

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 4 January 2018

Time: 7.00pm

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

Membership:

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

Quorum = 6

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

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 7 December 2017 (Minute Nos. 384 - 389) 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. Planning Working Group

To approve the Minutes of the Meeting held on 19 December 2017 (Minute Nos. to follow).

To consider application 17/505562/FULL – Gladstone House, 60 Newton Road, Faversham, Kent ME13 8DZ.

6. Report of the Head of Planning Services

To consider the attached report (Parts 2 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 3 January 2018.

7. Exclusion of the Press and Public

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

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 5 and 7.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

To consider the attached report (Part 6).

Issued on Wednesday, 20 December 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, 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

4 JANUARY 2018

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DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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PLANNING COMMITTEE – 4 JANUARY 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 17/505194/OUT		
APPLICATION PROPOSAL Outline application (Some Matters Reserved) for demolition of existing dwelling and erection of 4no. dwellings with associated car barns, parking, and gardens. Access being sought only.		
ADDRESS Archirondal Toll Road Lynsted Sittingbourne Kent ME9 0RH		
RECOMMENDATION – Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Lynsted With Kingsdown	APPLICANT Mrs Eileen Spittles AGENT Designscape Consultancy Limited
DECISION DUE DATE 30/11/17	PUBLICITY EXPIRY DATE 15/11/17	

1.0 DESCRIPTION OF SITE

- 1.01 The site is currently occupied by a modern detached 3 bedroom chalet bungalow with a large garden to the side and rear. To the front of the property is a long paved driveway which gives access to the property (and to Toll House) from Toll Road at a point close to its junction with Lynsted Lane. The site lies within the defined built-up area of the village as defined on the Local Plan’s proposals map.
- 1.02 The site backs on to the rear gardens of four of the properties located in The Vallance and wraps around the rear garden of Toll House which also uses the access from Toll Road. It also adjoins a detached house known as Wrendale House to the north.
- 1.03 There is no recent planning history on the site.

2.0 PROPOSAL

- 2.01 Outline planning permission is sought for residential development with only the access to the site being sought as part of this application, which would leave matters such as appearance, landscaping and layout to be dealt with under any subsequent reserved matters application. The proposed access is the current driveway to the property.
- 2.02 The principle of the proposed housing is to be assessed at this stage as well as use of the proposed (existing) access point. The number of dwellings would not exceed four 4 bedroom properties. Indicative elevations have been provided. The Design and

Access Statement has indicated what materials would be used on the proposed development and these include timber featheredged weatherboarding, hung tiles and hand made red bricks.

2.03 As an outline application with all matters apart from access reserved, the application contains little detail. The proposed access is via the existing long drive to the property. The property itself was built within the original garden of Toll House, which is a substantial detached property which retains a large plot. Thus the existing driveway also serves Toll House and then runs for much of the length of that plot. This avoids direct access to the site from Lynsted Lane where land levels are higher than the highway, and means that all access to existing and proposed properties will be from a single point where access has long been established to serve the two current properties (Toll House and Archirondal).

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.22	0.22	0
Parking Spaces	6	10	+4
No. of Residential Units	1	4	+3

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

5.01 The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, promoting sustainable transport, delivering a wide choice of quality homes, requiring good design, promoting healthy communities, conserving and enhancing the natural environment, and sustainable drainage systems.

5.02 The NPPF sets out the Government’s position on the planning system explaining that *“The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development (paragraph 14), for decision taking this means:*

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent, or relevant policies are out of date granting permission unless:-*
 - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
 - *Specific policies in this Framework indicate development should be restricted.”*

National Planning Practice Guidance (NPPG)

- 5.03 The NPPG also provides general guidance in relation to development. It encourages provision of housing with sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, urban design / architecture, and ecology, amongst others.

The Swale Borough Local Plan “Bearing Fruits 2031” policies:

- 5.04 ST1 (Delivering sustainable development in Swale)
 ST2 (Development targets for jobs and homes 2011-2031)
 ST3 (The Swale settlement strategy)
 ST4 (Meeting the Local Plan development targets)
 CP3 (Delivering a wide choice of high quality homes)
 CP4 (Requiring good design)
 DM6 (Managing transport demand and impact)
 DM7 (Vehicle parking)
 DM19 (Sustainable design and construction)
- 5.05 Supplementary Planning Documents: *‘Lynsted Parish Design Statement’*
- 5.06 This Statement was published in 2002 and refers to policies of the 2000 Swale Local Plan. It describes the Parish and provides general design guidance for new development both at the village itself and on London Road (Teynham) which is within the Parish. Whilst much of the guidance relates to use of appropriate materials (not engaged here on an outline application) it contains two village specific policies. One is a desire to protect so-called “sensitive edges” at London Road and to the east of the village centre. The other is to maintain a “one building deep” pattern of frontage development throughout the village saying;

“Where the dominant pattern in the locality is for houses to be built adjacent to highways, this pattern should be respected.”

- 5.07 It also suggests that;
- “new-build backland development (away from existing highways) should be avoided throughout the Parish, as being inconsistent with the traditional layout of residential and farming development. The traditional settlement for the Parish has no counterpart for “estate style” development. This modern form development should be avoided”.*
- 5.08 I should point out that the village does include one estate style development which is The Vallance immediately adjacent to this application site. Here, modern houses of similar designs sit on generous plots and create a suburban style of development enclosing this site within an enclave of housing, which is distinctly at odds with the general one building deep pattern of frontage development which characterises other parts of the village.

6.0 LOCAL REPRESENTATIONS

- 6.01 Four neighbour objections have been received and can be summarised as follows:
- The access to the proposed development is on a narrow lane with no pavement and no speed limit
 - Cars leaving the village speed up at this stretch making the junction hazardous for vehicles pulling out of Toll Lane

- An increase from two to five houses will increase the hazard at this junction
- The walk to Lynsted Village is hazardous for pedestrians in this location
- A car overturned a couple of years ago requiring rescue
- It is questionable whether rural sites are required to meet housing needs of the Borough
- Localism Act gives local communities more say over the amount of development
- Lynsted is classified in the lower settlement tier
- The site is not safe and accessible
- The proposal fails to accord with the Lynsted Design Statement
- No 30mph speed limit at the junction
- Higher than average accident risk for children and the aged
- The number of parking spaces has been underestimated and should include spaces for deliveries and visitors
- Excess parking requirements will result in the use of adjoining narrow lanes creating a hazard
- The proposal does not accord with policy H4 (NOTE: This refers to an out of date Local Plan)
- Invasion of privacy
- The proposal will put a burden on existing facilities such as electricity, water and sewerage
- Will affect view of back garden and trees

7.0 CONSULTATIONS

7.01 Lynsted Parish Council objects on the following grounds:

- Increase of traffic on to a small country lane at an already dangerous part
- Safety to members of the public due to increase of traffic at the junction, as there are no pedestrian footpaths along this stretch of the lane and the increase of vehicle movement would heighten the problem for pedestrians
- Objections from parishioners of Lynsted stating that the application contravenes the Lynsted Parish Planning document.

7.02 Kent Highways and Transportation initially didn't comment on the application but as the objections raised a lot of highway safety concerns I went back for comment. The additional comments from KCC Highways are listed below;

"Having looked at this again I would consider 3 additional dwellings to have a negligible impact in terms of vehicles movements; I'd estimate no more than 1 additional vehicle movement per hour looking across the day. Technically it could be considered an increased usage of the existing access but it would have to be proved that the access onto the Toll Lane is substandard in terms of visibility and that seems quite adequate to me. I can't imagine that vehicles travel much faster than 15-20 mph down that road anyway and its usage would be very low. The only thing I would suggest here is some form of speed restraint near the other access to allow for their safe egress. The potential for impact though upon the junction with The Street is also minimal, and the level of development could not reasonably exact any obligation to improve a junction that appears adequate for purpose (according to crash records – 0 reported in last 18 years).

The width of Toll Lane has been questioned and although vehicle movements would be limited to single way working for much of its length, crucially it improves at its

western end in terms of room to pass and inter-visibility, and it is along this section that the great majority of the small number of extra vehicle movements will take place. The typical scenario I see in the very small likelihood (in my view) that there is a need for two cars to pass would be a car pulling out of the development to find another is approaching from the junction. It will either wait for a few seconds to allow it to pass or may simply have to reverse a short way, a manoeuvre I consider to pose little risk on this bit of road. Conversely, there is enough widening at the junction to allow a car for momentarily wait off The Street for a car to pass coming the other way.

Parking provision appears adequate and meets the current parking standards. It would be highly unlikely anyway that there would be any parking overflow over 80 metres away on Toll Lane when a delivery driver is presented with two parking courtyards.

Mention is also made of the lack/unsuitability of pedestrian footway provision; I don't believe that a development of this size could be reasonably expected to provide a dedicated pedestrian link to the existing network".

I have since clarified that this advice seeks a speed restraint just north of the entrance to Toll House, and I have recommended an appropriate condition.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 All plans and documents relating to 17/505194/OUT

9.0 APPRAISAL

- 9.01 The site is located within the defined built-up area of Lynsted and in an established position within a residential area. Lynsted is defined as a village in tier (4) of the settlement strategy (villages with built-up area boundaries) where the following approach applies. Policy ST3 states;

"By use of previously developed land within defined built up area boundaries and on sites allocated by the Local Plan, development proposals will be permitted in accordance with the following settlement strategy:

"(4) Other villages with built up area boundaries, as shown on the Proposals Map, will provide development on minor infill and redevelopment sites within the built up area boundaries where compatible with the settlements character, amenity, landscape setting, heritage or biodiversity value".

- 9.02 As stated above, the site already forms part of an established residential area within the built up area boundary of the village and therefore this proposed minor residential infill, or redevelopment is acceptable in principle in terms of the newly adopted Local Plan.
- 9.03 At this stage the visual impact of the proposal can only be considered in very broad terms due to the uncertainty of all matters of design, height of buildings, materials and layout. The design and access statement submitted with the application states that materials such as hanging tiles, featheredged weatherboarding and hand made red bricks would be used on the development as per the guidance provided within the Lynsted Parish Design Statement.
- 9.04 As the site has already been developed there would be no loss of countryside arising as part of this proposal. The Lynsted Parish Design Statement states that settlements

in the Parish are formed along two major routes and are often ‘one building deep’ which this proposal is contrary to. The properties at The Vallance and Toll Road, however, are an exception to this, and to my mind it is not realistic to suggest that this limited development will appear out of keeping with the estate style development which surrounds it. To that extent, I do not consider that the development truly contravenes the spirit of the Parish Design Statement even though that Statement is now quite old and does not (in any case) now form part of the Development Plan. Whilst I do accept that the Design Statement can still be a material planning consideration its guidance can only carry limited weight and I do not consider that this issue can amount to a reason to refuse this application.

9.05 With regards to residential amenity the precise impact arising from the design of the dwellings will be dealt with as part of any subsequent reserved matters application. However, the indicative layout provided makes it clear that the proposed number of dwellings as arranged could be accommodated on the site whilst still maintaining the necessary separation distances from existing properties sufficiently to maintain adequate levels of privacy and minimise overshadowing.

9.06 I note the objections with regard to the impact of the development on highway safety and convenience, namely the access to the proposed development via Toll Road which is the only matter being sought as part of the outline application. Kent Highways and Transportation have been consulted and are of the opinion that the increase in vehicle movements for the proposed houses would be negligible, and the level of the development could not reasonably exact any obligation to improve the junction which appears adequate for its purpose. With the comments I do not find any justifiable reason to refuse the application with regards to the proposed access and highway safety. I am recommending a condition to require a speed restraint in the access route to avoid any conflict with users of the Toll House entrance.

