission for major developments should be refused unless exceptional circumstances prevail”. The revised application can still be considered “major” in scale, and it is difficult to see that “exceptional circumstances prevail” in this case..

It is also noted that the applicant company has some 3,500 acres of land under cultivation in Kent, across 20 farms. It would seem therefore that there is the opportunity for locating plastic coverings in orchards which are not within the AONB. For the above reasons the Parish Council objects to the revised proposal.”

- 7.02 Kent Downs AONB Unit commented on the original submission by stating that the deciduous nature of the vegetation would open up views of the site in the winter months. Also that the cherry coverings would also be readily visible from the ProWs immediately north of the site, around Swanton Court as well as from the PRoW to the west of the site, north of Swanton Farm.

They asserted that the cherry coverings would appear as an extensive and intrusive addition to this otherwise largely undeveloped part of the AONB. Together with those previously approved under application 16/504967FULL immediately adjacent to the application site, they would appear as a large unbroken block of development, out of character with the open character of the plateau and harmful to the amenity of users of the well-used public rights of way in the vicinity of the site and thus to the environment, landscape and recreational opportunities of the AONB.

Following the submission of the revised reduced scheme they acknowledged that the amended proposals reduce the area of land of proposed cherry coverings by approximately fifty percent, which will therefore lessen the impact on the Kent Downs AONB landscape. Nevertheless, they stated that the “ *remaining area proposed for cherry coverings is, as advised in our original letter, partially open to views particularly in the vicinity of the road junctions with the lanes leading to Bedminton and Swanton Farm and from Public Rights of Way to the north and west of the site.*

Therefore, it is considered imperative that mitigation in the form of supplementary planting is secured. This should be along the northern most boundary of the site and to the west of the area of proposed coverings north of the lane leading to Swanton Farm, as well infilling the existing gaps in the vegetative screening adjacent to Bredgar Lane around the road junction. To be in keeping with the local landscape character, we would recommend that this takes the form of shelter belts.”

- 7.03 Kent County Council SUDS noted that the erection of cherry coverings can present three key challenges to flood risk management:

- Increased surface area of impermeable surfaces resulting in increased rates of runoff;
- Displacement of flood flows;
- Soil erosion leading to reduced capacity of watercourse channels downstream.

Given that this site lies within Flood Zone 1, (an area of low flood risk) they had no concerns with the displacement of flood waters. However, they did have concerns over the potential for increased rates of runoff and soil erosion, the management of which will require the submission of additional information at the detailed design stage.

Whilst they were ultimately happy with the minimal runoff provisions for the similar proposals on the adjacent parcel of land the orientation of these tunnels in relation to the topography is presently unclear.

They suggested that if the proposed cherry coverings are likely to increase the rate/volume of run off from the site cut off trenches or bunds could be utilised. Alternatively, a more formal attenuation pond could be constructed to attenuate the runoff; although this would have to be appropriately sized to be able to accommodate extreme rainfall events, the collected water could be used to reduce the reliance on potable water for irrigation by supplementing the existing supply. Whichever approach is chosen, the system should be capable of discharging such that 50% of the overall capacity is available within 24 hours of the determined critical rainfall event.

Whilst they comment that ideally this information should be provided at detailed design stage they accept that information within a Surface Water Management Plan, would have to be suitably detailed and robust and capable of demonstrating that the risk away from the site will not be exacerbated. If the cherry coverings were oriented downslope, it is likely that the applicant would have to provide a relatively detailed strategy to show how the water will be managed.

However they recommend that the following Condition is attached:

(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 capable of accommodating the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm).

(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.

To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions and compliance with the NPPF.

- 7.04 The Council's Agricultural Consultant noted that this proposal relates to land adjoining the sites where planning consent was granted under 16/504659 and 15/510363 for similar tunnels. His advice stated then that the use of cherry coverings is now a common feature of soft fruit production elsewhere in the Borough and wider in Kent and the UK: the tunnels comprise units of production in themselves, and are commonly required and appropriate for the purpose of growing and harvesting UK fruit to customer (particularly supermarket) requirements relating to supply and quality.

He noted the system has a number of advantages over conventional unprotected growing including the ability to protect the crop from the wind and rain, reduce pesticide/fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits.

He confirmed that the proposed cherry coverings appear necessary in principle to continued efficient agricultural production on this holding.

On the same basis he confirmed that the further proposed cherry coverings appear necessary in principle to continued efficient agricultural production on this holding.

- 7.05 The Environmental Protection Team Leader commented provided a condition is included that requires the coverings to be removed from their frames and stored away during the months when not required for crop protection; I have no objection to the proposal.
- 7.06 The KCC Highways and Transportation advise that it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. They also confirm that KCC SUDS are justified in seeking the condition for a sustainable drainage scheme and consider that such mitigation would be sufficient for highway purposes.

8.0 APPRAISAL

- 8.01 In this case, I consider the key issues to be the policy context and the need for the development to support competitive farming, the visual impact of the proposal and its impact on the AONB and the nearby listed building. I am also very minded of the concerns raised by the Parish Council and the neighbours who raised objections.
- 8.02 Swanton Farm and the orchards are located in the Kent Downs AONB and as such, Paragraph 115 of the National Planning Policy Framework (NPPF) is relevant as it states that great weight should be given to conserving the landscape and scenic beauty and that the AONB should be afforded the highest status of protection in relation to its landscape and scenic beauty.
- 8.03 The NPPF continues however to acknowledge that during the consideration of any application whilst the conservation of the AONB should be given great weight permission can be considered for proposals in exceptional circumstances and where they are in the public interest.
- 8.04 Therefore consideration needs to be given as to whether this proposal meets the circumstances provided within the policy.
- 8.05 Firstly an assessment as to the need for the development, including in terms of any **national considerations, and the impact of permitting it, or refusing it, upon the local economy.**
- 8.06 The applicant has stated in the submission that the cherry coverings are needed for the efficient production of cherries, this is a view supported by the Councils Agricultural Consultant who notes that cherry coverings are now a common feature of soft fruit production in the UK and they are commonly required and appropriate for the purpose of growing and harvesting UK fruit to customers, particularly supermarkets requirements relating to supply and quality. The use of cherry coverings has a number of advantages over conventional unprotected growing which all result in extending the growing season and providing better and continuous yields which results in efficient agricultural production.

- 8.07 Additionally as a soft fruit farm it currently has 113 employees at Swanton Farm this is just under 10% of the peak workforce. As such, the contribution to the local economy of the continued success of this farm and its soft fruit production, through the employment opportunities and the subsequent local spending, is clear. The applicant states that if Swanton Farm was not an intensive fruit farm, but farmed as an arable unit, it would be unlikely to employ more than 1 person. As such the benefit of rural employment is a tangible benefit of the proposal.
- 8.08 Policy RC1 of the adopted Local Plan aims to provide support to such a business that can help provide local employment opportunities and thus will maintain the vitality or viability of other rural services. Proposals that would help to diversify the rural economy, provide new rural jobs and services or provide environmentally positive countryside management, will be permitted provided that the proposal is appropriate on a number of grounds. Relevant in this case is that the proposal is of a scale with its locality and the reduction in size of the proposal achieves this. Also that the site retains its rural character and has a positive impact upon, or no detriment to, the landscape character, biodiversity or countryside conservation, and here the coverings are in fact a common site in a thriving rural area and the additional vegetation and the strengthening of the shelterbelts, a defining character of the area, are a biodiversity gain of the proposal. Finally the use would also not result in a significant increase in traffic to the detriment of the character, quiet enjoyment or safety of the lanes.
- 8.09 The production of the soft fruit is of course limited to the areas in which they can successfully be grown, given the site specific conditions this is not a business that can be relocated easily as such **the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way** is extremely limited. The applicant successfully grows cherries at two other farms in Norton and Owen's Court, Selling and the orchards can not be pulled up and located elsewhere.
- 8.10 Finally consideration needs to be given to any **detrimental effect on the environment, the landscape and recreational opportunities of the coverings going up and the extent to which that could be moderated.**
- 8.11 As explained in paragraph 2.02 the area to be covered amounts to 13.23 ha and whilst this is 50% less than had been originally submitted and the reduction in the proposal is of benefit it remains the case that the protection and conservation of the character of the AONB is likely to be affected by the revised proposal.
- 8.12 The impact of the proposal is moderated by a number of issues. Firstly, the revised scheme removes a considerable area of proposed coverings and as such the cumulative impact of the proposal with the previously agreed coverings in the area is reduced considerably.
- 8.13 Whilst walking along the public footpath to the north of the site the coverings will be visible however this is not an unusual sight to see in the countryside and the uncovered trees in orchard 4 and orchard 5, to the south and the open fields visible to the north west would maintain the appearance of the area to some extent. Additionally along with the established shelter belts these will provide screening to the coverings again as highlighted as an existing characteristic of this area.
- 8.14 The lane which runs between orchards 1 and orchard 2 bounded by its poplar shelter belts again breaks up the proposed covered area and provides an interruption to the covered area and interrupts any visual link.

- 8.15 Finally the removal of coverings for a minimum of 3 months of the year (as required by condition (4) below) will result in the metal frames remaining but again in part due to the screening shelter belts I do not consider these to be a significant distraction/intrusion into the area.
- 8.16 Given the criteria provided within the NPPF and an assessment of the proposal against it I consider that consideration be given to granting permission for the proposal against the great weight given to the conservation and protection of the AONB.
- 8.17 The Development Plan provides additional support via Policy RC1 as mentioned previously but also via Policy E9 which states that suitably located and designed development necessary to facilitate the economic and social well-being of the area and its communities, will be permitted. It continues that major developments will not be permitted unless there is a proven national interest and no suitable alternative sites. Given the above assessment I consider the proposal to be compliant with this policy.
- 8.18 The Development Plan consists of Bearing Fruits: Main Modifications June 2016 and Policy DM3 highlights the needs of specific sectors and the protection and expansion of rural services, whilst balancing support for the sustainable growth and expansion of business and enterprises with limiting and managing adverse impacts upon the wider countryside.
- 8.19 It states that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area for the agricultural/forestry sectors and in this case the extension of the growing season for the cherries and the improvement in the reliability and availability of these local crops is key to the proposal and a solution endorsed by the Councils Agricultural Consultant. The likely increase in the availability of locally grown food sold direct to the consumer is also a benefit of the proposal.
- 8.20 Proposed policy DM24 in the emerging plan advises that within the AONB planning permission will only be granted where a proposal conserves and enhances the special qualities and distinctive character of the AONB, and further delivers on the AONB Management Plan and minimises the impact on the AONB and its setting and being appropriate to the economic, social and environmental wellbeing of the area.
- 8.21 As assessed above I consider the scheme does meet the criteria of the policy and in terms of delivering on the AONB Management Plan I note it does address the issue of polytunnels. Policy FL8 of the Management Plan states that “Proposals for polytunnels will be assessed for their impact on the AONB landscape, including be reference to their siting and mitigation...” the AONB Unit were consulted on the original application and on the reduced proposal and whilst initially objecting to the proposal on the current amended scheme they accepted the new proposal reduced the impact on the AONB and required mitigation in the form of infilling to the vegetation screening.
- 8.22 The character of this part of the AONB and the area in and around the orchards is very much in line with the description within the Landscape Character appraisal with the orchards being described as being in good condition, with low sensitivity. It further states that the strong network of shelterbelts, orchards and hedgerows create an area that is low in terms of visibility and that the strong pattern of mature shelterbelts helps to screen any visually intrusive elements.

- 8.23 The boundary around the fields/orchards, as described above, are of established shelter belts to a degree that the orchards are screened from passing traffic driving along Swanton Street and the lane leading to Bicknor and Swanton Farm. I do note that during the winter months the deciduous nature of the screening will mean that the site will be more prominent from public view points than usual however, at this time of year the covers are likely to have been removed and packed away from sight.
- 8.24 Furthermore there are gaps in this screening and around the junction with Swanton Street and Bredgar Lane in particular the screening is at a reduced level which would provide long range views across orchards 2 and 3 and as such additional screening is necessary to interrupt this view. The applicant has agreed in principle and I have added a condition to ensure a comprehensive landscape plan is submitted to address this by proposing additional infilling and new native screening around the orchards. This, as recommended by the AONB Unit, would ensure sufficient mitigation for the detrimental effect of the coverings.
- 8.25 Following the reduction in the area of covering in terms of residential amenity, the site is now not located immediately adjacent to any residential properties. The nearest area of covering is in orchard 3 and shall be over 300m from Swanton Court and its occupiers and whilst they may well still be able to view the coverings in the distance from the first floor I do not consider this to be sufficient to warrant consideration of refusal of the proposal.
- 8.26 Additionally given the listed Grade II status of the property, the proposed development in terms of the impact on its historic setting needs also to be assessed. Swanton Farm is a 16th Century Hall house whose setting has evolved to be bounded by orchard developments over a number of years mainly on the south, north and western sides, the eastern boundary defined by Swanton Street. The proposed development would undoubtedly alter the existing more natural visual effect of a man-made orchard of trees by the intervention of the structures required to support the coverings. Following the submission of the amended scheme showing the removal of orchards 4 and 5 from being covered, which are nearest to the listed building, it is considered that the coverings to orchards 1,2 and 3 would be a sufficient distance away not to impact on the historic setting of this listed building.
- 8.27 In terms of flood risk, the site is not located within a flood zone, and the proposed open gutters on the covers would avoid water being channelled and concentrated, so flooding is not likely to be a problem. However, I note the concerns of the KCC SUDS team and have included condition (3) below to ensure that a sustainable surface water drainage scheme is introduced here.
- 8.28 I note the objections made to the proposal from this nearest neighbour, however, I consider the reduction in the size of the covered area and removal of orchards 4 and 5 (closest to the property) from the proposal have addressed their main concerns. However, the additional comments still refer to the cherry coverings being visible but due to the established shelterbelt screening and the proposed additional screening along with the visual gap from orchard 3 through to the north and a reduction in the size of the proposal I do consider now these impacts have been sufficiently mitigated. Additionally national and local policy require that during the consideration of this application an assessment is to be made between the great weight to be attached to the protection of the AONB against the need to support rural employment and farming practices. This is not a case if the cherry coverings can be seen then they are therefore unacceptable.

- 8.29 I therefore consider that on balance with the revised scheme taking on board many of the concerns of the occupiers and it being amended accordingly together with the proposed mitigation measures in place that the main elements of their objection have been addressed.
- 8.30 I note the comments from the Parish Council. However, I consider their concerns regarding the impact of the proposal, the views of it, the impact on the Listed Building have all been overcome by the revised reduced proposal and the screening mitigation required by the AONB Unit and agreed by the applicant. Regarding the additional concern of water run off this has been assessed by KCC Flood and Water Management and an appropriate condition has been attached to enable this to be dealt with adequately.
- 8.31 Finally with regard to the potential concern for “noise nuisance” from the coverings with the distances involved is unlikely to result in any disturbance sufficient to warrant refusal of the application to any residential properties. Members will have noted above that the Environmental Protection Team Leader raises no objection.

9.0 CONCLUSION

- 9.01 I have considered the application in line with National and local policy that requires an assessment to be made between the great weight that should be applied to the protection of the AONB and the circumstances in which the need for and the benefits and mitigation that can be provided by this proposal.
- 9.02 The revised scheme took on board the concerns from local residents, the Parish Council and the AONB Unit and the scheme now is one that provides for the needs of this thriving agricultural business and the benefits that provides in terms of local employment and prosperity. It has reduced and mitigated against any harm by the reduction in the size of the coverings, creating visual gaps between the coverings and the existing orchards, open landscape and poplar shelterbelts, it has moved away from the Listed Building and its setting and by expanding the characteristic shelter belts currently at the site is providing more screening. The business is limited by the location of these established orchards and the market in which they operate and it is not a business activity that is transferable on a whim.
- 9.03 The applicants' agent has provided strong support and reasoning as to why this proposal is necessary, and has considered the need to protect the character of the landscape, and has accepted the proposed necessity for additional screening.
- 9.04 On balance therefore I consider the proposal, with the attached conditions is acceptable and I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the views of KCC Highways and Transportation and the following conditions

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.

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 shall be carried out in accordance with the following approved drawings: TA01935 Bicknor A (x2) TA01939 Bicknor D, TA01937 Bicknor E (x2) TA01936 Bicknor F (x2) PLAN C 120916V3 Rev 240217 and PLAN C 12092016V3 Rev 240217

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

- (3) 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 capable of accommodating the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm).

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 and compliance with the NPPF.

- (4) None of the tunnels hereby permitted shall be covered with polythene for more than nine months in any calendar year, and all tunnels shall be clear of polythene for at least three months of the year, and the details of how the polythene is to be stored shall be in accordance with details in para 3.2 of the design and access statement, and shall then be carried out in accordance with these details.

Reason: To minimise the visual impact of the development on the rural landscape and to protect the character of the Area of Outstanding Natural Beauty.

- (5) No development beyond the construction of foundations shall take place until full until full details of the 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.

- (6) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. 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.

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

INFORMATIVES

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 applicant/agent was advised of 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.

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REPORT SUMMARY

REFERENCE NO - 16/507407/OUT		
APPLICATION PROPOSAL		
Hybrid planning application comprising: Outline with access only being sought for a total of 50 no. residential units including an element of affordable homes, a 4 no. consulting room health centre with expansion capability to include pharmacy, dental surgery and other health care facilities, and provision of a school playing field or public playing field. Detailed application for engineering works and change of use to provide a school drop off parking area with associated pedestrian link into school grounds, and associated access, parking, infrastructure and landscaping.		
ADDRESS Land Adjacent To St Clements School Leysdown Road Leysdown Kent ME12 4AB		
RECOMMENDATION - REFUSE		
SUMMARY OF REASONS FOR REFUSAL		
The proposed development falls outside of the built up area boundary and is not identified as one of the Council's preferred housing allocations within the Emerging Local Plan Bearing Fruits 2031. The Emerging Local Plan can now be given significant weight owing to its advanced stage in the examination process. Notwithstanding the contribution that the proposals would make to the five- years supply of housing land, the harm caused by this proposal would significantly and demonstrably outweigh the very limited benefit, and additionally there would be unacceptable harm caused to the character and amenity value of the countryside. As a result the proposal would not constitute sustainable development.		
REASON FOR REFERRAL TO COMMITTEE		
Called in by Cllr Ben Stokes		
WARD Sheppey East	PARISH/TOWN COUNCIL Leysdown	APPLICANT Kent Design Partnership AGENT Kent Design Partnership
DECISION DUE DATE 23/02/17	PUBLICITY EXPIRY DATE 06/01/17	OFFICER SITE VISIT DATE various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
None		

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site consists of 4.06 hectares (or 10.0324 acres) of fairly flat land that is currently vacant and comprises of paddocks with gravelled paths, and appears to be for grazing of horses. The site consists of an area of open land to the east of Sheppey lying in-between Bay View and Leysdown, and fronting Leysdown Road and Warden

Bay Road, and backs onto St Clements Primary School. To the immediate south eastern corner of the site is the George Wharton Children's centre.

- 1.02 The primary school and children's centre are relatively modern buildings with contemporary form displaying some design merit. There is the Grade 11 listed building, Paradise Farmhouse on the south side of Leysdown Road, however, this building is not easily visible from the application site.
- 1.03 The nearest area of permanent housing is Bay View which is a 1960/70s development and lies some 250 or metres from the application site to the west, off the Leysdown Road. In-between Bay View and the application site lies a small cluster of houses and associated buildings outside the Bay View built up area boundary.
- 1.04 Immediately to the north and east of the site the land is designated as 'holiday parks' in the Local Plan. Immediately adjoining the site to the north is 'Happy Valley' Holiday Camp. There is a change in levels between the application site and the camp site.
- 1.05 There is a foul and surface water pumping station to the North West corner of the site.

2.0 PROPOSAL

- 2.01 The submission is a hybrid application - as explained on Page 4 of the Planning Statement - seeking:
 - Full planning permission for change of use of land and engineering works to provide a school drop off parking area (for 26 cars) with associated pedestrian link into school grounds, and associated access, parking and infrastructure.
 - Outline planning permission for residential development of 50 dwellings together with a 4 consulting room health centre (to accommodate a pharmacy, dentist and other health care facilities) as shown on additional drawing no. 14-37-1000 – colour plan dated 11/05/2017.
 - Access, parking (the school drop off and pick up), pedestrian links into school grounds, associated infrastructure and landscaping are to be assessed in full as part of this planning application as shown on additional drawing no. 14-37-1000 – colour plan dated 11/05/2017.
 - All other matter matters (namely appearance, layout, scale and landscaping) are reserved for future consideration.
- 2.02 For the avoidance of doubt, the football pitch, school playing field, open space and amenity areas to the north of the site are not within the red edge of the application site (drawing no. 14-37-1000 dated 13.10.16), and as such they do not form part of the current proposals.
- 2.03 All other reserved matters are to be considered only in terms of the principle of the development at this stage and not in detail. The layout drawings submitted with the application are therefore only intended to illustrate how the development would be accommodated within the site. Whilst an indicative layout has been submitted, the actual detail of this, will be the subject of a further reserved matters application, should the current outline application be granted approval.
- 2.04 The submitted revised indicative preliminary development study drawing no. 14.37.SK3 Rev A shows 50 dwellings which includes affordable housing, a health

centre (4 consulting rooms, a pharmacy, dentist and other health centre), vehicular access points from Leysdown Road and Warden Road, a car park for St Clements Warden Bay Primary School (for 26 spaces), an amenity space, a football pitch, a pedestrian link to the school, and associated infrastructure and landscaping works. The site density would be approximately 12.8 dwellings per hectare if the full 50 dwellings were ultimately approved and developed.

- 2.05 The submitted amended illustrative drawing shows predominantly detached market houses to the immediate west and immediate north of St Clements and Warden Bay Primary School, and three clusters of low costing housing to the immediate north of The George Wharton Children’s Nursery, together with a medical centre and pharmacy fronting Warden Bay Road. Also proposed is a playing (football) pitch, amenity space, school set down and pick up parking and pedestrian links in-between the cluster houses and the market houses. A pedestrian footpath would link the proposed school car parking area to the rear school entrance gate, and buffer soft landscaping is proposed around the perimeter boundary of the housing development so as to enclose the development. Vehicular access will be taken from Leysdown Road and Warden Bay Road. The market houses to the western part of the site will be accessed via Lesydown Road, whilst the affordable units and the health centre will be accessed via Warden Road.
- 2.06 The applicants supporting information advises that:
- Regarding the delivery of the affordable units, the S106 could require that no more than 10 private units could be provided before a contract is in place for the delivery of the affordable units
 - The pick up and drop off area would be provide after the affordable housing has been provided
 - The Open Space will be levelled and Whitehorse Leisure will manage it in the first instance. KCC may wish to take ownership.
 - It has not been finalised how the health centre, dentist and pharmacy would be delivered. Negotiations are in place with Doctors.
 - The developer will provide the land and construct and undertake the main construction of the access from the highway
 - The s106 could require that no more than a certain amount of development could take place before a contract for the construction of the health centre, dentist and pharmacy is in place

The application is supported by a number of reports including the following:-

- Planning Statement
- Design and Access Statement
- Ecological Scoping Report
- Transport Statement
- Surface Water Management Strategy
- Letter from planning agent providing clarification (dated 27 February 2017)
- Summary of additional information (received 15 May 2017)

- 2.07 From the above listed reports, I draw the following summarised key points:-

2.08 **The Planning Statement**

- The application proposes 50 dwellings to include affordable housing, a health centre with 4no. consulting rooms, a school drop off facility, two vehicular accesses one from Leysdown Road and the other Warden Road, infrastructure, landscaping, and provision of a school playing field.
- The submission is a hybrid application: outline for the dwellings, health centre, and playing field and detailed planning for the school drop off facility with footpath connection to the school, all associated access, parking, infrastructure and landscaping works
- The site is outside the built up area boundary. Despite the sites designation as open countryside, the area has not functioned as a countryside
- Due to the scale and expanse of the holiday parks and existing development in the area means the area does not function or appear as a countryside but instead acts as part of a well established cluster of development
- Land to the immediate north and east is designated as 'holiday parks'
- There is a regular hourly bus service via the B2231 and Warden Bay into Sittingbourne, Sheerness, Leysdown and Minster within 140 metres from the site accesses.
- There are a total of six bus stops within a 320 metre walking distance of the site. These are accessible by foot via well lit pedestrian footpaths and verges in the surrounding area
- The adjoining St Clements School lack spaces for expansion and lacks good quality grass sports facilities
- Services within Leysdown include a bakery, a Public house, fish and chip shop, an entertainment complex, a school, and a church. All of these services are within 0.6miles of the site.
- The Adopted Swale Borough Local Plan considers Leysdown to be an important local centre for the eastern end of the island
- Leysdown is not identified as one of the six local service centres where development will be directed due to poor access and limited availability of public transport
- The Adopted Local Plan also acknowledges that Leysdown is a deprived neighbourhood, particularly in education, economic opportunities, and health of these communities. This application will assist in addressing these issues.
- The application complies with 5 out of 8 of the criteria listed under Policy RC3 of the Adopted Local Plan (the policy is set out in full below)
- The Adopted Local Plan policies support the provision of community facilities
- The Council does not currently have a five-year supply of housing and as such the NPPF advises that applications should be considered in the context of sustainable development
- The site is located 0.6 miles from Leysdown and less than a mile from Warden, it is well served by good transport links and is within 320 metres walk of the nearest six bus stops.
- Leysdown provides services but they are targeted at tourists. Additional services are provided 4.4 miles from the site.
- The site is of poor landscape quality and its development will improve the appearance of the area
- Whilst it is acknowledged that the site was not allocated within the SHLAA (which is one of the documents under-pinning the Emerging Local Plan), it is considered that the application meets the requirements and should be accepted by the Council
- Whilst the development will result in loss of a greenfield site, the development will employ local tradesmen and ensure that locally sourced high quality materials are used to support the local economy thereby resulting in social, economic and environmental benefits

- The development is a high quality hybrid scheme of appropriate density that will provide a high quality environment
- There are no viability issues with the scheme and the site will provide 16 affordable homes (32%)
- Developer contributions should however be reduced due to the provision of healthcare facilities, school drop off facilities as well as recreational and amenity areas across the site
- It is not considered that the development will have a severe impact on the local highway network
- There are no particular ecological issues that would arise from the development
- The site is not at risk of flooding and the proposal will not result in increased flood risk elsewhere
- Surface water runoff from the site will be discharged to the public sewer at an attenuated rate.