10.0 CONCLUSION

10.01 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. The area is unusual for Lynsted in being comprised of estate style development which surrounds the site. There is sufficient space on the site to accommodate the proposal for four dwellings and their parking demands and as such I recommend that the application is granted approval.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

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

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

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

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

- (4) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

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

- (5) All hard and soft landscape works submitted and approved under condition (1) above 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 a programme agreed in writing with the Local Planning Authority.

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

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

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

- (7) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (8) Details of a method of speed restraint on the access road north of the entrance to Toll House shall be submitted to and approved by the Local Planning Authority and thereafter the approved works shall be provided prior to occupation of any dwelling hereby permitted, and that feature shall be permanently retained.

Reason: In the interests of highway safety.

- (9) No works shall take place until a site specific Construction/Demolition Environmental Management Plan has been submitted to and been approved in writing by the local authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:
- All works and ancillary operations which are audible at the site boundary or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 hours and 18:00 hours on Mondays to Fridays, 08:00 and 13:00 hours on Saturdays and at no time on Sundays and Bank Holidays. Unless in association with an emergency or with the prior written approval of the District Planning Authority.
 - Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
 - Measures to minimise the production of dust on the site(s).
 - Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s).
 - Design and provision of site hoardings.
 - Measures to prevent the transfer of mud and extraneous material onto the public highway.

Reason: In the interests of the amenities of surrounding occupiers.

The Council's approach to this application:

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

- 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

Habitats Regulation Assessment

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

The application site is located approximately within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

In considering the European site interest, Natural England (NE) 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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE 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) and; the strategic mitigation will need to be in place before the dwellings are occupied.

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

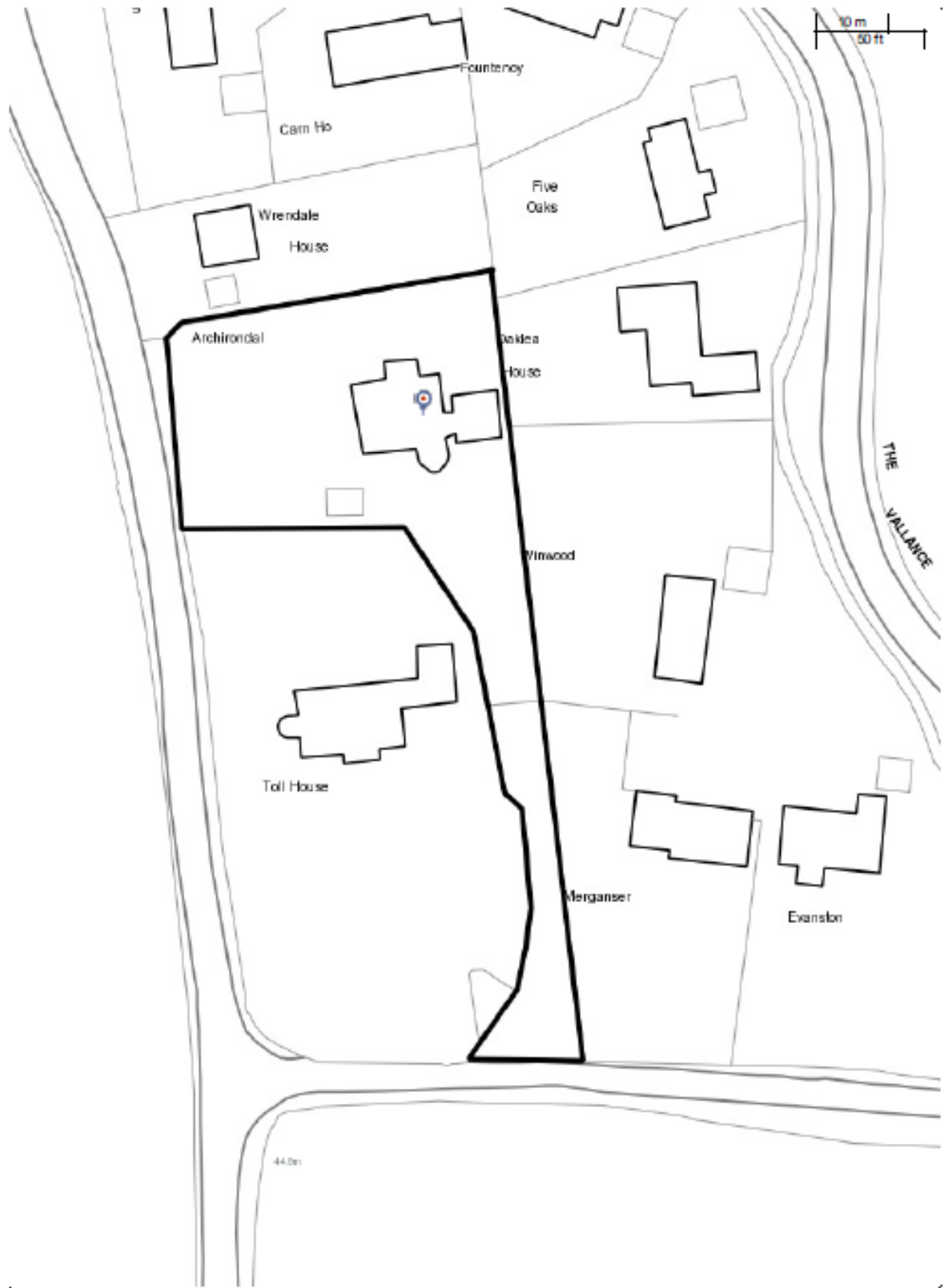
- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council

is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

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.



17/505194/OUT - Archirondal
Scale: 1:700
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2.2 REFERENCE NO - 17/505728/FULL			
APPLICATION PROPOSAL Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/503602/FULL)			
ADDRESS 45 Lynmouth Drive Minster-on-sea Sheerness Kent ME12 2HT			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The site lies within the built area boundary and accords with the relevant policies of the Swale Borough Local Plan Bearing Fruits 2031 (adopted July 2017).			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mrs C Randall AGENT Oakwell Design Ltd	
DECISION DUE DATE 27/12/17	PUBLICITY EXPIRY DATE 01/12/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/503602	Rear single storey extension and rear first floor extension	WITHDRAWN	12.10.17

1.0 DESCRIPTION OF SITE

- 1.01 45 Lynmouth Drive is a detached building situated within the built up area boundary of Minster.
- 1.02 The site is set within quite large grounds to rear. The street scene is primarily residential although the dwellings are of varying designs and sizes.
- 1.03 The property was originally a private dwelling but has recently been converted to a House in Multiple Occupation (HMO).

2.0 PROPOSAL

- 2.01 This application proposes a rear single storey extension measuring 2.05m in depth to extend the sun room, together with a rear first floor extension to provide an extra bedroom with en-suite facilities. This will be the same depth as the existing ground floor.

3.0 PLANNING CONSTRAINTS

None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM7, DM14 and DM16

5.0 LOCAL REPRESENTATIONS

- 5.01 One letter from a neighbour states; *‘note that the balconies, has been removed from the plans, this was our only objection to the original plans, but the high windows are still in the plans, but at sometime in the future this could be changed to doors leading to the flat roof, that could be use for a balcony, this would cause us some concern, could the owners of the property need any permission to carry out such an event.’*
- 5.02 A second letter states *‘I have seen the changes to the above property plan and with my untrained eye, it looks to me the only difference is, there is no balcony. The only thing that worries me is, would it be possible and legal to add a balcony in the future? As that was the objection in the first place.’*
- 5.03 A third letter states *‘I have no objection to the re-submitted plans – provided they meet fully with the proposed development i.e. there are no alterations to the high level glazing to the rear gable and that at no time with the flat roof area outside of the bathroom, becomes a balcony area.’*

6.0 CONSULTATIONS

- 6.01 Minster-on-Sea Parish Council raises objection, commenting as follows:

Minster on Sea PC’s objection dated 9th October [to a previously withdrawn application] stands. Except for the removal of the balconies, the remainder of the issues have yet to be resolved. The Parish Council also asks that consideration to be given to neighbours’ comments to ensure that their concerns are taken it to consideration when determining the application.

The Parish Council previously raised objection on the following basis:

“[This is a commercial enterprise in a clearly residential area. There will be overlooking and loss of privacy issues for what is clearly a House of Multiple Occupation (HMO). The issue of parking will also need to be closely examined. Approval will be detrimental to the residential amenities of neighbours.] The revisions do not address these concerns. A HMO presents as totally out of character in this area and should not be permitted in this part of Minster-on-Sea.”

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 All plans and documents relating to 17/505728/FULL and 17/503602/FULL

8.0 APPRAISAL

- 8.01 The main considerations in the determination of this planning application concern the impact of the rear single storey extension and the first floor extension on the visual amenities of the building and the surrounding area, and the impact on residential amenity.

Principle of Development

- 8.02 The application site is within the built up area boundary where the principle of extensions and alterations are acceptable subject to proposals meeting the Councils Policies.
- 8.03 Policy DM16 of the Local Plan specifies that development should be of appropriate design and quality which responds positively to the style and character of the building being extended. Development should be appropriately scaled in relation to the building and its surroundings, and protect residential amenity.

Visual Impact

- 8.04 The extensions are on the rear elevation of the dwelling so would not harm the character and appearance of the existing dwelling or the wider streetscene.

Residential Amenity

- 8.05 The proposed single storey rear extension is shown to project from the rear of the property by 2.05m. The depth of the first floor extension is 5.9m. However this part of the house does not have an immediate neighbouring dwelling next to it – it is located next to the end of gardens that back onto the application site. As such, I do not consider a projection beyond the guidance would necessarily be unacceptable.
- 8.06 The property to the rear of the site, 'Woodstock' is in excess of 21 metres from the proposed extension, and I do not consider there would be an unacceptable impact on this neighbour's amenity due to the distance involved.
- 8.07 The dwelling at 156 Scarborough Drive would face towards the side of the proposed first floor extension, with an intervening distance of around 10 metres. Whilst this would result in a greater mass of built form facing this property, it would comply with the 25° BRE light guidelines. I also note that the eaves and ridge of the first floor extension would be lower than the main house, and that the roof would pitch away from No 156. On this basis, I consider the impact on this property to be acceptable.
- 8.08 With regards overlooking, if the gable windows and the rooflights on the roof slopes of the first floor extension are obscure glazed and fixed shut, as shown on the submitted drawings, there is unlikely to be a significant degree of overlooking. These windows are proposed to serve a bedroom, and I would normally consider such an arrangement to be detrimental to the amenities of the occupiers of this dwelling. I am though mindful that the room is also served by a window looking out over the flat roof extension. I am therefore satisfied that the bedroom does have an adequate outlook..

Highways

- 8.08 There are approximately three car parking spaces to the front of the dwelling which accords with adopted Kent Council Highways and Transportation standards for a dwelling with 4+ bedrooms. There would be no resulting harm to highway safety and convenience.

Other Matters

- 8.09 The Parish Council raised concern on the withdrawn application 17/503602/FULL regarding the application site being a House in Multiple Occupation (HMO) and has raised the same concerns for this application. The agent/applicant has confirmed

that it is a small HMO. This is a permitted change of use and is not a material consideration here.

9.0 CONCLUSION

9.01 This application for a rear single storey extension and rear first floor extension to provide a bedroom with en-suite is considered acceptable and I therefore recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

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

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

(2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved drawing nos: PL01, PL04, PL05 and PL06.

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

(3) The materials used in the extensions shall match exactly in type, colour and texture those of the existing property unless otherwise agreed, in writing, by the Local Planning Authority.

Grounds: In the interests of visual amenity.

(4) The southeast facing gable windows and the rooflights in the first floor elevation to the extension shall be obscure glazed and incapable of being opened unless they are a minimum of 1.7m above the finished floor level. They shall be maintained as such and notwithstanding the provisions of Classes A, B or C of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 no windows, roof windows or dormer windows shall be inserted or enlarged in the first floor of the extension hereby approved.