2.09 **Design and Access Statement**

- The development is split into two areas. The first has an access from Leysdown Road and consists of 34 one to one and a half storey houses around a central amenity spaces whilst the second area consists of 16 affordable units located behind a medical centre and their access is from Warden Road.
- The two areas are separated by car parking for the school as well as a local amenity area and a football pitch
- Proposed materials will include brickwork, tile hanging and weather boarding
- There will be use of dormer windows, feature brickwork and a mix of roofshapes to give character so as to enhance the local setting
- Existing boundary planting will be protected and enhanced
- Landscaping will be used to provide a soft barrier on Leysdown Road
- A central amenity area is provided to maintain the rural character of the area
- the medical centre has a contemporary design reflecting the character and appearance of the existing primary school and nursery
- the split pitch roof maximises light entering the building
- the detailed design of the building will create a landmark
- the development will meet high standards of sustainable design and construction
- renewable energy will be incorporated
- there will be high levels of insulation and air tightness
- sustainable drainage features and flow control devices will be incorporated
- SUDS will be used and a waste management strategy will be in place
- The site has potential to support a small number of protected species including bats, reptiles and hedgehogs
- Biodiversity enhancements will be incorporated

2.10 **The Ecological Scoping Report**

- A Phase 1 habitat survey was carried out
- There are no statutory or non statutory designated nature conservation sites within 1 km of the site
- The Swale SSSI is located approximately 2.2km from the site
- The site is dominated by species of poor semi improved grassland with small amounts of scattered scrub
- No ponds were recorded on site or within 100m. The nearest pond is 150m to the south of the site

- The closest recorded great crested newt site is located at Warden Bay and it is unlikely that they would be present on this site
- There is potential habitat on site for supporting reptile species, namely the viviparous lizards and as such a reptile surveys should be done
- It is considered that the site has high potential to support breeding birds within the trees and scrub
- None of the trees on site have potential to support roosting bats but the site is likely to be used by foraging and commuting birds. Lighting can be detrimental to roosting, foraging and commuting bats.
- Common mammals are likely to be present, however there were no signs of badgers
- It is recommended that contributions be made to the SPA (Special Protection Area for ecology) as the proposed development will result in increased use of protected sites for recreational and other purposes
- Biodiversity enhancements such as bird boxes, provision of bat roosting spaces, provision of reptile hibernacula, hedgehog nesting boxes, SUDS, and tree/shrub planting should be incorporated

2.11 Transport Statement

- Bus stops with laybys are located on the B2231 (Leysdown Road) close to junction with Warden Bay Road and are within 250m walking distance of the site
- Bus service no. 360, 362 operate in the area every hour during weekdays and on Saturdays, the 360 every hour on Sundays and the 366 which is a school service
- Queenborough railway station is located approximately 12 km from the site and there is a train service to Sittingbourne every 30mins
- Two distinct accesses are proposed from Warden Bay Road to service the cluster of affordable units to the eastern end of the site and the other from Leysdown Road to serve the market houses to the western end of the site
- The Leysdown access road has a loop road layout
- There will be a pedestrian link from the car parking area and this link will also provide access to the school and to the amenity areas
- Parking for the bungalows will be provided on their private driveways, garages and rows of parking bays will be provided close to the clusters
- Visitor and staff parking will be provided for the medical centre
- Construction traffic will not be allowed to wait on the public highways
- Service vehicles will access the site via the proposed vehicular accesses
- A vehicle trip generation for the development has been calculated based on TRICS database. The residential aspect of the development is likely to generate a total of 25 vehicle trips in the morning peak hour, 25 total trips in the afternoon peak hour and a total of 233 vehicle trips across the whole day.
- This was also used to calculate vehicle trip generation for the medical centre. The development is likely to attract a total of 34 vehicle trips in the morning peak hour, 23 vehicle trips in the afternoon peak hour and a total of 350 vehicle trips across the whole day.
- At junction with Leysdown Rod visibility is limited and should be improved
- Certain facilities are located within walking distance, and the site is located within walking distance of bus stops
- Parking provision will accord with the relevant standards for residential development and a medical facility
- The TRICKS database indicates that the development will generate a total of 583 vehicle trips per day, with 59 trips in the am peak hour and 48 trips in the pm peak hour. However it is unlikely that this development will have a greater modal split towards modes of transport other than the private car compared with other rural areas

- The proposed school drop off facility will ease congestion at peak times and it is not considered that traffic movements associated with the residential development will coincide with existing school traffic.
- The development is not considered to result in significant impacts in transport terms

2.12 **Surface Water Management Strategy**

- There are two existing foul sewers which cross the site
- The use of infiltration SUDS is unlikely to be a viable option give the impermeable nature of the geology at this site
- There is limited opportunity to discharge surface water to a watercourse without the requirement to cross third party land and given this the only suitable solution is to discharge surface water directly into the public surface water sewer system at an attenuated rate
- A series of sustainable drainage features and flow control devices will be used
- A pumping station has been proposed in order to elevate surface water run off from the lowest parts of the site, allowing the final outfall to discharge to the public sewer system via gravity
- Other opportunities to incorporate SUDS measures within the scheme have also been explored, including the use of rainwater harvesting, permeable paving, and rain gardens.
- The submitted calculations provide evidence that the proposed development can be managed in a safe and sustainable manner and as such the development meets policies.

2.13 **Letter from planning agent (dated 27 February 2017)**

- The Council acknowledges that Leysdown and Bay View are within the most deprived 20% of the local area
- There is very severe deprivation in pockets of the Borough and Leysdown in particular
- Leysdown is not a remote location. Whilst Leysdown is accessed by one road, it is a wide and heavily used route which serves a total of 1146 dwellings at Bay View, Warden Bay and Leysdown as well as holiday mobile homes and chalets.
- There is a pressing need for affordable housing and this scheme seeks to provide 16 units
- The proposed development would lead to a 4% increase in the overall size of development locally and can be argued to be modest development
- The proposed development would be high quality and would have a 10 metre high quality landscaping strip adjacent to the site frontage and would improve the visual character of the area
- The application proposes a school playing field, health care facility and a pharmacy and these should be regarded as a community benefit
- There is a desperate need for affordable housing in this part of the Borough

2.14 **Summary of additional information (received 15 May 2017)**

- Affordable units would be delivered and the s106 could have a 'covenant' which states that no more than 10 private units could be provided before a contract is in place for the delivery of the affordable units.
- From a highway perspective it would be better for the drop off and pick up to be provided earlier, however this would result in people driving through a building site. As such the developer is targeting to deliver affordable housing as early in the as possible

- The open space will be levelled and made with future management arrangement depending on whether KCC wish to take ownership. In the first instance Whitehorse Leisure will manage the open space
- In regards to the health centre it has not been finalised what the arrangement for delivery would be. Negotiations have been on the basis that the Medical Doctors would pay for the construction of the surgery
- The developer would provide the land and undertake the main construction of the access from the highway as well as works up to the land to be transferred.
- Within the s106 agreement there could be a clause advising that no more than a certain amount of development could take place until or unless a contract for the construction of the surgery is in place
- Negotiations are continuing with a local medical practice and an update will be given before Planning committee meeting

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	4.06 ha (or 10.0324 acres)
Approximate Ridge Height (m)	Not specified
Approximate Eaves Height (m)	Not specified
No. of Storeys	Various heights
Parking Spaces	-26 for the school -Not specified for the dwellings
No. of market Residential Units	34
No. of Affordable Units	16
Density	12.8d/ha

4.0 PLANNING CONSTRAINTS

- The site is located outside of the built-up area boundary of Leysdown, within the countryside as defined in the Local Plan
- Potential archaeological importance
- Flood Zone 2 and Flood Zone 3
- The site is outside but adjoining the defined Coastal Zone
- The site is located within 2km of the Swale Special Protection Area (SPA), Ramsar site and the Swale Site of Special Scientific Interest (SSSI).
- The site is designated as a Local Green Space in the Emerging Local Plan Bearing Fruits 2031.
- Land is grade 3 agricultural land

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): paragraphs 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 30, 32, 36 (sustainable transport), 42, 47 (delivering a wide choice of high quality homes), 49, 50, 55, 56, 58 (good design), 69, 70, 73 (healthy communities); 103 (flood risk), 110, 112 (agricultural land), 118, 119 (biodiversity), 120, 121 (contaminated land), 159 (housing), 162 (infrastructure), 186 (decision taking), 187, 196 (determining applications); 197, 204 (planning obligations) & 216 (weight to emerging policies).
- 5.02 National Planning Policy Guidance (NPPG): Design; Natural environment; Housing and Economic Development needs assessment; Planning Obligations; Use of planning conditions; transport assessments and statements in decision taking; Water supply, waste water and water quality land affected by contamination; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.

The Development Plan:

- 5.03 The Swale Borough Local Plan 2008 saved policies SP1 (sustainable development), SP2 (environment), SP4 (housing), SP5 (rural communities), SP6 (transport and utilities), SP7 (Transport and Utilities), SH1 (settlement hierarchy), E1 (general development criteria), E6 (countryside); E8 (Agricultural Land), E9 (protecting the quality and character of the Borough's Landscape); E10 (trees and hedges); E11 (biodiversity and geological interests), E12 (designated biodiversity and geological conservation sites), E19 (achieving high quality design and distinctiveness); H2 (new housing), H3 (affordable housing), H5 (housing allocations), RC3 (meeting rural housing needs); C2 (housing development and the provision of community services and facilities); T1 (safe access), T3 (vehicle parking for new development); T4 (cyclists and pedestrians) & C3 (open space on new housing developments). Members will note that Policy RC3 reads as follows:

'Policy RC3'

'Helping to Meet Rural Housing Needs'

In the rural area, new housing will be permitted as follows:-

- A. Within the built-up area boundaries of settlements in accordance with Policy H2 and the defined settlement hierarchy as set out in Policy SH1; and
- B. Exceptionally at sites where planning permission for residential development would not normally be granted, where proposals are specifically and wholly intended to meet an identified local affordable housing need of the community provided the promoter of the scheme demonstrates that:-
 1. The identified need cannot otherwise be met elsewhere within the confines of the built-up area, or failing this, on previously developed land adjoining the built confines of the settlement;
 2. The development is of a size and type suitable to meet the needs identified in a local housing needs survey;
 3. The site is well related to available services and public transport;
 4. The proposal contains no element of general market housing;
 5. There are no overriding environmental or highway objections; and
 6. The scheme has the support of the local Parish Council.

In both cases, the proposal should be of a form, scale and design that respects and where possible enhances the character of the settlement and its surrounding landscape.

5.04 The Emerging Swale Borough Local Plan “Bearing Fruits” –

The Emerging Local Plan has now been completed and its examination in public closed on the 9th February 2017. Given this and that the publication of the Emerging Local Plan is imminent, significant weight should be given to its policies, which include the following:

ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST5 (Isle of Sheppey area strategy), CP2 sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (Health and Wellbeing - seeks to support and promote health and wellbeing and amongst other things seeks to bring forward accessible and new and or community services and facilities including new health facilities), CP6 (community facilities and services to meet local needs), CP7 (conserving and enhancing the natural environment - providing 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), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM24 (conserving and enhancing valued landscapes), DM25 (The Separation of Settlements – Important Local Countryside Gaps), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM31 (agricultural land), DM34 (Archaeological sites), and IMP1 (implementation and delivery plan).

Supplementary Planning Documents

- 5.05 Developer Contributions (2009)
- 5.06 Swale Landscape Character and Biodiversity Appraisal SPD (2011). The application site is identified as lying within the Central Sheppey Farmlands character area and Clay Farmlands landscape type – the landscape is generally in poor condition with a moderate sensitivity to change.
- 5.07 The Strategic Housing Land Availability Assessment (Addendum) 2014/15 (SHLAA) - The Council published its 2014/15 SHLAA Addendum in May 2015 and this site (SW/781) (and others sites) was reported to the LDF panel on 19 May 2015 as proposed modifications to the Local Plan. It was considered that the site is remote from services and facilities and was rejected for allocation at the earliest stage of the process.
- 5.08 The Swale Borough Council: Implementation and Delivery Schedule 2016/2017: Published June 2016.