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

(5) The flat roof area identified on the plan shall not be used at any time as a terrace or balcony.

Reason: To safeguard the privacy of neighbouring occupiers.

Council's approach to the application

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

- o Offering pre-application advice.
- 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 application was acceptable after amended drawings were submitted and no further assistance was given.

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



2.3 REFERENCE NO - 17/504179/FULL		
APPLICATION PROPOSAL		
Proposed new build of 2no. A1 Retail units with 3no. 1 bed self contained flats over as amended by drawing no. 102 D received 5 December 2017		
ADDRESS 152-154 Station Road Teynham Sittingbourne Kent ME9 9SX		
RECOMMENDATION - GRANT subject to conditions and to outstanding representations (closing date 26 December 2017)		
SUMMARY OF REASONS FOR RECOMMENDATION		
Proposed development is acceptable in principle and would not cause significant harm to the amenities of the area.		
REASON FOR REFERRAL TO COMMITTEE		
Councillor Bowen requests that the planning application is reported to the Planning Committee.		
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Teynham	APPLICANT Mr Hari Johnston AGENT
DECISION DUE DATE 11/01/18	PUBLICITY EXPIRY DATE 26/12/17	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
17/504141/FULL	Temporary relocation of retail unit during refurbishment	PENDING CONSIDERATION
SW/12/1610	Proposed new build of 2 no. A1 retail units with 3 no. 1 bed self-contained flats over.	GRANTED
SW/12/0002	New build of 2 no. retail A1 Units with 3 x 1 bed self-contained flats over	REFUSED

1.0 DESCRIPTION OF SITE

- 1.01 The application site is currently occupied by a single storey building incorporating two retail units comprising a retail shop and a hairdressers. The site is situated on the corner of Station Road with Lower Road/The Crescent. It is surrounded predominately by residential properties and is opposite the village’s mainline railway station.
- 1.02 Planning permission was granted in 2013 (SW/12/1610) for an identically designed development to the one being considered here but this was not implemented and now the permission has expired.
- 1.03 An application for temporary planning permission (17/504141/FULL) to relocate the retail unit during construction works is currently pending consideration and is likely to be determined before the meeting under delegated powers.
- 1.04 The site lies within the designated built-up area of Teynham and does not fall under any specific designation.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for two A1 retail units at ground floor with three no.1 bed self-contained flats at first floor and in the roof space.
- 2.02 The three one bedroom flats would be located at first floor (two flats) and within the roofspace (one flat) of the building. Each flat would have one parking space located in the courtyard to the rear of the building. Access would be located off Lower Road/The Crescent via the existing site access. The other existing access of Station Road would be closed off and a small pedestrian way would be created at that point.
- 2.03 Stairs positioned to the rear of the new retail units would provide access to the new flats. The enclosed refuse storage area would be positioned adjacent to the stairs and a covered cycle shelter for 3 bicycles would be located in the southern corner of the site.
- 2.04 An amended drawing has been received after discussions with the applicant regarding concerns raised by Kent Highways about parking, bin and cycle storage. The car parking spaces have been re-positioned so that they are perpendicular to the proposed building and the bin and cycle storage areas are closer to the access to the flats. The amended drawing 102D has addressed these issues and Kent Highways have no further objection to the proposal.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.0383	0.0383	+0
Approximate Ridge Height (m)	3.8	9.3	+4.5
No. of Storeys	1	2	+1
Non-residential Floorspace sq m	93	122	=29
Parking Spaces	3	3	+0
No. of Residential Units	0	3	+3

4.0 PLANNING CONSTRAINTS

- 4.01 None

5.0 POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP3, CP4, DM7, DM14 and DM15

6.0 LOCAL REPRESENTATIONS

- 6.01 Ten representations have been received from local residents, all raising objection, summarised as follows:
 - The three first floor windows on the front elevation will result in loss of privacy of my home
 - Parking is already a problem in the area
 - The height of the proposed building is much higher than surrounding buildings and will therefore be imposing and not in keeping with the existing properties and the area

- It would spoil the rural community village
- Traffic will increase
- Highway problems during the construction period
- Proposed access would be unsafe
- Proposed three parking spaces will be insufficient
- The development appears to utilise the walls of the existing shop (hairdressers) for support and no permission has been sought
- This is a village not a town
- Extra parking pressure from vehicles for the flats and the retail units would create chaos on the corner of Station Road
- Conditions imposed on the application approved in 2013 have not been actioned
- Question the need for one bedroom flats within the village which usually appears to attract families

6.02 One local resident has responded to the amended drawing stating that they still object. Parking issues along Station Road and Lower Road/The Crescent will remain with safety issues for pedestrians crossing the road at this junction.

6.03 The amended drawing has been the subject of re-consultations, and the deadline for comments is now 26 December 2017. This report is subject to the receipt of additional comments which will be reported at the meeting.

7.0 CONSULTATIONS

7.01 Teynham Parish Council does not object to the application but do have several concerns about the details, commenting as follows:

- Three parking spaces for three flats are not enough – there could easily be a demand for six spaces. The flats, plus an additional retail unit will make the existing problem at this busy junction worse
- The proposed development is large and should not overpower properties in the area
- Are Fire Regulations complied with by having just one entrance to the flats?
- What are the arrangements for the party wall with 152/154 and any common or shared services such as water and sewerage
- There is insufficient space for storage of refuse bins – three refuse bins are shown on the plan, presumably for the residents of the flats. The one remaining would be insufficient for the waste generated by a food mini-market

7.02 The Environmental Health Manager raises no objection subject to conditions.

7.03 Kent Highways and Transportation objected to the plans originally submitted for the following reasons:

- The rear parking area does not offer convenient access and egress and likely to result in under-utilization of the parking area and lead to additional parking on the highway
- The location of the bin storage area is likely to conflict with other users of this space and is at the upper limit of the distance that refuse operatives should be expected to walk to collect the bins, resulting in unnecessary waiting of the refuse freighter on the highway
- Cycle storage should be closer to access to the flats to improve security

These matters have been addressed in the amended scheme and they have no further objection.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers and plans for application SW/12/1610 and 17/504179/FULL

9.0 APPRAISAL

Principle of Development

9.01 The application site lies within the built-up area boundary where the principle of development is accepted. The main considerations in this case concern the impact upon residential, visual and highway amenity.

9.02 Within the built-up area there is a general presumption in support of development which reflects the positive characteristics and features of the site and locality; protects and enhances the natural built environment; is well sited and of a suitable scale, design and appearance; provide safe vehicular access and does not have a detrimental impact on the surrounding amenity. The scheme was previously approved and, despite the fact that Kent Highways and Transportation have now asked for different parking etc arrangements, it is otherwise the same scheme.

9.03 Taking the above into consideration I am of the opinion that the proposed development is well suited to this prominent corner site and will not have a detrimental impact on the surrounding area. I therefore consider the principle of the development is acceptable and meets the criteria of policies.

Visual Impact

9.04 The approved scheme under SW/12/1610 was the subject to design negotiations before approval and this application retains the improvements negotiated then. These changes went some way to improving the design of the proposed building by adding two bay windows on the elevation to Lower Road/The Crescent with arch details over the windows to make this a more architecturally interesting design. In addition to this, three well-proportioned dormer windows at first floor level have resulted in a more interesting elevation on the Station Road elevation.

9.05 Taking into account that the previously approved application was considered to be well designed and in keeping with the area, I consider that this proposal remains acceptable. The proposal was considered an improvement to the existing situation and makes a positive contribution to the character of the area. I support this view subject to conditions below.

Residential Amenity

9.06 I note the concerns raised by the properties in Lower Road/The Crescent which are directly opposite the site in relation to loss of privacy and overlooking. However, no alteration has been made to the design of the previously approved scheme where it was concluded that its impact on the surrounding residential amenity was limited. There would be a separation distance of 18m between the bay window and the front windows of no's.1 and 2 Railway Cottages. The Council does not operate a policy of minimum window to window distances in relation to front windows and I do not

consider that the proposed flats will create a loss of privacy sufficient to cause harm to the amenity of these residents.

- 9.07 Additionally, it is claimed that neighbours will lose light from the height of the building, but due to the distances involved I do not consider this to be a degree to significantly affect their amenity.
- 9.08 I note local concern with regards to problems arising from the construction period, but note that this can be dealt with by imposing conditions. I have added conditions in relation to lighting, hours of opening and hours of construction and dust suppression details to ensure that any potential impact on the amenity of the area is reduced.
- 9.09 I note that the development does not propose any amenity space. This was considered unnecessary in the previous application as all the flats will only have one bedroom and as such unlikely to attract families. I continue this view.

Highways

- 9.10 I note local concerns that in the main are referring to inconsiderate parking on the corner of this junction. Though, there may be potential for on-street parking, it was concluded in the previous application that this development would not create an increase on the existing situation. I believe this is still the case and I consider appropriate amendments have been made to the scheme to address highway issues. Unfortunately the use of this corner with inconsiderately parked vehicles are not issues that can be considered during the determination of this application.
- 9.11 Additionally concern is raised about parking provision. Members will note that the amended drawing shows three parking spaces, one for each flat which is what the current parking standard for a one bed flat in a rural area requires (IGN3 from KCC). The proposed access is existing and as such I am of the view that there will not be a detrimental impact on highway safety.
- 9.12 I have consulted Kent Highways and Transportation who now raise no objection to the amended drawing subject to conditions 7 and 11 in relation to bicycle storage, closure of the existing access of Station Road and permanent retention of the vehicle parking spaces.

Other Matters

- 9.13 Local concern makes reference to harm to the rural character of the village. I note that the previous application was supported in terms of its design and location, and as such not considered detrimental to the surrounding area. I do not see there are any reasons for refusal here.
- 9.14 I note local concern regarding fire precautions, but this matter will be controlled under building regulations. Party wall agreements are a private issue between neighbours.
- 9.15 With regards to local concern about provision for waste generated by the retail unit, its removal is likely to be carried out by a private operator therefore there is no identifiable harm in this respect.

10.0 CONCLUSION

- 10.01 The previously approved application leads me to consider that this proposal is acceptable in principle. I have taken into account the potential impact of this proposal

on residential and visual amenity, and to the comments and objections of local residents. However, as the overall scale, design and layout of the proposed development remains the same as previously considered I am of the view that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which 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 the following approved drawings:

01; 102D; 103B; 104B and 105A

Reason: For the avoidance of doubt and in the interests of proper planning.
- (3) Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.
- (5) 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.
- (6) Reason: In the interest of promoting energy efficiency and sustainable development
- (7) The existing access adjacent to 150 Station Road as shown on submitted drawing No. 100 '*Floor Plans as existing*' shall be completely closed off to vehicles prior to the first occupation of any accommodation hereby permitted..

Reason: In the interests of highway safety.

- (8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting.

Reason: In the interests of the amenities of surrounding occupiers.

- (9) Before any development takes place, constructional details at a scale of 1:5 of the roof eaves and verges, shop front, dormer windows and brick arches shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

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

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

Reason: In the interests of residential amenity.

- (11) The areas shown on drawing 102 D as car parking and covered bicycle spaces shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular or bicycle access thereto; such land and access thereto shall be provided prior to the occupation of the flats and retail unit hereby permitted.

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

- (12) The opening hours of the retail units hereby permitted shall be restricted to the hours of 06.00 and 23.00 any day.

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

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

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

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

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

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

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

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

Council's approach to the application

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

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

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

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

HABITAT REGULATIONS ASSESSMENT

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

The application site is located approximately within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE 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) and; the strategic mitigation will need to be in place before the dwellings are occupied.