6.0 LOCAL REPRESENTATIONS

Three letters of objection have been received raising the following concerns:-

- The development will affect the Happy Valley Chalet park business and will spoil their peaceful and quiet environment
- The land is for farming and should remain as such
- A development of mixed housing is not supported by policies outside of existing settlements therefore is contrary to RC3 of Swale Local Plan
- The development will generate traffic in excess of the capacity of existing roads. The problems at Barton Hill Drive/Lower Road are well known and the junction is beyond capacity already. The development is contrary to Policy T1.
- There are no job opportunities in the local area and building more houses means more traffic on the roads for commuters
- The development is outside the built up area boundary and contrary to Policy H2, and is not an allocated site
- The Local Plan advises that development in this area should be restricted to infill, which the proposal is not
- The development would erode existing green space which separates Leysdown, Warden Bay and Bay View
- The site will serve the community better as an open space
- Whilst there is need for housing, the sites allocated to the western end of the Isle of Sheppey are more than adequate
- Services are currently overstretched in this area and this development will exacerbate the situation
- A doctor's surgery is needed but houses are not
- The proposed development is overly intensive and is not needed

7.0 CONSULTATIONS

7.01 Warden and Leysdown Parish Councils object to the application and raise the following concerns:-

- Leysdown and Warden are not part of the Thames gateway Project, and as such there is no real impetus for development in this area
- The existing open space is a natural buffer zone between Leysdown and Warden and the school was built to link the communities and not to join them
- Leysdown and Warden are vulnerable in terms of rising sea levels and flooding
- Parts of the application site already suffer flooding due to surface water run-off
- Cliff erosion is predicted in the area of Warden and this development should take this into KCC Floods and Drainage Team should be consulted to ensure the plans for surface water management are appropriate
- this site is dominated by clay geology and would probably be unsuitable for infiltration drainage
- there are currently ongoing surface water, fluvial and tidelocking issues downstream by the village hall and as such it is important that this development does not increase surface runoff rates
- the only link between this area and the outside world is a narrow, inadequate road
- there are no direct links to London by train and the bus service is inadequate
- most villages commute to other towns by car

- work is seasonal as the area is made up of a transient population since the main industry is tourism
- another 50 houses means another 100 acres for residents and the existing problems would be compounded
- the school is currently over subscribed and another 50 houses will exacerbate the existing situation

In addition they advise that they welcome the new health centre, dentist, pharmacy, and the school expansion, however they are of the opinion that even without the proposals the medical centre and school expansion would be needed.

Furthermore they advise that Leysdown and Warden need the following:-

- a belter link road/cycle path
- a better, more frequent and more accessible bus transport system
- better medical facilities
- a larger school

- 7.02 KCC Flood Risk Project Officer advises that comments made by Southern Water on the 28th of November 2016 indicate that there is a surface water sewer in Warden Bay Road which could receive flows, but which has capacity issues. Southern Water has indicated that additional local infrastructure would be required to be provided. On this basis if the development is acceptable, a suitably worded condition should be attached to any planning permission, requiring the submission of details of a sustainable drainage system, including its implementation and maintenance. However, they emphasise that any new infrastructure in this location should be a gravity system. Coordination with Southern Water may enable an alternative solution to that proposed within the Herrington Consultants Drainage Strategy (which is referred to above).
- 7.03 KCC Highways and Transportation advise that the traffic associated with the school drop off and collection would already be on the highway network and this would be the case too with the medical centre. In addition, they advise that the level of additional trips on the highway network would not be significant in respect to the capacity of the existing road infrastructure, and that the local junctions would be able to accommodate these vehicle movements. Furthermore they advise that if parking is to be assessed at this stage concerns would be raised in that the submitted drawings do not make it clear how much of the parking areas within the eastern development parcel are associated with the school, and that there is insufficient room within the main school parking area for vehicles to turn around once all the spaces are occupied and this would lead to congestion and excessive vehicle manoeuvring. An 8m by 8m, turning area should be provided with space for manoeuvring. Subject to the above matters being addressed, KCC have no objection to the development subject to conditions securing the provision of operatives' and construction vehicles loading, off-loading or turning on the site; details of parking for site personnel / operatives / visitors; provision 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; adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway; completion of works between that dwelling / premises and the adopted highway shall be completed as follows; space for cycle parking; parking areas in accordance with the Approved County Parking Standards;

provision of acceptable visibility splays on the Leysdown Road and Warden Bay Road access; and the submission of a Construction Management Plan for approval.

- 7.04 The Council's Agricultural Land Consultant advises that the site lies in an area of generally seasonally wet, loamy and clayey soils with impeded drainage. The area of land that would be lost is small in agricultural terms, and the land does not appear to have been in any productive agricultural use for many years, and none of the adjoining land appears to be in productive agricultural use either. In conclusion they do not consider that the development of this land could be said to be 'significant' in terms of applying paragraph 112 of the NPPF.
- 7.05 The Environment Agency (EA) initially objected to the development and required the submission of a Flood Risk Assessment (FRA) - Subsequent to this the applicant submitted a FRA and EA have withdrawn their initial objection and advise that they have no objection to the development subject to conditions requiring residential floor levels to be a minimum of 5.98 AOD.
- 7.06 The Environmental Protection Team Leader has no objection to the application subject to a noise assessment being submitted to assess whether mechanical equipment used by the medical centre will cause a noise nuisance, and that conditions restricting hours of construction, and those requiring submission of dust suppression methods for approval should be attached to any planning permission given for the development.
- 7.07 The Green Spaces Manager advises that the proposal allows for a significant and adequate amount of public open space for the number of dwellings although it is not clear presently if this would include the pitch as shown or if this would be separate and fenced if required by the school. The pitch should have a community use agreement if it is to provide the formal sports requirement for this development. In addition, they would seek a contribution of £200 per dwelling towards off site play facilities to enhance the capacity of existing sites within walking distance of the development. In addition, clarification should be sought from the applicant on management of the open spaces.
- 7.08 The Climate Change Officer advises that there are no details submitted at this stage, However, full detail is required at reserved matters stage if planning permission is given for the development. With regard to the health centre, they advise that the NHS would require the development to meet BREEAM standards ('good or very good').
- 7.09 The NHS Estates advises that in principle they welcome the provision of a new health centre at this location as the current services are over stretched. However, the facility would have to be made available at no cost to the Clinical Commissioning Group so as to ensure adequate planning gain, and discussions will be required with the developer around affordability and value for money. They raise concern that recruitment of doctors is very difficult in this area and there is no guarantee that there would be any doctors willing to offer services from this site, and that rental costs would need to be deemed to be value by the District Valuer. In addition, they advise that a contribution of £18,000 (based on 50 dwellings) is required and this will be directed towards expanding existing facilities within the vicinity of the development.

- 7.10 SBC Strategic Housing and Health Manager advises that they note that the applicant offers 16 affordable homes despite the new affordable housing policy (DM8) in Bearing Fruits 2031 having a 0% requirement for affordable housing on the Isle of Sheppey. They require a 90:10 split of affordable rented and shared ownership respectively, however they are happy to take a reasonable approach to the tenure split. They further advise that affordable housing should represent a mix of house types and should reflect the housing need of the area. They confirm that there is a requirement for affordable housing on the Island including Leysdown for all types and sizes of affordable accommodation.
- 7.11 KCC (community contributions) request that the application contributes towards primary education (towards the new Free Primary School), community learning, library bookstock, and social care as well as the provision of 1 wheelchair adaptable home. Members will note that the sums of money required are detailed at paragraph 9.28 herein. They also request that an informative be added to encourage Next Generation Access Broadband. They further advise that they took a feasibility study to expand St Clements School however due to ground level differences and overhead cables the costs proved to be too high to prepare a workable school playing field and to expand the school. It is for these reasons that whilst St Clements and Warden Bay Primary School adjoins the application site, the primary education contribution will be directed towards the new Free Primary School.
- 7.12 KCC Archaeology advises that the site is located in an area that is archaeologically sensitive. Investigations at the St Clements and Warden Bay Primary School and the adjoining Children's Centre have identified complex and significant archaeology which includes prehistoric, Roman, Saxon and medieval date. This archaeology lies at very shallow depth beneath existing levels, and as such any groundworks for the proposed new development would be likely to affect significant archaeological remains. It is therefore recommended that an archaeological field evaluation works condition is attached, if planning permission is given for the development.
- 7.13 KCC Ecology advise that the site is located around 2km from the Swale SPA, Ramsar and SSSI. Information will need to be provided detailing that developer contribution to a Borough-wide mitigation strategy corresponding to the amount of proposed dwellings is carried out. These contributions should ensure that the proposed development avoids likely significant effects on the designated sites due to an increase in recreation. In addition, there is habitat on site suitable for reptiles and it is advised that reptile surveys are carried out prior to determination of the planning application, and that the biodiversity enhancements mentioned in the Ecology Report should be included in any submitted landscape plans, and be secured by planning condition if planning permission is granted for the development.
- 7.14 Lower Medway IDB has no in- principle objection to the development however advises that the developer should ensure that surface water runoff routes and rates are retained, and that KCC's Flood Risk Team should be consulted. They further advise that Warden Bay Drain to the north of the site has been designated as a Main River, and therefore any connection to this watercourse or works within 8 metres of it will require Environment Agency's formal consent.

- 7.15 KCC Public Rights of Way and Access Service (PROW) have no comments to make.
- 7.16 Natural England advise that the site is located in close proximity to The Swale Site of Special Scientific Interest (SSSI) and subject to a SPA contribution being made, they do not consider that the development will damage or destroy the interest features for which the SSSIs named above have been notified. In addition, biodiversity enhancements should be provided by the applicant and be secured by condition if planning permission is granted for the development.
- 7.17 Cllr Ben Stokes (Ward Councillor for Bobbing, Iwade and Lower Halstow) advises that he has spoken to many residents who are in favour of the application. The older residents support the bungalows, whilst the younger residents support the affordable units. In addition, the dropping off facility at the school will help alleviate traffic in Warden Bay Road, and that the medical centre is much needed in the community.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and correspondence relating to planning application reference 16/507407/OUT.

9.0 APPRAISAL

It is considered that the key material considerations in the assessment of this application are as follows:-

- The principle of development
- The supply of housing in the Borough
- Sustainability of development
- Visual Impact and Landscaping
- Ecological matters
- Loss of Agricultural Land
- Impact on the setting of the listed building (Paradise Farmhouse)
- Archaeology
- Residential amenity implications
- Flood risk /Surface water drainage
- Highway network impact
- Affordable housing
- Health centre, dentist and pharmacy
- S106 requirements

Principle of Development

- 9.01 The key issue for consideration is whether planning permission should be granted for a residential development on a site that lies outside the defined urban confines of Leysdown. In addition, the application site is not allocated for development in the Adopted SLP 2008 or the Emerging Local Plan Bearing Fruits 2031. Policy SH1 of the Adopted Local Plan 2008 and Policy ST3 of Bearing Fruits 2031 sets out the settlement strategy that emphasises development on brownfield land within built-up areas and on sites allocated by the Local Plan. Policy E6 of the adopted local plan

seeks to protect the quality, character and amenity of the countryside, whilst Policy H2 of the Adopted Local Plan states that permission for new residential development will be granted for sites that are allocated or within defined built-up areas. Outside of these, new residential development will only be granted for certain limited exceptions. The application site is outside of the built-up area boundary and as such any housing development would be contrary to the above policies and not in accordance with the Development Plan.

- 9.02 The Adopted Local Plan clearly states that within the countryside development will not normally be permitted unless under exceptional circumstances, if development is supported by national policy, and if it protects the countryside. Whilst the proposed development would be contrary to these policies, this matter is not the only consideration. There are other material considerations in this instance, which must be balanced in order to ascertain whether the principle of residential development on this site is acceptable.
- 9.03 The application site is located in Leysdown which is classed as a Local Service Centre settlement in Policy SH1 of the Swale Borough Local Plan 2008 (saved policies). This Policy advises that housing development proposals will be supported in accordance with a settlement hierarchy. Local Service Centres will be considered after Primary Settlements such as Sittingbourne, small towns such as Faversham, Sheerness, and strategic settlements such as Iwade, Minster and Queenborough have been considered.
- 9.04 In addition, Policy ST3 of the Emerging Local Plan Bearing Fruits advises that emphasis should be on previously developed land within defined settlement boundaries, and as such development proposals will be permitted in accordance with a settlement strategy. Being in a countryside location, the application site is within Tier 6 of the settlement strategy (the lowest tier), where policy advises that development will not normally be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and where appropriate enhancing the intrinsic value, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 9.05 Within the Emerging Local Plan, settlements outside of the built up area boundary, as is the case here, are ranked at the bottom in terms of where this Council wishes to direct new homes. As such, when tackling the housing need in the Borough on a strategic level this Council has identified sites that would be far more sustainable. The Council is able to demonstrate through the housing allocations identified in the emerging Local Plan that there are many more sites within the Borough that can meet the housing need in a sustainable way. The application site is therefore not necessary to meet the housing needs of this Borough, and developing the site for housing would be contrary to the strategic and sustainable approach to delivering housing that the Council has shown can be achieved through the Emerging Local Plan.
- 9.06 Whilst the applicant argues that the development is of modest scale and as such is supported by Policy SH1, it is considered that Policy ST3 clearly states that in Leysdown, 'modest-scale development, using previously-developed land, will be accepted.' This site is not considered to be previously developed land and as such housing development as proposed on this site cannot be considered to qualify under this policy.

The supply of housing in the Borough

- 9.07 The Emerging Local Plan has been through the initial Examination in Public, and following the Inspector's interim findings, the Council has sought to significantly boost its housing allocations to meet objectively assessed housing needs as modifications to the Emerging Local Plan. A Further Examination took place early this year where the Council sought to demonstrate that it can meet its full identified housing needs and a 5 year housing supply. This examination in public closed on the 9th February 2017. Given that the background evidence base on housing allocations has been endorsed by the Local Plan Inspector in her interim findings as a sound basis for the Council to deliver additional sites to meet OAN, there is a high likelihood that these additional site options will be acceptable to the Inspector given the soundness of the evidence base. The publication of the Emerging Local Plan is imminent, and it is considered that its adoption will give the Borough Council a 5 year housing supply.
- 9.08 Paragraph 26 of the NPPF sets out that decision makers may give weight to the emerging plans, depending on the stage of preparation of the plan (the more advanced, the greater the weight), the extent to which there are unresolved objections, and the degree of consistency of relevant policies in the NPPF. Given this, and the endorsements made by the Local Plan Inspector in her interim findings, it is considered that the soundness of the evidence base means that material weight can be given to the emerging plan and demonstration of a five year housing supply. As such, it is considered that the Borough Council has a sound Local Plan with a 5-year housing land supply.
- 9.09 Furthermore, when considering the NPPF, the test as to whether this application constitutes sustainable development and whether any harm arising from the proposal would significantly outweigh the benefits, the position of the emerging plan as set out above, should be taken into account.
- 9.10 This site (SW/781) has been considered as part of the SHLAA, but has scored poorly in relation to other sites and has not been considered for allocation. The Council considers that new housing development can and has been more appropriately and sustainably focused at the higher order locations (Primary Settlements and Rural Service Centres as mentioned herein in paragraph 9.04) and in Local Service Centres new housing developed has been directed to sites within or immediately adjacent to the built up area boundary that the proposals would represent a less sustainable and unnecessary location for growth, contrary to Policy SH1 and E6 and H2 of the Adopted Swale Borough Local Plan 2008 and Policy ST3 of Bearing Fruits 2031.

Sustainability of development

- 9.11 As the supporting documents set out, there are six bus stops within a 320 metres walking distance of the site and these bus stops are all accessible by foot via well-lit pedestrian footpaths and verges in the surrounding area. In addition, a regular bus route passes the site via the B2231 and Warden Bay Road which provides hourly services into Sittingbourne, Sheerness, Leysdown and Minster. Aside from this, and whilst the site is located immediately adjacent to a Primary School, the closest essential services are located in Minster which is approximately 4.4 miles northwest of the site and is accessed either by an hourly bus service or by private car. The services and facilities in Leysdown are tailored for the tourism industry and are therefore very limited. In addition, the nearest train station is in Queenborough and this is approximately 7.4 miles away. When this is combined with the distance to Minster, Sheerness or Sittingbourne (which is a minimum of 5 miles from the site), and that such centres are accessed by an hourly bus service, it is considered that the residents of the new dwellings are highly unlikely to access these facilities and services by foot

and only a keen cyclist would be prepared to cycle to reach these services. Likewise, it is considered that there would be limited potential for future residents of the new development to find employment at one of the limited services provided within Leysdown thereby meaning any future residents would be commuting daily for work to the nearest centres which are a minimum of 5 miles from the site.

- 9.12 Given the above, it is considered that the private car would be extremely heavily relied upon and only reinforces the view that the location of the site is unsustainable. Furthermore, although the intention of all the proposed positive features would be welcomed it is considered that this does not compensate for the inherently unsustainable location of the application site. As such, this negative of the scheme would outweigh the overall positives of the schemes.

Visual Impact and Landscaping

- 9.13 The submitted drawings include illustrative development proposals which suggest that the development would erode the existing open countryside between Bay View and Leysdown and by so doing result in an urbanising effect within a countryside location contrary to policies. Whilst the existing site does not have a particularly high quality landscape and given that it is already visually compromised by the sprawling camp sites/holiday parks to the north, the site is still essentially and predominantly rural in nature. The open countryside between Bay View and the mass of caravans and holiday chalets to the east would be significantly reduced as a result of the proposed development. Given this, it is considered that a development as proposed would result in the loss of a large area of open countryside to the detriment of the visual and rural amenities of the area. The impact of the proposed development on landscape quality would be significant, and would seriously harm the character and quality of the landscape, contrary to policies.
- 9.14 In addition, this site has been identified as a proposed Local Green Space in the Emerging Local Plan Bearing Fruits 2031 and as such should be reserved as an open space. Given the status of the Emerging Local Plan as detailed in paragraph 9.05 herein and that its publication is imminent, it is considered that significant weight should be given to this consideration. As such it is considered that the development, due to this assessment would result in loss of a Local Green Space and would cause unacceptable harm to the character and appearance of the countryside contrary to the Adopted Local Plan policies SP2, SP5, SH1, E6, E9 and E10, and the Emerging Local Plan policies ST1, ST3, ST5 and DM24 and DM29. Any impact caused on the environmental strand of sustainable development would be severe, and as such this negative would need to be weighed against the overall benefits of the development.

Ecological matters

- 9.15 An ecology report has been submitted and this identifies the site as having a limited ecological value. The findings of the report are accepted by KCC Ecology, and the development is considered acceptable subject to a reptile survey and conditions as detailed in the consultation section paragraph 7.13 herein. The development is considered to accord with policies E11 of the adopted plan and DM28 of the emerging plan.
- 9.16 In addition, the site falls within 6km of the Swale which is a Special Protection Area (SPA) and Ramsar site, and Policy DM28 of the Local Plan 'Bearing Fruits' 2031 sets

out that internationally designated wildlife sites such as the Ramsar and SPA are afforded the highest level of protection. As such it is likely that the future occupiers of the site will be using the SPA for recreational purposes in some instances which would result in some impact on the SPA thereby requiring this impact to be addressed through appropriate mitigation measures. The agent advises that they will seek a reduction in contributions given that 16 of the dwellings are proposed to be affordable units. Whilst affordable units are provided by the applicant and are warmly welcome, not fully contributing to mitigation measures would be contrary to Policies. As such the impact caused on the environmental strand of sustainable development would be severe, and this negative would need to be weighed against the overall benefits of the development.

Loss of Agricultural Land

- 9.17 The land to be lost as a result of the development comprises Grade 3 agricultural land. 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. Emerging Local Plan policy DM31 also looks for the loss of BMV land to be avoided if possible. It is considered that the loss of this agricultural land represents an environmental negative. However, given that the land that would be lost is considered to be an insignificant area of agricultural land (approximately 0.69 hectares) in comparison to the considerable agricultural land of similar quality that surrounds Leysdown, that this land appears to lie in an area of seasonally wet, loamy clayey soils with impeded drainage, and given that this land does not appear to have been in any productive agricultural use for many years, and none of the adjoining land appears to be in productive agricultural use either, any impact caused on the environmental strand of sustainable development would be moderate. As such, this negative would need to be weighed against the overall benefits of the development.

Impact on the Listed Paradise Farmhouse

- 9.18 The listed building, Paradise Farmhouse is located on the south side of Leysdown Road, but is well set back from the road behind a graveyard area and so does not form a prominent feature in the landscape at this location in views from the Leysdown Road, and is not easily visible from public vantage points.
- 9.19 Given the separation distance between the listed farmhouse and the application site, together with the available intervening screening of trees and hedging associated with the graveyard, it is considered that the impact of the proposed development on the setting of this listed building would be considered to be less than substantial. In accordance with paragraph 134 of the NPPF it will therefore be necessary to balance the limited harm in this respect against any public benefits this housing development can provide. The lack of an identifiable harm to the heritage asset is a positive factor because of the contribution this makes to the environmental strand of sustainable development, and should be afforded weight.

Archaeology

- 9.20 The application site has some remains of archaeological importance. KCC Archaeology do not have an objection to the proposed development, but seek the

securing of a programme of archaeological work that would be in accordance with a written specification and timetable which has been submitted to and approved in writing by Swale Borough Council. Given this it is considered that the development complies with Policy DM34 of the Local Plan 'Bearing Fruits' 2031. The lack of an identifiable harm on archaeology is a positive factor because of the contribution this makes to the environmental strand of sustainable development and should be afforded weight.

Residential Amenity

- 9.21 The precise impact on residential amenity arising from the design of the dwellings will be dealt with as part of the subsequent reserved matters application(s), should Members decide to grant outline planning permission. The site is considered to be of a sufficient size to accommodate up to 50 dwellings, a health centre, a pharmacy, a school drop off and pick up area, associated parking areas for each dwelling, open spaces, appropriate area of private amenity space for each dwelling, and with separation distances between each which would ensure that there is no significant overlooking or loss of outlook. As such it is considered that any impact on residential amenities would not be unacceptable. The lack of an identifiable harm to neighbour amenity is a positive factor because of the contribution this makes to the environmental strand of sustainable development, and should be afforded weight.

Flood risk /Surface water drainage

- 9.22 Parts of the site fall within Flood Zone 2 and 3. A Flood Risk Assessment is submitted with the application. Environment Agency advise that it has been sufficiently demonstrated that risk to human health and property as a result of flooding will be minimised to acceptable levels, and as such they do not have an objection to the development subject to recommended conditions as detailed in the consultation section paragraph 7.05 herein. As such, the lack of an identifiable harm to human health and property is a positive factor that should be afforded weighed.

Highways

- 9.23 Further to KCC Highways and Transportation's comments at paragraph 7.03 above, Warden Road and Leysdown Road are considered to be capable of accommodating traffic that would be generated by the proposed 50 dwellings. The impact of the proposal upon highway safety or amenities would not be unacceptable, and as such KCC Highways and Transportation have no in-principle objection to the proposed access points, and the proposed development is considered to be acceptable in principle, subject to conditions as detailed in 7.03 above. Concerns are raised regarding the school parking layout that is proposed to the eastern part of the site. Clarification is required on the number of parking spaces that would be associated with the school, and the proposed turning area would need to be revised so that it meets the minimum standard which is 8m by 8m. It is considered that there is enough land for this amount of turning area to be made available for manoeuvring and as such limited weight should be attached to this harm on the highway network.

Affordable housing

- 9.24 Whilst the provision of affordable units is not a requirement in this location, it is a positive factor that is most welcome and adds to the economic and social strand of sustainable development, and as such should be afforded weight. Members should note that whilst this is a positive factor, the affordable housing is being provided at the expense of a contribution towards infrastructure provision and as such limited weight should be given to this positive. Contribution towards infrastructure services is essential to any housing scheme and is considered to be necessary infrastructure required to support the development. As such, in the absence of a full contribution towards infrastructure, the development would be contrary to policies.

Health centre, dentist and pharmacy

- 9.25 The NPPF and The Swale Emerging Local Plan Bearing Fruits 2031 stress the importance of health and wellbeing and the role that the planning system should play in improving this. To achieve sustainable development, the NPPF advises that the planning system should perform a social role, including supporting strategies to improve health and cultural wellbeing, promoting healthy communities and by supporting the provision of health facilities. There are significant health and wellbeing issues in Swale, especially in its deprived communities such as west and east Sheppey, which includes Leysdown where the application site is located. Given this, it is considered that the proposed healthcare facility, dentist and pharmacy are positives that contribute to the social and economic strand of sustainable development.
- 9.26 Whilst the proposed healthcare facility, dentist and pharmacy are considered to be positives, Bearing Fruits Implementation and Delivery Schedule 2016/2017 advises that in Eastern Sheppey (where the application site is located) there is a need for a consolidation of existing practises to support the population. Members should note that The Implementation and Delivery Schedule does not identify a need for a new health centre, but rather a consolidation of existing ones. Given this, it is considered that limited weight should be given to these positives.
- 9.27 In addition, it is considered that the deliverability of the health centre, dentist and pharmacy is uncertain given that the applicant has not adequately demonstrated how they would be delivered, including whether their provision would make the scheme viable. As such, it is considered that whilst the health centre and pharmacy are positives (as described above), limited weight should be given to these benefits given the uncertainty surrounding their deliverability, and viability.

S106 requirements

- 9.28 The following obligations and contributions are required for this application. They are as follows:-
- SAMM - £223.58 pre dwelling - total of £11,179.00
 - Primary education - £4,535 per dwelling (or £1,134 per flat) – total of £226,750.00 for 50 dwellings
 - Libraries - £48.02 per dwelling - total of £2,400.79
 - Community learning - £60.43 per dwelling - total of £3,021.75
 - Adult social care - £60.99 per dwelling - total of £3,049.50
 - Bins - £92 per dwelling - total of £4,600.00
 - NHS – £360 per new unit - total of £18,000.00

- Open space - £200 per dwelling – a total of £10,000.00
- 1 wheelchair adaptable home as part of the affordable housing requirement;
- Possible reptile mitigation measures;
- 5% monitoring and administration fee

9.29 The applicant has not objected to such provision, however, advises that they will be seeking reduced contributions given that they propose a total of 16 (approximately 33% of the scheme) affordable units as discussed herein. Given that developer contributions for infrastructure projects are essential and necessary to support housing development such as this one, it is considered that in the absence of a commitment to make a full contribution towards infrastructure, the impacts caused by the development would not be fully mitigated and as such the impact on the environmental, economic and social strands of sustainable development would be severe. This negative would need to be weighed against the overall benefits of the development.

10.0 CONCLUSION

10.01 It is important to consider whether these proposals constitute sustainable development as set out in paras 7 to 10 of the NPPF which sets out the social, economic and environmental strands of sustainable development and that the planning system should seek gains across all 3.