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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



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2.4 REFERENCE NO - 17/504062/FULL			
APPLICATION PROPOSAL Change of use from A1 Retail to D1 Non-residential Institution, Clinic, Health Centre.			
ADDRESS 43 High Street, Newington, Sittingbourne, Kent, ME9 7JR			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal would not be significantly harmful to residential amenity, visual amenity or highway safety & convenience, while providing a health care facility.			
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to the written view of the Parish Council.			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Newington	COUNCIL	APPLICANT Dr Amechi Adigwe AGENT N/A
DECISION DUE DATE 09/01/18	PUBLICITY EXPIRY DATE 10/11/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None relevant	N/A	N/A	N/A

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 43 High Street is a two storey, semi-detached building fronting Newington High Street and within the Newington High Street Conservation Area. The site has been in use as a hairdressing and beauty treatment salon for a number of years, but this ceased in June of this year. The immediate street scene is mixed in use, with buildings of varying designs and sizes.

2.0 PROPOSAL

2.01 The proposal seeks planning permission to change the use of the ground floor of this building to a doctor’s surgery, with opening hours between 10am and 5pm, Monday to Friday. Externally, this would result in some minor alterations to the frontage, including resiting the existing front door to the centre of the shopfront and insertion of new white aluminium window frames to replace the existing .

3.0 PLANNING CONSTRAINTS

3.01 Conservation Area Newington High Street

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

4.02 Development Plan: Policies CP 4, CP 5, DM 7, DM 14, DM 16 and DM 33 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

5.0 LOCAL REPRESENTATIONS

5.01 Newington Parish Council objects to the application for the following summarised reasons:

- Parking issues – no availability for patients to be dropped off directly outside, village car park some walk away, surrounding roads already heavily parked, informal agreement with the Public House means patients would have to cross the road
- A part-time provision would mean patients having to travel outside the village outside of the opening hours
- Existing surgeries elsewhere may take this as an opportunity to reduce their catchment area and remove Newington patients from their list

6.0 CONSULTATIONS

6.01 Environmental Health raises no objection

6.02 KCC Highways & Transportation have no comments to make

6.03 Design & Conservation raises no objection

7.0 APPRAISAL

7.01 The site is within the defined built up area boundary of Newington in which the principle of development is acceptable subject to the other material considerations outlined below.

Change of use

7.02 According to policy DM 2 of the Local Plan, Newington is defined as a ‘Local Centre’. Policy DM 1 of the Local Plan states that non-retail uses will be accepted in these locations provided that they maintain the area’s role, functioning, vitality and viability and do not result in the loss of an important community use.

7.03 This is a village location, in which one might expect to find a basic range of facilities, including a doctor’s surgery. In my view, the proposal would certainly maintain, and even strengthen, the area’s function as a village.

7.04 Although the existing A1 use could provide a community facility if brought back into use, there are other such uses within the High Street. However, there is currently no doctor’s surgery in Newington, and policy CP 5 of the Local Plan promotes the provision of health facilities. In my opinion, the benefit of the provision of a doctor’s surgery would far outweigh the loss of the A1 unit, and I consider the change of use acceptable in principle.

Residential amenity

7.05 There are no extensions or major alterations proposed, and I consider the proposed use would be unlikely to give rise to significant harm to residential amenity in terms of

overlooking or noise nuisance issues. For this reason, I do not consider it necessary to condition the opening hours.

Visual amenity

- 7.06 The site is within a Conservation Area in which the design of such frontages should be sensitive to the historic environment. The doorway would be centralised, which would give rise to a more symmetric appearance. The stall risers below the windows would be re-built and rendered to match the existing, and white aluminium framing would be used. I consider these elements of the proposal to be acceptable.
- 7.07 The original plans included the use of UPVC panels on the lower portion of the windows to give privacy to the users of the reception/waiting room. I had concern that this would be an intrusive feature, harmful to the character and appearance of the Conservation Area. The plans have now been amended to include the use of internal frosting here rather than UPVC panels, which I consider to be an acceptable compromise. As such, the proposal would not cause significant harm to the character and appearance of the Conservation Area street scene, and would amount to a slight improvement over the existing situation.

Highway safety & convenience

- 7.08 There would be no additional provision for off-street parking and the Parish Council is concerned that due to a crossing being located here, patients would be unable to be dropped off outside the surgery. The Parish Council is also concerned that there would be a bit of a walk for people parking in the village hall car park, a walk which some patients may be unable to do. Reference is also made to an informal agreement with the Bull Public House, which would result in people having to cross the road.
- 7.09 The distance between the site and the entrance to the village car park is approximately 170m. In my opinion, this distance is not excessive such that it would discourage people from parking here. Of course, some people may not be able to manage the walk, but this could be an issue for any patient accessing any surgery. In my experience, many surgeries do not have dedicated parking and this is not something which would justify a refusal of planning permission, in my opinion.
- 7.10 It is possible that patients would attempt to use the surrounding residential roads, which are often parked to capacity; however I consider that the village car park, along with the fact that many people live within an acceptable walking distance of the site, would provide adequate provision for the short term visits that people would make.
- 7.11 Finally, the placement of the crossing and road layout is such that people are indeed unable to stop here, however I have already set out above why I consider the access/parking arrangements to be acceptable. If there were a private agreement between the surgery and the Public House, patients would be able to safely cross the road using this crossing.
- 7.12 Considering all of the above, and the fact that any use of the site would generate a footfall, I consider there would be no significant harm in terms of highway safety and convenience, despite the concern raised.

Other matters

- 7.13 The Parish Council is concerned that limited opening hours would result in patients having to travel outside the village and would result in an insufficient provision. There

is also concern that other surgeries would take it as an opportunity to remove Newington based patients and reduce their catchment area, forcing them to be left with an inadequate service.

- 7.14 Additional information has been submitted to clarify the level of service that would be provided. This confirms that the surgery would in fact be open between 10am and 5pm, Monday to Friday. The service would also provide GP pre-appointments and weekly access to a medical nurse and physiotherapy sessions. At all times, patients would be able to hand in/collect prescriptions, book appointments, pick up information leaflets etc. Outside of these hours, patients would be re-directed to the NHS 111 service. Furthermore, there is an existing pharmacy on the opposite side of the road which would provide a useful relationship for people being able to pick up medication following an appointment. In my opinion, this amounts to the provision of a full and adequate service for its village location, despite the concern raised.
- 7.15 With specific regard to the concern that surgeries elsewhere may remove patients from their lists, I believe there is a formal and comprehensive process which has to be carried out in such cases, with the implications for patients being fully considered. I do not consider this to amount to a serious concern here.

8.0 CONCLUSION

- 8.01 Taking into account all of the above, I consider the proposal would provide a beneficial health facility not currently available in Newington, without giving significant rise to harm to residential or visual amenity, or highway safety and convenience. I recommend that planning permission be granted.

9.0 RECOMMENDATION – Grant Subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with the approved drawing number KN\17\30\02 received on 12/12/2017.

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

- (3) The premises shall be used for the purpose of a doctor's surgery, and for no other purpose whatsoever, including any other purposes in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and any other use whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.

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

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 minor changes required to the application and these were agreed and submitted.

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

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



2.5 REFERENCE NO - 17/504664/FULL		
APPLICATION PROPOSAL Erection of a single storey side extension to residential dwelling to accommodate garage with loft space over and alteration to existing garage to create new utility and family room. Change of use of woodland to residential garden and extinguishment of public right of way.		
ADDRESS 36 Woodside Dunkirk Faversham Kent ME13 9NY		
RECOMMENDATION - Approve		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Tony Mayer AGENT Wyndham Jordan Architects
DECISION DUE DATE 08/11/17	PUBLICITY EXPIRY DATE 12/10/17	

1.0 DESCRIPTION OF SITE

- 1.01 The site comprises a modern detached chalet bungalow set amongst similar properties and adjoining land; some of which is now owned by the applicant. The original plot is a standard rectangular plot and the existing dwelling occupies almost the full width of it. The property itself lies within the built up area of Boughton and Dunkirk as indicated by proposal map of the Local Plan, whilst the application site also extends to the east onto an area of woodland and greenery designated as an Area of High Landscape Value. The area is on the edge of the village and has a semi-rural feel.
- 1.02 To the southern part of the application site, between the original plot boundary and the neighbouring property at no. 37 Woodside is a narrow strip of land with a public footpath that links this neighbourhood with Canterbury Road to the north. The path runs through land which has a width of approximately 7 metres and is now in the ownership of the applicant (since November 2016).
- 1.03 This footpath is recognised by KCC’s Definitive Map Officer as part of the network of paths which has accrued easement rights due to the number of years of use. Currently, the path appears little used, untended and overgrown.
- 1.04 Immediately to the south of the application site is a large area of land behind the adjacent row of chalet bungalows (also within the area of high landscape value) within which the Council has approved several applications for change of use of long thin strips of land to gardens for the neighbouring properties in 2013. The wider application site now includes land of a similar nature to these strips

2.0 PROPOSAL

- 2.01 There are two parts to this application. Firstly, the application seeks permission for a change of use of a long thin parcel of land that sits mainly to the east (rear) of the current residential curtilage of the property. The area in question measures approximately 977 square metres and is largely within the area locally designated as of high landscape value. The application seeks to take this area of land into the

residential curtilage of number 36 Woodside, in order to maintain, control and ultimately extend the footprint of the existing house to the side over this piece of land. The narrow part of the land to the side of the property is currently not maintained and is in the main overgrown and neglected. The change of use proposed does not necessitate the extinguishment of the footpath which runs through this strip of land to the south (side) of the property.

- 2.02 The second part of the proposal which is solely dependent on the success of the previous aspect (and extinguishment of the footpath) is for the erection of a side extension. The proposed side extension will measure 5m wide × 6m deep. The eaves / ridge height proposed will tie in with the existing; the design of the roof will be gable ended to match the existing. Materials proposed are to match. At ground floor level, the extension will have a garage with loft space above. Fenestration details proposed are a garage door within the front elevation, a standard door to the rear elevation and two roof windows within the roof slopes.
- 2.03 The applicant consulted the Definitive Map Officer of Kent County Council prior to the submission of the proposal and were advised as follows:

'It is very difficult to have a path extinguished as the legislation requires that for an Order to be made, the path must be "not needed for public use." We are aware that this path has become very overgrown, and that there is another path very close by which appears to serve the same purpose, so therefore we are prepared to accept an application from you and to agree to take it to an informal consultation to see what the general response would be.

I am attaching to this email an application form and general notes. Please note that, as well as the fees, there is currently a back log of applications, which means that once we receive your application, it will be approximately 2-2½ years before the case will be allocated to an officer. You would not be able to build your garage (and obstruct the path) before the extinguishment was successful, and I would clarify that there is no guarantee of this. If objections are received it is unlikely that we would proceed further.'

3.0 PLANNING CONSTRAINTS

Public Right of Way

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

- Chapter 7: Requiring good design

Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies;

- CP 4 Requiring good design
- DM 13 Extending the garden of a dwelling in the rural area
- DM 14 General development criteria
- DM 16 Alteration and extensions
- DM 13 Extending garden of a dwelling in the rural area
- DM 24 Conserving and enhancing valued landscapes
- DM29 Woodlands, trees and hedges

Supplementary Planning Documents: Designing an Extension – ‘A Guide for Householders’

5.0 LOCAL REPRESENTATIONS

- 5.01 The Faversham Society supports the KCC in the matter of the Public Right of Way and would prefer that the footpath is not extinguished. They say that if any extinguishment is required an order should be applied for to extinguish the footpath.
- 5.02 A letter of objection was received from the resident of number 44 Woodside, Dunkirk who recently sold part of the application site to the applicant, stating.
- The development will be against a covenant of the title deed of the land
 - Loss of the strip of woodland and footpath will be of no benefit to the local community.
- 5.03 Two letters of support were received from residents at property numbers 32 and 34 Woodside, Dunkirk.
- The footpath is unkempt, cessation and development will improve the visual quality of the area and increase property values.