10.02 In terms of the social and economic strands of sustainable development, limited weight should be attached to the development by providing affordable units, a health care facility, dentist and a pharmacy as discussed herein. Offsetting this is the poor and remote location of the site relative to the range of services and the likely dependence upon the car to reach them. These also feed into the conclusions against the environmental strand where it is considered that the development would have significant adverse impacts on the countryside as discussed in paragraphs 9.13 and 9.14 herein, and as such overall it is considered that the proposals do not constitute sustainable development.

10.03 Whilst the applicant argues that the Council has an undersupply of housing and that housing policies are out of date, it is considered that the Emerging Local Plan is at an advanced stage and its publication is imminent, that the Borough Council has made considerable progress towards securing a 5 year housing land supply, and that the adoption of the Emerging Local Plan Bearing Fruits 2031 will give the Borough Council a 5 year housing supply.

10.04 Whilst it is acknowledged that the levels of deprivation on the Eastern and Western sides of the Isle of Sheppey are linked to poor health and housing amongst other issues, it is considered that the provision of a new health centre, dentist and pharmacy would be at the expense of developer contributions for infrastructure to service this housing development. As such this benefit is outweighed by the financial contribution towards infrastructure services that would be lost, if planning permission is given for the development.

10.05 In addition, it has not been adequately demonstrated how the health centre, dentist and pharmacy will be delivered and whether together with the affordable units the scheme would be viable. In the absence of such information, it is considered that the positives of the scheme are limited, and are outweighed by the negatives, and as such the proposals do not constitute sustainable development.

10.06 Given the above, it is therefore concluded that the proposals fail to achieve the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF as not withstanding the benefits of the proposals, they are significantly and demonstrably outweighed by the adverse impacts, and as such the application should be refused.

11.0 RECOMMENDATION –REFUSE for the following reasons:-

1. The proposed development would be located outside of the defined urban boundaries of Leysdown (as established by Swale Borough Council Adopted Local Plan Policy SH1 and Bearing Fruits Emerging Local Plan Policy ST3 which place emphasis on the use of previously developed land within the defined built up areas and on sites allocated by the Local Plan) and is not proposed as an allocated housing site within the Emerging Local Plan. The development fails to demonstrate positive improvements across the three dimensions of sustainable development as required by paragraphs 7-9 of the National Planning Policy Framework 2012. Furthermore, notwithstanding the lack of availability of a 5-year supply of housing land, in accordance with paragraph 14 of the National Planning Policy Framework 2012, the proposals do not achieve the presumption in favour of sustainable development as the adverse impacts of development would significantly and demonstrably outweigh any benefits because:-
 - (i) Leysdown is considered to be a less sustainable settlement, in terms of services, transport and access to employment, than the other higher order locations identified within Policy SH1 of the Swale Borough Local Plan 2008 and Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan, Main Modifications June 2016.
 - (ii) The nearest service centre is not within walking and cycling distance and is served by an infrequent bus service.
 - (iii) There would be loss of a large area of open countryside resulting in a significant adverse impact on the landscape character, quality and value, (including the contribution made by the tranquillity and the amenity value of the site)
 - (iv) There would be significant, permanent and unnecessary loss of a Local Green Space as identified in the Emerging Local Plan Bearing Fruits 2031, including the contribution made by the tranquillity and the amenity value of the site)

As such it is considered that the proposed development does not accord with the National Planning Policy Framework, being contrary to policies set out in paragraphs 14, 17, 64, 109, 113, 117-119 and 142 -144, nor with the Development Plan, being contrary to policies SP1, SP2, SH1, T1, E1, E6, E9, E12, E19 and H2 of the Swale Borough Local Plan 2008. The proposals are also contrary to emerging Development Plan policies ST1, ST3, ST6, CP2, CP3, CP4, CP5, CP6, CP7, CP8, DM8, DM18, DM21, DM24, and DM28 of Bearing Fruits 2031.

2. It has not been adequately demonstrated that the health care facility, pharmacy and drop-off area can be delivered, and that with the provision of these facilities, together with the affordable units, the scheme would be viable. As such the benefits of the scheme are outweighed by the negatives and therefore the scheme is not considered to be sustainable development, contrary to the NPPF, and Policy C2 and H3 of the Adopted Local Plan 2008, and Policies CP5 and CP6 of the Emerging Local Plan Bearing Fruits 2031, Main Modifications June 2016.
3. No Reptile survey has been submitted to justify the development, and as such it has not been acceptably demonstrated that the development would conserve biodiversity.

Given this, the development is contrary to NPPF and Policy E12 of the Adopted Local Plan 2008, and DM28 of the Emerging Local Plan Bearing Fruits 2031.

4. In the absence of a commitment to fully meet the cost of mitigation by way of developer contributions the development is considered to be contrary to the NPPF and Policy C2 of the Adopted Local Plan 2008, and Policy CP6 of the Emerging Local Plan Bearing Fruits 2031.

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:

- 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 instance, the development gave rise to fundamental concerns, which could not be overcome.

- 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.

PLANNING COMMITTEE – 25 MAY 2017

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 89 Scarborough Drive, Minster**

APPEAL ALLOWED

Observations

AGAINST OFFICER RECOMMENDATION

The Inspector concluded that the proposed development would not harm residential or visual amenity, and allowed the appeal accordingly.

- **Item 5.2 – Haylocks Cottage, 2 Hillside Road, Stalisfield**

APPEAL ALLOWED

Observations

DELEGATED REFUSAL

This decision relates to a large and prominent building which has been built with little regard to the sensitivity of the setting, or the scale, design and materials of the host property.

- **Item 5.3 – Windyridge, Wrens Road, Borden**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL

Full support for the application of the Council's Supplementary Planning Guidance

- **Item 5.4 – Land at Moat Way, Queenborough**

APPEAL ALLOWED

Observations

DELEGATED REFUSAL

Given the lack of a five-year housing land supply and in the absence of a fundamental basis for resisting the development, the Inspector's decision is an understandable one. Members will note paragraphs 35 to 38 of the decision, where the Inspector sets out how the material considerations have been weighed-up in reaching the conclusion that planning permission should be granted.

- **Item 5.5 – 12 Norman Road, Faversham**

APPEAL DISMISSED

Observations

DELEGATED REFUSAL

Full support for the Council's Article 4 (2) Direction and its aim to prevent piecemeal erosion of the character of the conservation area, despite the numerous hardstandings elsewhere in Norman Road.



Appeal Decision

Site visit made on 27 March 2017

by Clive Tokley MRTPI

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

Decision date: 19 April 2017

Appeal Ref: APP/V2255/D/17/3166468

89 Scarborough Drive, Minster on Sea, Sheerness, ME12 2NQ.

- 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 & Mrs McKinley against the decision of Swale Borough Council.
 - The application Ref 16/505709/FULL, dated 6 July 2016 was refused by notice dated 18 October 2016.
 - The development proposed is first floor and single storey extensions.
-

Decision

1. The appeal is allowed and planning permission is granted for first floor and single storey extensions at 89 Scarborough Drive, Minster on Sea, Sheerness, ME12 2NQ. The permission is in accordance with the terms of the application, Ref 16/505709/FULL, dated 6 July 2016 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 development hereby permitted shall be carried out in accordance with the following approved plans: 1369/1, 1369/2, 1369/3 and 1369/4.
 - 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 on the first floor south eastern flank elevation shall have a sill height of at least 2m above inside finished floor level.
 - 4) The balcony accessed from bedroom 1 shall not be used until a barrier as indicated on drawing Number 1369/4 has been constructed on all three sides. That barrier shall thereafter be retained and the flat roof area above the garage and study shall not be used as a balcony, sitting-out area or similar amenity area.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and its effect on the living conditions of the occupiers of Nos 87 and 91 Scarborough Drive as regards overlooking.
-

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Reasons

Character and appearance

3. Scarborough Drive is a residential street comprising a mixture of houses and bungalows. The appeal property along with Nos 87 and 91 Scarborough Drive and 32 and 34 Seaside Avenue form a cluster of bungalows at the junction of the two roads. No 89 is set back on its plot with its front garden being deeper than the rear garden. Some of the dwellings in the area appeared to me to be of relatively recent construction and it was evident that a number of others had been remodelled and extended. The majority of dwellings are of a traditional brick/render and tile construction but I saw a number of more contemporary designs with different forms and external materials.
4. The Council's *Planning and Development Guidelines No 5 – Designing an Extension* indicates that extensions should respect or reflect the character and appearance of the existing building; however the proposal would represent a radical change in the bungalow and would be tantamount to a new dwelling.
5. The resultant dwelling would be taller than the bungalows on each side but I consider that the massing of the proposal and the space between the buildings would be sympathetic to the character of the area where bungalows and chalets are interspersed with full two-storey houses. The render and composite weather boarded finish under a slate roof with angular glazed areas would reflect the design features of other more recent development in the area which in my view make a positive contribution to its sea-side character.
6. On this issue I have concluded that the proposal would be consistent with the distinctive character of the area and would not conflict with Policies E1, E19 and E24 of the Swale Borough Local Plan 2008 (BLP) which seek to ensure that all developments, and specifically alterations and extensions, are well designed and appropriate to their location. The refusal reasons refer to policies in the emerging Swale Borough Local Plan which have the same objectives as the BLP policies. I have received no indication of the current status of that document and I have therefore relied on the BLP policies which are generally consistent with the Framework.

Living conditions

7. The Council's concern about overlooking arises from the proposed balcony accessed from bedroom 1 at the front of the dwelling. The balcony would be about 1.5m in depth and 3.5m in width. The drawings indicate that it would be bordered by a transparent screen which would separate it from the flat garage roof at the side of the house.
8. The balcony would enable an angled view back towards the rear garden of No 87; however this would be limited by the rearward projection of that bungalow and the intervening proposed garage, boundary fence and laurel hedge in the garden of No 87. Therefore whilst there would be a narrow view into the garden this would not materially detract from the privacy of the occupier of No 87.
9. The boundary with No 91 is bordered by trees and shrubs beyond which a single garage extends back from a point roughly in line with the rear wall of the bungalow. The application form indicates that the proposal would not

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necessitate the removal of trees or hedges; however their future retention cannot be relied on. Nevertheless at its nearest point the balcony would be about 10m from the boundary with No 91 and I consider that this distance and the screening arising from the garage at No 91 would be sufficient to prevent unacceptable overlooking.

10. The Council's guidelines indicate that balconies will only be approved in exceptional circumstances. However each proposal must be considered on its own merits and in the case of the appeal proposal the balcony would not result in unacceptable harm to amenity.
11. The occupiers of Nos 30, 32 and 34 Seaside Avenue have expressed concern that the proposal would result in overlooking of their properties. However the high level windows and roof-lights to bedroom 2 would not result in unacceptable overlooking and the only rear-facing windows would be at an oblique angle and distant from those properties. The occupier of No 34 indicates that the proposal may overshadow some of the bungalows but taking account of the height of the proposal and its distance from neighbouring dwellings I consider that it would not result in any unacceptable loss of light.
12. On this issue I have concluded that the proposal would not conflict with Policies E1 and E24 of the BLP which seek to ensure that residential amenity is protected.

Conditions

13. I have imposed the normal conditions controlling commencement and identifying the approved drawings. The use of the garage roof as a sitting-out area would result in unacceptable overlooking (of No 87) and I have imposed a condition to prevent this. For similar reasons (in relation to all neighbouring properties) I have imposed a condition requiring that the south east facing gable window and the roof lights are constructed in accordance with the approved drawings. The Council indicates that in order to safeguard the privacy of future occupiers the window in the en-suite should be glazed in obscured glass. I have little doubt that obscured glass would be employed but this is a matter for the appellants and in my view a condition preventing views into the en-suite is not justified.

Conclusion

14. Taking account of all matters I have concluded that the proposal would not be harmful to the character and appearance of the area or the living conditions of the occupiers of Nos 87 and 91 Scarborough Drive as regards overlooking and that the appeal should succeed.

Clive Tokley

INSPECTOR

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Appeal Decision

Site visit made on 27 March 2017

by **Clive Tokley MRTPI**

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

Decision date: 19 April 2017

Appeal Ref: APP/V2255/D/17/3167343

Haylocks Cottage, 2 Hillside Road, Stalisfield, Faversham, ME13 0JF.

- 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 Newman against the decision of Swale Borough Council.
 - The application Ref 16/505817/FULL dated 12 July 2016 was refused by notice dated 26 October 2016.
 - The development proposed is an external free standing garage.
-

Decision

1. The appeal is allowed and planning permission is granted for an external free standing garage at Haylocks Cottage, 2 Hillside Road, Stalisfield, Faversham, ME13 0JF. The permission is in accordance with drawings numbered SP/2059/AP/01 and SP/2059/AP/02 and the terms of the application, Ref 16/505817/FULL, dated 12 July 2016, subject to the following condition:
 - 1) Notwithstanding the details indicated on the application form and drawing No SP/2059/AP/01 the doors to the garage shall be a pair of side-hinged, centrally-meeting vertically-boarded timber doors.

Introduction and Main Issue

2. The appeal property lies just outside the boundary of the Stalisfield Green Conservation Area (CA). The CA comprises mainly open agricultural land that provides a setting within the CA for the scattered settlement of Stalisfield Green. I agree with the Council that the proposal would have no effect on the significance of the CA. The main issue is the effect of the proposal on the character and appearance of the countryside within the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

3. Haylocks Cottage is half of a pair of semi-detached dwellings which, with a larger detached house to the north-west, forms a small cluster of buildings in open rolling countryside. The absence of established field hedges and trees results in the group of houses being visible in long views when approaching from slightly higher ground along Thorneycroft Road and up the hill from the south east along Hillside Road. The garden of Haylocks Cottage is at a lower level than the road and when seen from Thorneycroft Road only the upper half of the walls and the roof of the substantially complete garage can be seen. The
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Appeal Decision APP/V2255/D/17/3167343

garage is positioned closer to the side boundary than the house and to accommodate the sloping land the rear of the garage sits above the surrounding ground. As a result of this the garage is more prominent when approached from the south east along Hillside Road. However the building is seen in the context of the houses and other outbuildings associated with them and is not unacceptably intrusive.

4. The Council indicates that the building has a larger footprint than the host dwelling; however its simple form and location at a lower level behind the house clearly mark it as an ancillary building. A steeper roof pitch would be more in keeping with the traditional architecture of the area but that would result in a more prominent building. It is not unusual for residential outbuildings to have lower pitched roofs and be constructed in more lightweight materials than their host dwellings and these characteristics assist in reinforcing the subservient nature of the outbuilding. In the vicinity of the appeal property I noted that the stable building to the rear of the detached house to the north-west has a pitched roof that is significantly slacker than the house and its outbuilding. Whilst that stable is some distance from the appeal property its external materials appeared to me to be similar to those proposed for the garage.
5. The Council is critical of the proposed uPVC windows but this material would be the same as that used in the house. When set within the timber clad walls the nature of the brown uPVC windows would be imperceptible beyond the immediate surroundings of the building and would have no effect on the character or appearance of the countryside. The proposed artificial slates would be appropriate for the slack pitch of the roof and would be preferable to the concrete tiles to match the house which the Council suggests.
6. In my view the element of the building that would be most jarring in this countryside location would be the wide roller shutter garage door which would have a semi-industrial feel. The Council suggests that a condition is imposed requiring that side hinged and vertically boarded timber doors are used and I consider that this specification would be more appropriate to this rural setting. The appellant has not indicated any concern about that suggestion and in the interests of the character and appearance of the area I have imposed a condition to that effect.
7. The National Planning Policy Framework indicates that great weight should be given to conserving landscape and scenic beauty in AONBs and this is reflected in Policy E9 of the *Swale Borough Local Plan 2008* (BLP). I have taken account of the Council's criticisms of the detailing and proportions of the building but within its context the proposal would at least preserve the landscape of the AONB countryside.

Conclusion

8. Taking account of all matters I have concluded that the appeal should succeed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 27 March 2017

by Clive Tokley MRTPI

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

Decision date: 20 April 2017

Appeal Ref: APP/V2255/D/17/3169107

Windyridge, Wrens Road, Borden, Sittingbourne, ME9 8JD.

- 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 Peter Fresia against the decision of Swale Borough Council.
 - The application Ref 16/506726/FULL, dated 26 August 2016 was refused by notice dated 22 November 2016.
 - The development proposed is a two storey extension to side and rear of dwelling for a disabled person.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of Sunnyside as regards outlook and Wimereux as regards privacy.

Reasons

3. Windyridge is a semi-detached house attached to Sunnyside which lies roughly to the south. Wimereux is to the north of Windyridge and the houses are separated by wide driveways that provide access to garages to the rear of the dwellings.

Sunnyside

4. Sunnyside has a full-width ground-floor rear extension that projects back about 1.9m along the common boundary. The part of the extension nearest to Sunnyside has a glazed roof. The proposed extension would project 4m along this boundary with a two-storey flank wall and a hipped roof above. The drawing is insufficiently detailed to show how the roof edge would be treated but it appears that there would be no overhang of the boundary.
 5. The Council's *Planning and Development Guidelines No 5 – Designing an Extension* (PDG) indicates that in order to have regard to the outlook from neighbouring properties extensions to semi-detached properties on common boundaries should not normally project back more than 3m at ground floor level and 1.8m at first floor level. The presence of the single storey projection
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at Sunnyside with its high flank wall would enable some flexibility on the ground floor; however the two-storey proposal would extend more than 2m beyond that extension with a full 4m projection beyond the first floor wall close to a bedroom window. I consider that an extension of the size proposed alongside the boundary with Sunnyside would be unacceptably harmful to the outlook from ground floor and first floor rear-facing windows. In addition the flank wall of the proposal would be an overbearing structure alongside the rear garden of Sunnyside immediately behind the conservatory.

6. The appellant refers to an application by the occupiers of Sunnyside for a 6m single storey rear extension and submits a decision notice indicating that prior approval is not required from the Council. An extension of that length would overcome concerns raised by the ground floor element of the proposal and its effect on the garden area; however it would not mitigate the effect of the first floor on the outlook from the upper floor of Sunnyside. I have seen no indication of any firm intention to construct an extension at Sunnyside or any indication that its development would be linked to that of the proposal. I must therefore give limited weight to that possibility which, in any event, would not overcome my concerns.

Wimereux

7. Wimereux has a two-storey rear extension resulting in one of the bedrooms being lit by a side-facing window. The proposal would result in a similar side-facing window which would be directly opposite the window in Wimereux. Wimereux also has two clear-glazed ground floor windows in the side wall facing the appeal property. The proposed window would enable views down into ground floor windows and across to the bedroom window from close range. The appellant indicates that obscured glazing could be specified for the side window; however this would result in a poor environment within the bedroom. In my experience there are likely to be other design solutions to this issue; however that would be a matter for the appellant.
8. The staircase window at Windyridge already results in some overlooking of Wimereux; however I consider that the proposal would worsen the overlooking effect. In the light of my conclusion on the effect on Sunnyside there is no need for me to consider whether this matter could be resolved through the use of conditions.

Other matters

9. I note the appellant's wish to enlarge the house to accommodate his mother; however in my view the size and nature of the plot would enable alternative extensions that would not result in the harmful reduction of the amenities enjoyed by the occupiers of adjacent properties that would arise from the appeal proposal.
10. The appellant points out that neither of the neighbours objected to the proposal. However my determination of the appeal is based on an objective assessment of the proposal taking account of the Council's policies and guidelines. I consider that as regards house extensions those policies and guidelines are consistent with national policy in the National Planning Policy Framework which in paragraph 17 indicates that planning should always seek to secure a good standard of amenity.

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Conclusion

11.I consider that the proposal would result in demonstrable harm to the amenities of the occupiers of Sunnyside and Wimereux as regards outlook and overlooking respectively. It would therefore conflict with Policies E1 and E24 of the Swale Borough Local Plan 2008 and the PDG.

12.I have had regard to the personal circumstances that have resulted in the application being submitted; however I consider that the benefit accruing to the appellant and his family would be outweighed by the harm to the living conditions of the occupiers of the neighbouring houses and that the appeal should not succeed.

Clive Tokley

INSPECTOR

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Appeal Decision

Site visit made on 28 February 2017

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 27 April 2017

Appeal Ref: APP/V2255/W/16/3153116

Land at Moat Way, Queenborough, Kent.

- 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 D Wainwright (Alpha Barlow Ltd) against the decision of Swale Borough Council.
 - The application Ref 15/509964/FULL, dated 30 November 2015, was refused by notice dated 21 March 2016.
 - The development proposed is the construction of 12 family dwellings together with associated landscaping, parking and public open space.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of 12 family dwellings together with associated landscaping, parking and public open space at Land at Moat Way, Queenborough, Kent in accordance with the terms of the application, Ref 15/509964/FULL, dated 30 November 2015, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. The application was refused by the Council on 4 grounds relating to; flooding, overlooking, inadequate outdoor amenity space and highways. The reasons for refusal explicitly acknowledged the Council's inability to demonstrate a 5 year supply of housing thus the principle of development outside the settlement boundary was not a matter in dispute at that time.
3. The Council has cited policies from the emerging LP¹ which has been the subject of an Examination in Public with the Inspector's Interim Findings (LPIF) issued in early 2016. Main Modifications were issued for consultation and a review by the Local Plan (LP) Inspector concluded on 10 February 2017. Whilst the LP Inspector has not explicitly identified any changes to the proposed settlement boundaries, she did recommend that further housing sites should be allocated to meet the Council's objectively assessed need. As additional sites have now been proposed, the Council argues that it can demonstrate a 5 year supply of housing and that the principle of housing outside the settlement boundary is unacceptable.
4. The Council has confirmed that there are outstanding objections to Policies ST3 and DM18 of the emerging LP insofar as they relate to the appeal site. Consequently and notwithstanding that the plan is at a reasonably advanced stage, I have only attached limited weight to these policies, in accordance with

¹ Emerging Draft Local Plan: Bearing Fruits 2013 (Publication draft December 2014)

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advice in the second bullet of paragraph 216 of the "*National Planning Policy Framework*" (the Framework).

5. To ensure the description of development reads correctly, I have amended it by inserting the word '*with*' between '*together*' and '*associated*'.

Main Issues

6. In light of the above, the main issues are:
- (a) Whether or not the Council can demonstrate a current five-year supply of housing;
 - (b) In light of (a) whether the principle of development outside the settlement boundary would be acceptable with regards to local and national policy regarding rural housing;
 - (c) The flooding implications of the proposal;
 - (d) The living conditions of neighbouring and future occupiers with particular regards to privacy and outdoor amenity space provision, and
 - (e) Highway safety

Reasons

Housing supply

7. The LPIF concludes that additional sites will be required to meet the Council objectively assessed housing needs (OAN). Accordingly, additional sites have been allocated through the main modifications procedure. On this basis the Council now takes the position that it can demonstrate a 5 year supply of housing.
8. Whilst I acknowledge the Council's efforts to address its shortfall, at the time of writing there have been no Examination sessions dedicated to these sites and no indication these have, or will be, found acceptable by the LP Inspector.
9. I have noted the Council's expectation that the LP Inspector will agree to the additional allocations. However, that optimistic view is unsupported by objective evidence and therefore I find it to be somewhat premature. I therefore conclude, on the evidence before me, that the Council has not demonstrated the existence of a 5 year supply of housing.

Principle of development

10. The appeal site lies adjacent but outside the defined built-up area as defined in the "*Swale Borough Local Plan 2008*" (the LP). Saved Policy H2 states that residential development in the countryside will only be permitted where it meets the exceptions listed in Policies E6 and RC3. The provision of 12 open market dwellings does not fall within any of the exempted categories and consequently there would be conflict with the Policy H2.
11. However, the LP is now time-expired and although this does not mean that these policies carry no weight, the Council cannot demonstrate a 5 year supply of housing. Consequently, those policies relating to the supply of housing should not be considered up to date for the purposes of the Framework. Although the underlying environmental aims of H2 are consistent with those of paragraph 17 of the Framework, as a whole it has the effect of constraining the supply of housing land. I consider therefore with regard to the Cheshire East

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judgement², that it is a policy for the supply of housing and this limits the weight I can attach to it.

12. Policy ST3 of the emerging LP adopts a similar approach to restricting development outside settlement boundaries in order to safeguard the countryside. However, although the site is outside the proposed development boundary, the Council states that representations that may affect the eventual designation have been made and remain 'live'. Thus it cannot be assumed with any degree of certainty that the site will remain outside the built up area in the final version of the plan.
13. Although there would be conflict with Policies H2 of the LP and ST3 of the emerging LP, these conflicts carry limited weight for the reasons outlined above. It is therefore necessary to consider the proposal in light of the Framework, paragraph 14 of which sets out the presumption in favour of sustainable development, which should be seen as the '*golden thread*' running through both plan making and decision taking. The three dimensions to sustainable development are economic, social and environmental. It states that where the development plan is out-of-date (as is the case here), permission for development should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies indicate development should be restricted.
14. The scheme would undoubtedly make a significant contribution towards the Council's housing stock. These benefits are indisputable and would be consistent with the *social* dimension of sustainable development particularly '*boosting significantly the supply of housing*'. The development would also support the *economic* role through the purchase of materials and services in connection with the construction of the dwellings, an increase in local household expenditure as well as revenues to the Council from the New Homes Bonus. These benefits again weigh in favour of the scheme.
15. The Council accepts the site would be sustainably located with good access to public transport, shops and local services. In landscape terms, the scheme would incur the loss of an open parcel of scrubland. However, it is pertinent that the Council did not object to the application on these grounds originally. Although it now takes a different view, a landscape character appraisal for the area has not been submitted nor indeed any supporting information to substantiate its view in paragraph 41 of its Statement that there would be "*harm to the character and amenity of the rural landscape*".
16. The appeal site currently has no special designation and lacks distinctive features. Views of the development would be limited in the wider landscape and from most key receptor points it would be likely seen against the general townscape of Queenborough. According to the appellant the Council's own Landscape Capacity Study concluded that the site would be appropriate for a small scale housing development. Based on the foregoing, I find there would be moderate environmental harm arising from the visual impact of the development and this weighs against the proposal in the overall planning balance.

² Richborough Estates Partnership LLP v Cheshire East, SSCLG [2016] EWCA Civ 168.