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council has discussed the application and objects to the proposal, qualified by the following reasoning. They do not object to the proposed extension in principle on its shape or form. They do object as the development would be on top of/over a public footpath. They do not think many people use the path, which is reportedly heavily overgrown in places, but they expect landowners to clear them as is their responsibility in law. If people come forward with more knowledge and still use/wish to use the footpath then of course KCC will decide, but this will probably take several years before the position is clear. They have reservations that, should planning permission be granted, it would only be possible to implement if the footpath is extinguished. This would not be a tenable position for the owner to be left in and they would not like to contribute to this position. For the avoidance of doubt, the Parish Council does not think the proposal would be possible to build if the footpath is not extinguished.
- 6.02 Kent County Council Public Rights of Way and Access Service comment that the proposed development directly affects public footpath ZR533, adding:.

“Close inspection of the map suggests that the footpath will not be affected by the proposed development. However Kent County Council is of the belief that the route available to the public has been used as of right for in excess of 20 years and public rights to use it will have accrued. As such it should be treated as a public right of way and should consent be granted I would seek a condition that a confirmed order to extinguish this section of path and the remainder of ZR533 to Canterbury Road before work commences.”

“The applicant is indicating an intention to extinguish part of public footpath ZR533 where it crosses his property. The whole of the path would need to be extinguished and the agreement of all relevant landowners would be required.”

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 17/504664/FULL

8.0 APPRAISAL

Principle of Development

8.01 Planning considerations assessed in the determination of the proposal are issues relating to the change of use of land for residential purposes and the impact of the proposed extension upon residential and visual amenities of the area. In both cases the impact on the public right of way is considered. However, the purpose of this application is not to test the principle of the cessation of the public right of way. The procedure and mechanics of a footpath diversion or footpath extinguishment are separate non planning matters.

Visual Impact

8.02 The proposed extension will be located to the southern side of the existing dwelling and will be visible in the street scene. The design matches that of the host property and will be in keeping with the existing dwelling. A lower ridge height for new extensions may often be appropriate. In this case however, it is thought that to tie in the ridge height is more complementary and will harmonise the development better in the area. With the application of matching materials, it is not anticipated that the development will be detrimental to the area's visual amenities. As a consequence I do not consider that there will be any material harm to visual amenity or the character and appearance area.

8.03 The extension will directly affect the public footpath, and cannot be built unless that path is extinguished. This does not prevent approval of the application as the footpath issue will require a separate procedure. However, given how long that process might take, the normal three year period to commence the development might be insufficient and I recommend a five year commencement period to avoid this permission being futile.

Residential Amenity

8.04 In reference to residential amenity, the most affected will be residents at the neighbouring property to the south (no. 37 Woodside). The proposal will extend the footprint of the existing dwelling across the public foot path and in close proximity to the new common boundary. Given the orientation of the properties and the separation however, it is not considered the additional bulk and height of the proposed extension would result in any significant loss of light.

8.05 In a similar vein, outlook currently enjoyed from side windows of habitable rooms along the neighbouring dwelling will not be unduly harmed. There will be a separation of over 3 metres between the proposed and the built footprint of the neighbouring property. This should sufficiently alleviate any overbearing impact.

8.06 With regard to privacy, the only additional openings proposed are a garage door and standard door on the front and rear elevations respectively. On the upper floor, two roof lights are proposed. It is not anticipated any impact will be significant to warrant refusal. The bedroom on the upper floor is likely to be occupied to a level normally associated with a habitable room. Therefore it is not considered any potential harm to privacy associated with the use would be significant to warrant a refusal in this instance.

Highways

- 8.07 Concerns raised by the Parish Council and a neighbour in relation to the cessation of the public right of way are noted. This is a matter which the applicant has already taken steps to address. The footpath appears little used and in any case a more convenient alternative route is available. The question of extinguishment of a public right of way is a civil matter and will have to be resolved before planning permission - if granted - can be implemented. The applicant will be made aware of the current situation through an informative.
- 8.08 Importantly to this case, the Public Rights Of Way Officer has not raised any objections to the potential extinguishment, commenting that such matters could be dealt with more easily after planning permission has been granted.

Impact on the Area of High Landscape Value

- 8.09 Policy DM29 of the Local Plan seeks to protect woodland from development, including its incorporation within gardens. Such a change may sometimes be unacceptable as it might prejudice the future management and amenity value of woodland. In this particular case the area of woodland concerned is relatively small and not of high quality. Moreover, as the Council has approved very similar developments nearby it is hard to see how this can form the basis of withholding planning permission in this particular case. This is provided normal householder Permitted Development rights are removed from the additional land. In this way, the proposal to use of the land for residential purposes is unlikely to make a major difference to the area.
- 8.10 The change of use of land does not in itself require extinguishment of the footpath, but that is in any case a matter for another procedure.

9.0 CONCLUSION

- 9.01 Having regard to the above matters, the proposed extension is considered to be acceptable, it will not unduly harm visual or residential amenity and will maintain the character and appearance area. There are also examples of similar uses of land as requested in the immediate area. It is therefore recommended that planning permission be granted, subject to conditions.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of five 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 materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture
- Reason: In the interests of visual amenity.
- (3) Upon completion, no garden buildings, enclosures, pools or hardstandings, whether permitted by Classes E or F of Part 1 of Schedule 2 to the Town and Country Planning

(General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

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

The Council's approach to this application:

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

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

In this instance, the application was acceptable as submitted and no further information was required. The application was also considered by the Planning Committee where the applicant / agent had the opportunity to speak and promote the application.

INFORMATIVE

- (1) The attention of the applicant is been drawn to the issue relating to right of way. Planning permission does not override this concern and Kent County Council Public Protection Team will have to be contacted to extinguish the public footpath before development can commence. Contact details are [Tel:03000418142](tel:03000418142) or Public Protection, The Granary, Penstock Hall Farm, Canterbury Road, East Brabourne. Kent. TN25 5LL.

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



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2.6 REFERENCE NO - 17/505078/FULL			
APPLICATION PROPOSAL Add privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony.			
ADDRESS Bayshore 84 Scarborough Drive Minster-on-sea Sheerness Kent ME12 2NQ			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would not give rise to significant harm to visual or residential amenity that would justify refusal			
REASON FOR REFERRAL TO COMMITTEE Applicant is a member of staff			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr Tony Potter AGENT
DECISION DUE DATE 07/12/17	PUBLICITY EXPIRY DATE 10/11/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/05/1166	Proposed ground and first floor extensions with new roof structure	Approved	8/2/06

MAIN REPORT

1.0 BACKGROUND

1.01 Members will recall this item being reported to the Planning Committee Meeting on 7th December. The Report is attached at Appendix 1. At that Meeting, Members raised concern in respect of overlooking, principally from the doorways proposed to be formed in the rear elevation of the dwelling, and in particular that when standing in the doorway, the occupiers of the dwelling would be able to see over the proposed screening and into the private garden areas of the adjacent dwellings. Members also raised concern regarding the small spaces between the screens where they are proposed to be attached to the supporting posts.

1.02 The resolution of the Planning Committee was to delegate authority to Officers to approve the application, subject to the height of the screening being increased along its full length on both sides of the flat roof to the height of the head of the doorway, and to the spaces between the screens being deleted.

2.0 UPDATE

2.01 My officers put the Committee resolution to the applicant and requested amended plans be submitted. The applicant has considered the decision of the Committee and has submitted the letter attached as Appendix 2 in response. In summary, he considers that:

- Overlooking from the doorway would be no worse than from the existing window;
- Screening at the height requested by Members would be oppressive when viewed from within the balcony;
- Constructing the screening without gaps between the panels is impractical and may cause issues with wind resistance;
- The panels at the height proposed would provide adequate privacy to the adjacent dwellings.

3.0 APPRAISAL

3.01 As the decision of the Planning Committee only gave delegated authority to permit the scheme (as amended in accordance with the resolution of the Committee) the application must now be referred back to Members for a decision to be made.

3.02 The previous report sets out that I consider the scheme as submitted acceptable and I concur with the applicant that the overlooking Members are seeking to address would be no worse than the existing, which in itself is not at a level I consider to be materially harmful to the amenities of the occupiers of the adjacent dwellings. In addition, I do not consider it likely that the small spaces in between the screening panels are likely in themselves to give rise to significant overlooking to the neighbours.

3.03 Given the above, my recommendation remains that the application should be granted, for the reasons set out in the previous Committee report.

4.0 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 screening shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall remain as such in perpetuity.

Reason: In the interests of residential amenity.

- 3) The flat roof area shall not be used as a balcony or sitting out area until the approved screening has been erected in full, running the entire length of the flat roof on both its east and west edges and being a height of 1.8 metres above the level of the flat roof. The screening shall be retained in perpetuity.

Reason: In the interests of residential amenity.

- 4) No alterations to the level or height of the flat roof shall take place, and upon completion no further development of the roof of the rear extension, whether permitted by Classes B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not, shall take place.

Reason: In the interests of residential amenity.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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



APPENDIX A

Planning Committee Report - 7 December 2017

ITEM 2.7

2.7 REFERENCE NO - 17/505078/FULL			
APPLICATION PROPOSAL			
Add privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony.			
ADDRESS Bayshore 84 Scarborough Drive Minster-on-sea Sheerness Kent ME12 2NQ			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposed development would not give rise to significant harm to visual or residential amenity that would justify refusal			
REASON FOR REFERRAL TO COMMITTEE Applicant is a member of staff			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr Tony Potter AGENT
DECISION DUE DATE 07/12/17	PUBLICITY EXPIRY DATE 10/11/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/05/1166	Proposed ground and first floor extensions with new roof structure	Approved	8/2/06

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 84 Scarborough Drive is a large, detached house, located within the built up area of Minster. Originally a bungalow, the extensions and alterations carried out to the property were granted planning permission under reference SW/05/1166 in early 2006.
- 1.02 The property has a single storey rear extension, with a sunken flat roof with pitched roof elements to each side.
- 1.03 In 2006, it became apparent that the development at the site was not proceeding in accordance with the approved plans. Specifically, the openings above the roof to the single storey extensions had been constructed for doors giving access to this roof area, instead of the approved windows.
- 1.04 Following discussions with Officers, the owner agreed to build the openings in accordance with the approved plans, as it was clear that the use of this roof as a balcony would have significantly overlooked the private amenity spaces of the dwellings to either side. Once this had occurred, the Council secured an Article 4 Direction, removing permitted development rights for alterations to these openings, to give the Council control over any future, similar works, to enable an assessment to be made of the impact of the use of the flat roof as a balcony.

APPENDIX A

Planning Committee Report - 7 December 2017

ITEM 2.7

1.05 As referred to above, the flat roof area, if used as a balcony, without sufficient screening, would give rise to substantial and harmful overlooking of the entire rear gardens of the dwellings either side.

2.0 PROPOSAL

2.01 The owner of the property has now applied to replace the existing rear facing windows with doors, and to erect obscuring screens to the east and west sides of the roof, projecting the entire length of the roof, and measuring 1.8 metres high from the finished floor level.

2.02 The existing single storey extension projects a total of 5.85 metres to the rear of no.84, although of this, only 4 metres is a flat roof. It projects 12 metres beyond the rear of no.70 Scarborough Drive, lying just under a metre from the boundary with this dwelling, although the flat roof area lies 3 metres from this boundary, projecting 10 metres to the rear. There is a change in levels between the application site and no.70, with the garden at no70 lying appreciably lower than the dwelling at no.84.

2.03 The rear extension projects by 7.2 metres beyond the rear of no.86 to the east of the application site, lying 6.6 metres from the boundary, although the flat roof area projects by just over 5 metres to the rear of no.86, lying just over 8 metres from this boundary.

3.0 POLICY AND OTHER CONSIDERATIONS

3.01 The following Policies of the adopted Local Plan are relevant:

DM14 – General Development Criteria
DM16 – Alterations and Extensions

3.02 The Council's adopted Supplementary Planning Guidance, "Designing an Extension – A Guide for Householders" is pertinent here.

4.0 LOCAL REPRESENTATIONS

4.01 Eight representations have been received from four separate addresses, all raising objection, summarised as follows:

- The purpose of the Article 4 direction is to prevent this development and the application should therefore be refused;
- The screening will give rise to overshadowing;
- The screening is of insufficient height and will not prevent overlooking of the gardens to either side;
- The use of the flat roof as a balcony will give rise to noise and disturbance that will harm the amenity of the neighbours;
- This would amount to a roof terrace rather than a balcony;
- What if the applicant raises the floor level? This would negate the purpose of the screening;
- The applicant is taller than the screening proposed and it will therefore be ineffective;
- The occupier of one of the dwellings to the rear in Southsea Avenue, objects on the basis that the balcony would overlook their daughter's bedroom and result in harmful loss of privacy to them;

APPENDIX A

Planning Committee Report - 7 December 2017

ITEM 2.7

5.0 CONSULTATIONS

5.01 Minster on Sea Parish Council support the application, commenting as follows:

Minster-on-Sea Parish Council's support is subject to the whole screen being totally opaque and permanent with no gaps to completely obviate the possibility of any overlooking. The Site Plan Section - proposed screening -rear east side first floor suggests otherwise.

6.0 BACKGROUND PAPERS AND PLANS

6.01 Application papers, plans and correspondence for application SW/05/1166 and 17/505078/FULL

6.02 Article 4 Direction affecting this site.

7.0 APPRAISAL

7.01 Members should be clear that the purpose of an Article 4 Direction is not to seek, in perpetuity, to prevent the development it controls. It is to give the Council control over development which would otherwise not require the express grant of planning permission – development which would otherwise be "permitted development". Contrary to the suggestion of the local residents, it is not therefore the case that the mere presence of the Article 4 direction here requires that planning permission should be refused. It means that the owner of the property must apply for planning permission for the development, which can then be scrutinised by the Council. The decision here must be based on the merits of the development proposed.

7.02 The change from windows to doors on the rear elevation is, in itself, unobjectionable. The key issues here are the impact of the development proposed on residential and visual amenity.

Impact on Visual Amenity

7.03 The proposed screens would appear somewhat obtrusive from the dwellings either side. The application property sits higher than both dwellings, but particularly more so than no.70 Scarborough Drive to the west. In addition, the rear extension lies closer to this boundary than to that of no.86 to the east.

7.04 However – the screens themselves would not be significantly higher than the top of the pitched roof – approximately 0.7 metres in height. I do not consider this to be significant, and whilst I am mindful that this would have some impact on the visual amenities of the neighbours, I do not consider that it would be so severe as to warrant refusal of planning permission. As Members will note, the proposed development lies entirely to the rear of the dwelling, and there would not be a pronounced impact on the character and appearance of the streetscene.

7.05 I conclude that the impact of the proposals on visual amenity is acceptable.

Impact on Residential Amenity

7.06 I do not consider, given the limited height of the panels above the existing roof, or their location to the north of what is a substantial dwelling, that they would give rise to overshadowing or loss of light.

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Planning Committee Report - 7 December 2017

ITEM 2.7

- 7.07 With regards overlooking, the properties to the rear in Southsea Avenue, lie in excess of 40 metres from the closest part of the proposed balcony area. As such, I do not consider that they would be significantly overlooked.
- 7.08 With regards the comments of the Parish Council, the screening is not shown extending the full length of the roof, as the rearmost part of it is pitched and therefore unusable as a balcony.
- 7.09 The use of the flat roof as a balcony, with the screening proposed, would give views into the rear areas of the neighbours gardens. However – These areas of the gardens are already overlooked by the dwelling at the application site, together with other neighbouring dwellings. As such, there would be no significant increase in overlooking in this regard.
- 7.10 I note the comments of residents in respect of the height of the screening and the height of the applicant. However – the total height of screening proposed is the height of a standard garden fence. It is designed to eliminate casual overlooking and the perception of overlooking.
- 7.11 The issue here is whether the screening should be of such a height that it removes the potential for deliberate and intrusive overlooking. The planning system does not generally take into account matters such as this, and cannot be used in this regard as a means of anticipating the actions of the applicant, particularly where there is no evidence to demonstrate that the applicant wishes to deliberately overlook his neighbours. If a neighbour is determined to overlook the properties next to them, there is little the planning system can do to prevent it, and even if the screening were to be increased in height to 2.5 metres, this would not prevent such an event occurring. In any case, a similar level of overlooking can be achieved simply by looking over one's garden fence. As such, whilst I understand the views of the objectors in this regard, I do not consider it necessary for the screens to be increased in height, nor do I consider this to amount to a reason for refusing planning permission. In my view, the screening proposed is adequate to prevent harmful overlooking into the private gardens of the dwellings either side – nos.70 and 86 Scarborough Drive.
- 7.12 I note the comments made regarding potential noise and disturbance from the use of the balcony. However – such a use is unlikely to give rise to noise levels in excess of what one might expect from a dwelling, and in any case, the screening proposed would provide an amount of acoustic mitigation. A similar level of noise could be generated from the normal use of the garden at the property.
- 7.13 Given the above, I conclude that the use of the balcony with the screening proposed would not give rise to significant harm to residential amenity.

Conditions

- 7.14 I have given consideration to the comments of the Parish Council and the local residents, particularly with regards the extent of the screening and the possibility of alterations to the finished floor level of the flat roof area. In my view, it is necessary to impose conditions to:
- Require the screening to run the entire length of the flat roof area on both sides
 - Prevent any change to the finished floor level of the flat roof;
 - Prevent any further alterations to the pitched roof that might increase the useable area of balcony, which would then not be adequately screened.

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- Require the screening to be erected, in full, prior to the first use of the balcony; and
- Require the screening to be retained in perpetuity.

8.0 CONCLUSION

8.01 I have given careful consideration to the potential impact of this proposal on residential and visual amenity, and to the comments and objections of local residents. However – I conclude that the scheme would not, if controlled by the proposed conditions below, give rise to such harm that planning permission should be refused. I therefore recommend approval.

9.0 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 screening shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall remain as such in perpetuity.

Reason: In the interests of residential amenity.

- 3) The flat roof area shall not be used as a balcony or sitting out area until the approved screening has been erected in full, running the entire length of the flat roof on both its east and west edges and being a height of 1.8 metres above the level of the flat roof. The screening shall be retained in perpetuity.

Reason: In the interests of residential amenity.

- 4) No alterations to the level or height of the flat roof shall take place, and upon completion no further development of the roof of the rear extension, whether permitted by Classes B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not, shall take place.

Reason: In the interests of residential amenity.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

APPENDIX B

16 December 2017

Dear Mr Bailey,

Re: 84 Scarborough Drive (Application 17/505078/FULL): ref your email dated 11/12/2017

Thank you for the feedback on the outcome of my planning application, noting that the Planning Committee have requested that in order to approve my application the screen height must be increased to the height of the door frame (2200mm) and the glazing must be continuous along its length.

With regard to the imposed increased height:

I understand that the justification behind the increase in height that you are imposing is based on my personal height and any increased view that I could gain of my neighbours properties should I choose to stand on the door sills, despite the fact that those views already exist.

As stated in my application the height of the fenestration on the first floor **has not been increased**. The current fenestration allows me to clearly view my neighbour's property and extend that view if I wished to view them from an open window. Furthermore I have considerably greater views from the loft level window as could be clearly ascertained from the site photographs presented to the planning committee and stated in your Report to Planning Committee – 7 December 2017, (hereafter referred to as your Report): 'these areas are already overlooked by the dwelling...' (point 7.09) As the fenestration heights have not changed I question the relevance and influence that 'standing on the door sill' has to this application and ask you for the justification?

Furthermore I've struggled to find anything in any planning policy legislation that would give me relevant guidance on the height and construction of balcony screening that supports your imposed changes to my application. Whilst not directly referencing balconies I came across *PPS 7 (Addendum): Residential Extensions and Alterations Annex A: Residential Amenity: Privacy*, to which I think you make reference. Whilst referencing buildings rather than balconies, I would accept that there is sufficient relevance here to dictate consideration of the following (and note the opening sentence: *Except in the most isolated rural location, few households can claim not to be overlooked to some degree....*);

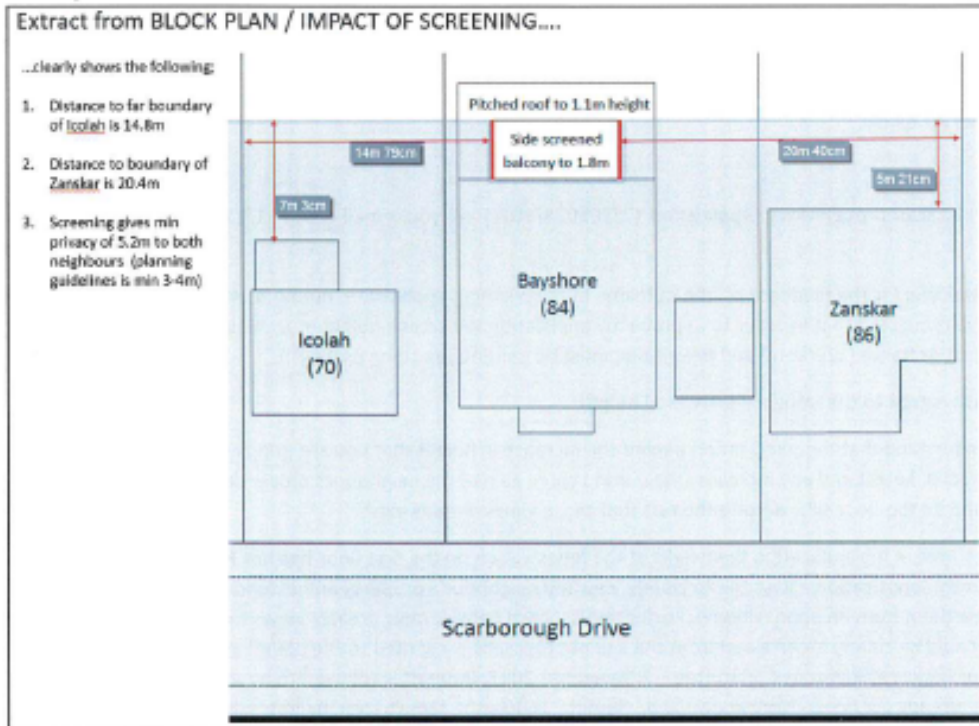
A30 Overlooking of gardens may be unacceptable where it would result in an intrusive, direct and uninterrupted view from a main room, to the most private area of the garden, which is often the main sitting out area adjacent to the property, of your neighbours' house. As a general rule of thumb this area is the first 3-4 metres of a rear garden, closest to the residential property.

With that regard may I draw your attention back to the Block Plan / Impact of Screening document that was included with my application. This showed the restricted view imposed by the proposed 1.8m screening, limiting my views to the rear gardens of my side neighbours: *areas that are already overlooked* as noted in your Report (7.09).

The extract drawing 1.0 below adds the distances to the furthest side boundaries of the adjacent side properties and can be verified using the measuring tool available in public access.

The proposed screening increases the private amenity space to the rear of Zanskar's property from 1.31m to 5.21m and the private amenity space to the rear of Icolah's property from 3.13m to 7.03m. This is both considerably greater than the guidance suggests is necessary and more than they are currently afforded.