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Flooding

17. Although protected by existing flood defences, the site is mostly within Flood Zone 3a according to Environment Agency Flood Zone Mapping. Having regard to the "Planning Practice Guidance" (PPG), dwellings located in Flood Zone 3a are classified as 'more vulnerable' and require a Sequential and Exception Test. The Council argue that the appellant has failed to undertake these tests and therefore it cannot be sure that there are not more preferable housing sites in the borough. Although Policies E1 and H2 of the LP have been cited in the first reason for refusal, these have limited relevance to the issue of flooding. I have therefore defaulted to the advice in paragraphs 100-104 of the Framework.
18. These seek to avoid inappropriate development in areas at risk of flooding by directing development away from areas of highest risk. Where development is necessary, it is to be made safe without increasing flood risk elsewhere. The PPG sets out the main steps to be followed. In effect, if there are better sites in terms of flood risk, or a proposed development cannot be made safe, it should not be permitted.
19. The appellant has provided a site-specific flood risk assessment (FRA) as required by paragraph 103 of the Framework. This concludes that subject to various measures being incorporated such as setting minimum floor levels for habitable rooms and the provision of sustainable drainage systems, the development would not be at actual risk of flooding. It is germane that the Environment Agency has not objected to the development given the FRA measures and the extent of flood defences already in place.
20. With regard to the absence of a Sequential Test in the FRA, the appellant makes the case that this was unnecessary because a comprehensive review of housing sites in the borough has already been carried out by the Council as part of its Strategic Housing and Land Availability Assessment and if there were more suitable housing sites in Flood Zones 1 and 2 these would already have been identified and brought forward to address the current shortfall in housing land supply. This is a compelling argument and one which the Council has failed to repudiate.
21. The PPG confirms that it is for local planning authorities (or by implication the decision maker) to consider the extent to which the Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. I have already found that a five-year supply of deliverable housing has not been demonstrated by the Council. There is therefore a manifest failure on the Council's part to identify sufficient sites which would act as a reasonably available alternative in areas with a lower probability of flooding to dwellings in Flood Zones 1 and 2. Accordingly, I find that the Sequential Test is satisfied and as such it is not possible to direct development to an area at lower risk of flooding at this time.
22. That being the case, the next stage is to apply the Exception Test. This comprises two parts, both of which must be passed. Firstly, the development must provide wider sustainability benefits to the community that outweigh flood risk. Secondly, it should be safe for its lifetime, without increasing flood risk elsewhere and where possible reducing flood risk overall.
23. The development would deliver significant sustainability benefits to the local community through the provision of 12 dwellings in an area of need. The first

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criterion is therefore satisfied. The area is protected by existing defences and therefore given that neither the Environment Agency nor the County Council's Flood Risk Officer objected to the development, I conclude that the dwellings would be safe from flooding and would not increase the risk of flooding to surrounding dwellings. The second part of the test is thereby satisfied and overall I conclude that the development would accord with advice on flood risk in the Framework.

Living conditions

24. Policy E1 of the LP states that development should not cause demonstrable harm to residential amenity. Although, the Council has referred to various 'normally required' privacy distances in its Officer Report, no specific policies or supplementary planning documents have been submitted.
25. Due to the site's open nature, the rear and side boundaries of neighbouring properties currently experience a largely unrestricted aspect over the site. This contributes to standards of privacy and outlook for neighbouring occupiers that are relatively high in the context of a built-up area. When I conducted my site visit, I observed that the surrounding estate is built to a fairly high density where the backs and fronts of some dwellings overlook the private amenity spaces of their neighbours. Consequently, it is almost inevitable that there will be a degree of visual intrusion and mutual overlooking between neighbouring occupiers.
26. In this context, I do not consider that the distance between the rear of Plot 6 and the garden of 9 Moat Way would result in an unacceptable loss of privacy to these occupiers. Moreover, I note the appellant's view that screening could be provided by the implementation of a landscaping scheme.
27. The Council's third reason for refusal relates to the inadequacy of the gardens to plots 3, 4, 5, 9 and 10. However, from the submitted plans these appear to be of a reasonable size bearing in mind these plots are all indicated to be 3-bedroom properties. I have not been provided with details of any local standards in relation to minimum garden sizes that might be breached if the appeal were allowed and it seems to me that potential occupiers would be able to exercise consumer choice in these matters.
28. I therefore conclude on the fourth main issue that the development would not cause demonstrable harm to the living conditions of neighbouring and future occupiers with particular regards to privacy and outdoor space provision. There would thus be no conflict with Policy E1 of the LP.

Highway Safety

29. There was no objection to the application from the Highway Authority. Despite that, the Council refused the application on the grounds that the width of the access road would be inadequate to accommodate the tracking of a refuge vehicle. However, the Officer Report concedes this minor matter could easily be resolved by the submission of a revised plan. Having viewed the swept paths provided in the Transport Statement I see no reason to disagree with that view and the required amendments can be secured by the Highway Authority as part of the road adoption process. There would thus be no harm to highway safety and the development would accord with Policies E1 and T3 of the LP.

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Other Matters

30. Local residents have expressed a wide range of concerns including but not limited to the following; the loss of wildlife habitats, inadequate sewerage/drainage infrastructure and the loss of recreational land. However, it is evident from the Committee Report that these matters were addressed by the various Statutory Consultees. Whilst I understand the concerns of local residents, there is no compelling evidence before me which would lead me to conclude differently to the Council on these matters.
31. It has also been put to me that the appeal site has been designated as a protected green space within the emerging LP³, and should be retained and protected from development for the benefit of the wider community. However, the Council has not objected to the development on those grounds and at the time of writing this is only a proposed designation to which there are unresolved objections. Consequently, I cannot be sure that there is even a reasonable likelihood of the site being allocated as a green space. That being the case I this argument carries only limited weight in the overall planning balance.

Conditions

32. Although the Council has suggested 14 planning conditions no reasons have been submitted to support these. I have therefore considered them against advice in the PPG. In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
33. I have imposed conditions specifying the approved plans and the time limit of the permission as these provide certainty. I have combined several conditions into a single one requiring the submission of a Construction Method Statement. This is necessary to protect the living conditions of local residents. I have imposed conditions relating to external materials and landscaping to ensure the satisfactory appearance of the development. A condition relating to parking is necessary to ensure the development does not give rise to overspill parking on the surrounding residential streets.
34. A condition restricting further openings to Plot 6 is unnecessary given that I have found that it would be acceptable in terms of its relationship to neighbouring dwellings. Finally, The Council has not provided any justification, policy or otherwise, for a condition requiring details of sustainable construction techniques which are usually secured via the Building Regulations. As such, whilst the objectives of such a condition may be laudable, advice in the PPG is clear that a condition must be justified by the nature or impact of the development being permitted. Moreover, the Written Ministerial Statement of 25 March 2015 (the WMS) sets out provision for applying optional Building Regulations (the new national technical standards) in respect of water efficiency and for tighter energy performance standards than those otherwise required by the Building Regulations. The WMS states that where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy, a standard consistent with the WMS policy, concerning energy performance. As

³ Main Modification 397 shows the site allocated as Local Green Space.

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the Council has not directed me to a relevant development plan policy I cannot be sure the condition would meet the advice in the WMS and the PPG. I have omitted it accordingly.

Overall Planning Balance and Conclusions

35. The starting point in weighing the various factors is that the proposal would not conform to the development plan. However, the plan has time expired and the Council cannot demonstrate a 5-year supply of deliverable housing sites. Thus, the default position identified in the Framework prevails and if the development constitutes sustainable development there is a presumption in favour of the appeal scheme.
36. I have found the development to be acceptable with regards to flooding. Accordingly, there are no specific policies in the Framework that indicate the development should be restricted. I have also found the development to be acceptable with regards to living conditions and highway safety. However, the absence of harm in these areas is only neutral in the planning balance.
37. I have identified that the development would deliver significant *social* and *economic* benefits, of particular weight would be the delivery of 12 new homes in a borough which is, at this stage, unable to demonstrate a five-year housing land supply. It would also be sustainable in locational terms. Although there would be moderate harm to the character and appearance of the area, relative to the scale of the benefits arising, I find that this harm would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
38. I consider this to be a significant material consideration sufficient to outweigh the development plan conflict. There are no other factors which would justify withholding planning permission. For the reasons given above and taking into account all other matters raised, including those policies in the emerging LP, I conclude that the appeal should succeed.

D. M. Young

Inspector

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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: TA879/01, TA879/20 rev E, TA879/21 Rev B, TA879/21 Rev B, TA879/23 Rev B, TA879/21 Rev D, TA879/25 Rev D, TA879/26 Rev D, TA879/27 Rev C, TA879/28 Rev C, TA879/29 Rev C, TA879/30 Rev C, TA879/31 Rev C and TA879/32 Rev C.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the details shown on the approved plans, no dwelling shall be occupied until a hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority including planting of trees, shrubs, herbaceous plants and areas to be grassed. All work shall be carried out in the first planting season after commencement of the development unless agreed otherwise in writing by the Local Planning Authority, and shall be maintained for a period of 5 years. Any trees and shrubs that die within 5 years shall be replaced with a like for like species.
- 5) The proposed development shall take place only in accordance with the mitigation measures included in Section 5.6 of the submitted Flood Risk Assessment (ref: 5001-UA008317-01-GDR-01, dated 21 October 2015).
- 6) The development shall commence until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority for that particular phase. The statement shall include:
 - i) the proposed hours and days of working;
 - ii) methods and details of dust suppression during construction; and
 - iii) details of measures to prevent the deposit of mud and/or other debris on the public highway.
 - iv) Details of parking, turning, unloading areas for employees and contractors

The development shall be carried out in accordance with the statement so approved.
- 7) The parking areas shown on the approved plan shall be provided, surfaced and drained prior to first occupation of either dwelling and shall be retained thereafter.



Appeal Decision

Site visit made on 27 April 2017

By Lynne Evans BA MA MRTPI MRICS

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

Decision date: 2 May 2017

Appeal Ref: APP/V2255/D/17/3169954
12 Norman Road, Faversham ME13 8PX

- 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 Michael Pedersen against the decision of Swale Borough Council.
 - The application Ref: 16/507242/FULL dated 30 September 2016, was refused by notice dated 29 November 2016.
 - The development proposed is new drop kerb and garden wall alterations to provide off street, user friendly, parking.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the Faversham Conservation Area.

Reasons

3. The appeal property is a semi-detached property on the northern side of Norman Road and within the designated heritage asset of the Faversham Conservation Area. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas. There is currently pedestrian access only to the property with a low brick garden wall and piers marking the front boundary, with pedestrian access to the side serving the appeal property and the rear of the neighbouring property at No 14. Norman Road and the surrounding streets benefit from on-street parking permits and at the time of my site visit there was no shortage of available on-street parking spaces. I have not been provided with any information to suggest that there are any parking difficulties in the local area.
4. The appeal property is subject to an Article 4(2) Direction which includes the removal of permitted development rights for the demolition of front walls and walls fronting highways. The proposal would involve the demolition of a significant section of the existing front garden wall and provision of a hard surfaced area within the front garden to enable off-street parking to be provided.

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5. The Faversham Conservation Area is extensive in its designation and, from my site visit, appears to encompass the historical progression of the town. Norman Road and the surrounding residential streets within the Conservation Area primarily date from the late Victorian period. Despite later development and alterations, there remains a general uniformity in the character and appearance of these streets and the regular pattern of low front brick garden walls with brick piers contributes to the overall cohesiveness of this local area and the significance of the designated heritage asset.
6. The houses in Norman Road benefit from slightly larger front gardens than some of the properties in the surrounding streets. There are many examples within Norman Road of off-street parking within front gardens which has interrupted and, as a result, diminished the pattern of the characteristic and traditional front garden boundary treatments. The Council advises that none of these off street parking spaces, including the removal of front garden walls, appears to have the benefit of planning permission and that they may have been undertaken before the Article 4 Direction was introduced. I have been provided with no other information to contradict that assessment.
7. Despite the many interruptions to the traditional front boundary treatments within Norman Road, there remains a continuous pattern of intact front walls and piers to the properties at the eastern end on the northern side of the street, including the appeal property which, respect the traditional pattern of development. The removal of a significant part of the front garden wall at the appeal property to enable off-street parking would interrupt and diminish this feature which, in my view, contributes positively to the character and appearance of the Conservation Area.
8. I therefore conclude that the proposal would not preserve the character and appearance of the Faversham Conservation Area. This harm would conflict with Policies E1 and E15 of the Swale Borough Local Plan 2008 (Local Plan) as well as the National Planning Policy Framework (Framework), with particular reference to the Core Planning Principles at Paragraph 17 and Section 12 on *Conserving and enhancing the historic environment*. These all seek to protect the significance of heritage assets including conservation areas. Policy E15 of the Local Plan refers to preserving or enhancing features which contribute positively to the area's special character and appearance and includes at criterion 2 specific reference to, amongst other things, retaining means of enclosure.
9. Paragraph 134 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. No public benefits have been advanced although work on the proposal could lead to some small benefits to the local economy. The proposal has been designed to a high standard but I do not consider that this would, on its own, be a public benefit. Whilst the harm to the designated heritage asset of the Conservation Area would, in my view, be less than substantial, the public benefits would not be sufficient to outweigh that harm.

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10. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR

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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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