Drawing 1.0



Whilst I have questioned the justification for the increased screening height above, I have used this as the worst case scenario for calculating any potential overlooking that the proposed screen height of 1.8m would allow.

Drawing 2.0 below assumes an absolute extreme case scenario if I would choose to stand on a door sill 20cm above the floor level, on tiptoes, to increase my eye-line height of 1.79m to an overall height of 2.05m (i.e. 25cm above the height of the proposed screen). The measured distance (and verifiable using the measuring tool in public access) between the middle of the door frame width and the screening is 2.35m.

Given the distance to Icolah's far boundary as per drawing 1.0 above, this shows that standing at an eye level height of 2.05m I will still not be able to see below a height of 3.25m across the width of Icolah's garden. These calculations are based on both properties being at the same level. Your Report (7.03) also notes that my property sits higher than Icolah which increases this view height limit still further.

Drawing 2.0: Impact of overlooking an Icolah from eye-line height of 2.05m



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With regard to the potential overlooking of Zanskar, were it considered that there was any merit in the justification for standing on a door sill to justify the height of the screening then I would have no issues with a request that the door be moved to the opposite side of the fenestration. Using the same methodology as in the example of Drawing 2.0 above, the measured distance (and verifiable using the measuring tool in public access) between the middle of the door frame width and the screening would be 2.35m.

Given the distance to Icolah's far boundary as per drawing 1.0 above, Drawing 3.0 below shows that standing on tiptoes at an eye level height of 2.05m I will still not be able to see below a height of 1.96m across the width of Zanskar's garden. These calculations are based on both properties being at the same level. As with Icolah your Report (7.03) also notes that my property sits higher than Zanskar which increases this view height limit still further.

Drawing 3.0: Impact of overlooking on Zanskar from eye-line height of 2.05m



In conclusion of this point I would ask you to consider the unnecessary additional visual obstruction that a screen height of 2.2m would give and how oppressive this would appear from within the balcony side. I also draw your attention to photographs 1 – 7 that are included as appendix A. These show the following;

1. The overlooking potential from the loft level window
2. Overlooking from loft level window with 1.8m screening in place (taken from waste height)
3. Overlooking from loft level window with 2.2m screening in place (taken from chest height to show that the difference in height makes no difference from this viewpoint)
4. View of applicant's height with 1.8m screening when applicant stands with nose against the screen.
5. Current view from ground level head height showing existing overlooking potential.
6. View from ground level head height with 1.8m screening (and the view of the applicant standing immediately behind)
7. View from ground level head height with obtrusive 2.2m screening

In the absence of any other guidance from Planning Policy, I humbly suggest that I have proven that a screen height of 1.8m is wholly adequate and appropriate to address and improve on the current overlooking opportunities as per your Report (7.11).

Continued...

APPENDIX B

With regard to the imposed continuous length of screening:

Once again I draw your attention back to the fact that I already overlook my neighbour's properties as recognised in your Report (7.09) and the purpose of screening (7.10), such that any amount of screening is an improvement to the current scenario.



However, in order to address your request for continuous glazing I went back to the specialist structural engineer from my chosen supplier Diomet Fabrications, who suggested the original design.

Diomet Fabrications specialise in the design and manufacture of balustrades, balconies and canopies. They supply commercial and residential solutions to numerous county and local authorities, housing associations, architects, designers and house builders.

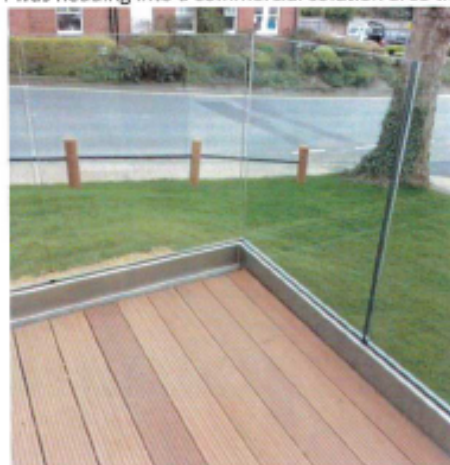
They confirmed that my original design is the **usual residential screening solution accepted by planning authorities throughout the UK**. The size and number of sheets of glass that they have proposed are all key aspects of the design that are dictated by the structural integrity of the glass when secured and impacted by exterior elements, wind being the key factor in this case.



They also stated that whilst the design is dictated somewhat by the materials and the way in which they are joined, the gaps also play a key part in reducing wind resistance. They advised that reducing the number of sheets of glass by increasing their width greater than 1 metre for installation levels above 3 metres in exposed locations was a risk they would not recommend.

Photos courtesy of Diomet Fabrications, showing examples of their residential applications of screening up to 1800mm heights.

I asked the engineer if he could recommend a different solution that didn't have any gaps. He suggested that I was heading into a commercial solution area that was unnecessary and unviable in a residential setting.



He suggested that there was an alternative solution that could reduce but not remove the gapping between the glass panes but he had not recommended in my circumstances given the height of the installation and potential exposure to gale force winds.

A 'frameless' solution could be installed however he stated that the maximum exposed height of the glass should be 750mm maximum and there must be gaps between the panes of glass that are a minimum 15mm wide (they recommend 20mm). In response to my suggestion that I could butt the glass together and join it with silicon or put an H section joiner in-between he suggested this would be totally unadvisable; He advised that the panes would move

APPENDIX B



and flex in the wind. This would have the same effect as having a single sheet of glass in place which, in gale force wind conditions, would most likely cause the glass to snap or break it from the mounting points.

When pushed and reminded that I was not installing a full height screen he conceded that I may choose to risk a minimum 10mm gap between the panes if the exposed glass height was no greater than 700mm but that this was not their recommendation.

In considering this alternative solution it is both cheaper and aesthetically preferential. However I must give consideration to the limitations of the solution and the recommendations of the engineer.

Photos courtesy of Diomet Fabrications, showing examples of their frameless balustrade solutions (installed at ground level.)

Turning to the Internet for other solutions I searched for pictures of opaque balustrade screening. As you would expect there are thousands of pictures available and 99% of them are using exactly the same solution recommended by the engineer that I have proposed, that have gaps between the glass and the frame.

Looking at other planning applications that have been approved for balconies within Swale I have been unable to find a single one that has imposed this conditional requirement.

In conclusion of this point, your Report (7.10) highlights the purpose of screening and agrees that the screening I have proposed is adequate (7.11). Whilst it may be my decision to take a risk and implement a frameless solution with a reduced gap I don't feel that you have sufficient justification to impose such a solution.

Conclusion

Through the commentary, photographs and drawings in this document and appendix I have demonstrated that;

1. The proposed screening height of 1.8m is sufficient to resolve the potential for overlooking and that any argument for increasing this height is unfounded.
2. The request for a continuous length of screening is both unreasonable, unjustifiable and technically not achievable (given the location and constraints of the existing parapet infrastructure.)

I therefore ask that you make a decision on my planning application as per my original application without further delay. I ask that if you decide to grant permission but impose changes to my application then these are imposed as Conditions to that decision.

Thank you.

Regards,

Tony Potter

Appendix A attached...

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Appendix A – Additional photographs 1-7

Photo 1. Overlooking potential from loft level window



Photo 2. Overlooking from loft level window with 1.8m screening (from waste level viewpoint)



Photo 3. Overlooking from loft level window with 2.2m screening (from chest level viewpoint)



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Photo 4. View of applicant's height with 1.8m screening when applicant stands with nose against the screen.



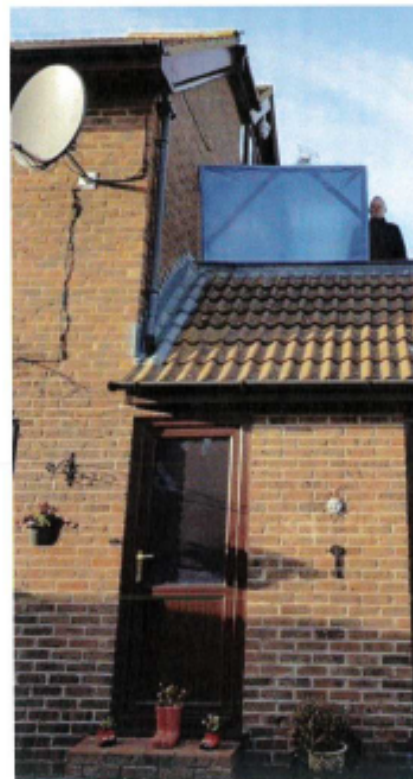
Photo 5. Current view from ground level head height showing existing overlooking potential.



Photo 6. View from ground level head height with 1.8m screening (applicant stood behind)



Photo 7. View from ground level head height with obtrusive 2.2m screening



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2.7 REFERENCE NO - 16/506181/FULL and 16/506182/LBC		
APPLICATION PROPOSAL- PLANNING APPLICATION AND LISTED BUILDING CONSENT APPLICATION FOR;		
Demolition of the 1960s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings. Construction of 34 no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.		
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS		
RECOMMENDATION that planning permission and listed building consent be GRANTED, subject to the completion of a suitably worded S106 Agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposals would secure the future of a dilapidated listed building and this would outweigh the limited impact on its setting through the development of new residential buildings within the grounds. The site is located within a sustainable location and has been design to relate well to the site and its surroundings. The impact on the protected trees is acceptable as is the risk posed from flooding. The impact on residential amenity and highway safety and convenience are acceptable. The scheme cannot support financial contributions towards local infrastructure, and this has been demonstrated through a viability appraisal, which has been independently reviewed. The failure to provide for local infrastructure contributions does not outweigh the benefits of the scheme.		
REASON FOR REFERRAL TO COMMITTEE		
This application has been referred by Cllr Beart on the basis that it would not secure the usual financial contributions towards local infrastructure.		
WARD Queenborough and Halfway	PARISH/TOWN COUNCIL NA	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP
DECISION DUE DATE 15/11/16	PUBLICITY EXPIRY DATE 14/10/16	OFFICER SITE VISIT DATE 23/8/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
SW/07/0223	Demolition of 1960's extension & remodel existing listed building. New replacement three storey building to northern boundary to create 16 residential units. Also refurbish existing shed & convert into secure cycle store.	Approved.
SW/07/0224	Demolition of 1960's extension and remodel existing listed building, new replacement three storey building to northern boundary to create 16 residential units. Also refurbish existing shed of convert to secure cycle store (listed building consent).	Approved.
SW/99/1007	Demolition of Summer House.	Approved.

SW/93/0334	Change of use from residential to a day centre for Kent County Council	Approved.
Land directly to the south of the application site;		
14/502847/FULL	Proposed re-development to provide 6 No. detached Chalet Bungalows and 8 No. Town Houses complete with associated garages, parking and infrastructure (currently in final stages of construction).	Approved.

MAIN REPORT

THIS IS A JOINT REPORT FOR PLANNING APPLICATION 16/506181/FULL AND LISTED BUILDING CONSENT APPLICATION 16/506182/LBC

1.0 DESCRIPTION OF SITE

- 1.01 The site measures 1.13 hectares in area, is relatively flat and is located within the defined built up area boundary. The site contains a substantial grade II listed building known as Sheppey Court, last in use as a nursing / care home, which has unsympathetic 1960s wings to the north and south. The building is in a very poor state of repair, having been vacant since 2006, and is currently under scaffolding and a protective cover.
- 1.02 Access to the site is via Halfway Road. The site is screened from this road by a substantial brick wall and a number of mature trees are sited within the grounds of the property, which significantly limit views into the site from this road. Some of the trees on site – 42 in total - are protected by a tree preservation order.
- 1.03 The site is located adjacent to the former dairy site to the south, which is being developed for housing, and within the built-up area boundary as defined in Bearing Fruits 2031, the adopted local plan. The boundaries to the north and west of the site are adjacent to open countryside, and lead onto flat open marshland. This adjacent land also falls within an Area of High Landscape Value, a coastal change management area, and a local countryside gap.
- 1.04 The site falls within Flood Zone 3 on Environment Agency maps.
- 1.05 The site includes a timber carriage house building, in a fairly poor state of repair, immediately to the south of the main building. This building dates back to around 1840.
- 1.06 Immediately to the north of the site access is a single storey lodge building. This remains in the same ownership as the main site, but has been excluded from the development site itself. The lodge is also curtilage listed and dates back to before 1840. It was substantially altered / rebuilt in the early 1970's.

2.0 PROPOSAL

- 2.01 Planning permission and listed building consent is sought for the demolition of the 1960s north and south wing extensions to the listed building; the change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings; and the construction of 34 new dwellings and flats (to provide a total of 13

one-bed units, 19 two-bed units; and 8 three-bed units), incorporated in three blocks, together with associated cycle and bin stores; re-siting and refurbishment of the Carriage House building to the front of the site; landscaping of the site, parking, and reinstatement of the garden wall along the southern boundary.

- 2.02 The specific works to the listed building are to remove the two 1960's large extensions to each wing, and to re-build the west elevation of the building to the original plan form, which incorporates a single storey extension on this elevation. The building would be converted into six dwellings / flats. This would largely maintain the original internal room layout and would retain the two main entrances to the building, with all units accessed off these.
- 2.03 The northern courtyard would be a new-build block containing 9 units over two storeys and in an L shape. The building would measure approx. 32m x 23m on its longest sides and between 7.3 and 7.9 metres in height. It would be sited approx. 9.5 metres from the listed building. The building would be finished in white render with a slate roof.
- 2.04 The southern courtyard would be a U shaped building containing 21 units and built over two storeys. It would measure 43m x 32m x 25m in footprint, and approx. 7.5m in height. It would be sited approx. 13 metres from the listed building. The building would be finished in white render with a slate roof.
- 2.05 The proposed carriage house building would be sited between the northern courtyard building and the existing lodge building. The building would be rectangular in shape and would measure 25m x 7.7m in footprint, and 7.2m in height, and would contain 3 units. The building would have timber boarded elevations and a slate roof.
- 2.06 The scheme would create a mews style development within generally open communal grounds, although a number of units would benefit from small private outdoor amenity areas (typically 5 metres in depth). A large number of trees (57 in total of which 11 are protected by a Tree Preservation Order) on the site would be removed as part of the development. However the wooded area to the front of the site would be retained, as would a number of other mature and significant trees within the site and on the boundaries.
- 2.07 The application also seeks to relocate an existing Carriage House building currently sited to the south of the listed building, to be repositioned in the south east corner of the site and to be utilised as a cycle store. It also seeks to reinstate a garden wall along the southern boundary to 3 metres in height.
- 2.08 The scheme would provide 40 car parking spaces for residents, and 7 visitor car parking spaces.

3.0 PLANNING CONSTRAINTS

- 3.01 Sheppey Court is a grade II listed building; 42 trees on the site are subject to Tree Preservation Order number 1 of 2015; the site is in flood zone 3 (high flood risk); and the site has archaeological potential. The site falls within the built confines of Minster / Halfway, as noted above.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The following statutory tests set out under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, apply in relation to applications;

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

- 4.02 The National Planning Policy Framework (NPPF) – relevant paragraphs are those relating to sustainable development, delivering a wide choice of quality homes, requiring good design, flood risk, viability and conserving and enhancing the natural and historic environments.
- 4.03 The adopted Swale Borough Local Plan, Bearing Fruits 2031: Policies ST3 (Swale settlement strategy), ST6 (Isle of Sheppey area strategy), CP3 (Delivering a wide choice of homes), CP4 (good design), CP6 (community facilities), CP8 (conserving and enhancing the historic environment), DM6 (transport demand and impact), DM7 (parking), DM8 (affordable housing), DM14 (general development criteria), DM19 (sustainable design), DM21 (water, flooding and drainage), DM28 (biodiversity), DM29 (woodland, trees and hedges), DM32 (development involving listed buildings) and DM34 (archaeology).
- 4.04 Supplementary Planning Documents - Developer Contributions Supplementary Planning Document (SPD) and Listed Buildings Supplementary Planning Guidance (SPG).

5.0 LOCAL REPRESENTATIONS

- 5.01 None received.

6.0 CONSULTATIONS

- 6.01 The **Council's Tree Consultant** originally confirmed *“In principle, I accept that in order to develop this site some tree removal will need to take place and in part this scheme appears to retain the most prominent and viable specimens.”* However, the southern courtyard needs to be moved further away from the grade A London Plane tree. The relocation of the carriage house to within the trees at the front of the site needs to be addressed from a tree perspective. Paragraph 1.8 of arboricultural report and the ground assessment detailed on page 19 of the ground report appraisal by Geo-environmental seem to contradict each other in terms of level changes required throughout the site. From an arboricultural perspective the reduction of ground levels around any of the retained trees will have a serious detrimental effect on their stability and long term health so further clarification needs to be provided on what areas of the site will be affected, particularly the clarification of what constitutes soft landscaped areas. Until these issues are addressed the application is not supported from a tree perspective.
- 6.02 Following amendments, the Tree Consultant advises that *“the scheme has tried to address many of my previous concerns particularly relating to the building distances from the grade A London Plane tree. I appreciate that the distances from this tree have been greatly improved and provided the tree protection measures and arboricultural method statement (AMS) as detailed in the original submitted tree reports are amended to take into account the design changes then I see no arboricultural grounds to refuse the application. I am also now satisfied that the revised contamination measures within the RPA of the trees are acceptable requiring only a maximum capping of 100mm within the RPA. Again, we need to ensure that the*

revised AMS covers this aspect of the scheme. This issue is discussed in the appraisal below and will be secured by a planning condition.

- 6.03 The Council's **Environmental Protection Team Leader** notes identified asbestos will need to be removed by a licenced contractor; demolition and construction may cause noise and dust pollution to local residents; the contamination report suggests there is a dust suppression regime; intrusive investigations conclude there is a need for remediation on site in garden areas- removal of current topsoil and replacement with imported clean topsoil is necessary in garden areas and soft landscaping. A series of conditions are recommended. The asbestos issue is dealt with by alternative legislation and therefore it is not appropriate to impose the condition requested. No objection or further comment has been raised following the submission of a revised contamination report to better protect existing trees on site (see tree consultant's comments above)
- 6.04 The Council's **Climate Change Officer** welcomes the proposal to build to the enhanced water standards. However, with regards to renewable energy this reads, she says, more like an outline application. Various technologies are discussed and suitable ones flagged up as possible - solar thermal and solar photo voltaics, however the statement says these will be decided at the design stage. Given that this is a full application the climate change officer considers there should be more detail at this stage.
- 6.05 The Council's **Strategic Housing and Health Manager** confirm 0% affordable housing provision would be in accordance with the Council's local plan policy (DM8).
- 6.06 The Council's **Greenspaces Manager** considers it appropriate for a small amount of toddler play equipment to be provided within the site, but otherwise makes no request for off-site contributions. A condition is included below to deal with this.
- 6.07 **KCC Highways and Transportation** considers traffic movements to be acceptable and raises no objection on highway capacity grounds. The number of parking spaces accords with adopted standards although some allocated spaces are remote from their dwellings and require amendments. KCC want the width of the access to be maintained at 5.5m for at least a distance of 15m from the carriageway edge of Halfway Road to enable two cars to pass each other. The carriage house cycle store is remote and may not be used due to perceived lack of security. Cycle storage should be in a more secure and convenient location.
- 6.08 Amended plans have been received, and KCC note that the revisions as requested have been carried out other than the position of the cycle store. They request that if this cannot be relocated, then it should be adequately restricted and secured to give confidence to residents to use it. Otherwise no objections are raised, subject to conditions.
- 6.09 **KCC Regeneration Projects** request;
- *Primary Education*- £78,114.00 towards Halfway primary school expansion.
 - *Libraries* -£1872.62 towards the additional book stock required to mitigate the impact of the additional borrowers generated from this development.
 - A condition regarding High Speed Fibre Optic connections.
- 6.10 **KCC Ecology** initially reviewed the submitted Ecological Impact Assessment and advised that further information was required prior to determination of the application. Following the submission of such information, no objection is raised in relation to protected species and ecological measures within the site, subject to conditions. It is

advised that a developer contribution is secured to the Borough-wide mitigation strategy relating to the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).

- 6.11 **KCC Drainage** raises no objection to the proposal subject to the imposition of a SUDS condition. It notes it is proposed to attenuate surface water on site within granular sub-base of the impermeable access drive and permeable parking areas with a controlled discharge to public sewer of 2.9 litres per second. Southern Water have indicated via a Level 2 capacity check that this flow can be accommodated within the receiving system. It is anticipated that Southern Water may not accept flows from the current design arrangement and that further re-configuration of the on site system will likely be required.
- 6.12 **KCC Archaeology** raise no objection subject to conditions for a programme of building recording, and a programme of archaeological works.
- 6.13 **Historic England** support the current application as the proposed scheme seeks to bring Sheppey Court, a grade II listed building, back into positive reuse and in its view will see limited harm to its significance. It recommends that the application be determined in accordance with national and local policy guidance and on the basis on the Council's expert conservation advice.
- 6.14 None of the 6 amenity societies responded to consultation under the application for listed building consent.
- 6.15 **The Environment Agency** raises no objection subject to a condition requiring the finished floor level (FFL) of the north and south courtyards be no lower than 3.8m AOD.
- 6.16 **Natural England** note the proposal is for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.
- 6.17 **Southern Water** notes it appears the applicant is proposing to abandon a public sewer. A public sewer may cross the site so should one be found during construction it should be assessed before further work commences on site. Southern Water can provide foul and surface water sewerage disposal and a water supply. General SUDS guidance is provided. An informative is recommended to address Southern Waters requirements.
- 6.18 **The LMIDB** confirm provided details of the proposed SUDS and its maintenance are designed and agreed with KCC SUDS, the LMIDBs interests should not be affected by the proposal. Appropriate conditions should be attached.
- 6.19 **The NHS Swale Clinical Commissioning Group** has requested a contribution of £360 per new resident is requested amounting to £33,696 towards expanding existing facilities within the vicinity of the development.

6.20 **Kent Police** note the application refers to secured by design and encourages an application for accreditation. The cycle store could be better located with better surveillance. A condition or informative regarding crime prevention is requested.

6.21 **UK Power Networks** raises no objection to the proposal.

7.0 BACKGROUND PAPERS AND PLANS

7.01 The application includes a thorough set of existing and proposed plans and elevations, artists impressions and the following documents;

- Planning Statement
- Design and Access Statement
- Heritage Statement
- Ecological Impact Assessment and additional letter
- Arboricultural Impact Assessment and Method Statement
- Flood Risk Assessment
- Transport Assessment
- Report on Financial Viability for Planning (confidential)
- Ground Appraisal Report
- Services Appraisal
- In Situ Soakage Tests
- Sustainability Statement
- Asbestos Management
- Hazardous Materials Inspection Report

8.0 APPRAISAL

8.01 The site is – as noted above - located within the built up area boundary as defined by the proposals map of the adopted plan, and where new residential development is directed under local plan policies ST3 and ST6. The development would add to the housing stock within the Borough and would provide a number of smaller units of accommodation, adding to the range of housing available in the area, in accordance with policy CP3 of the adopted plan.

8.02 As such, the general location of the site is acceptable for housing development. However there are a number of site specific and local constraints that relate to this development, and these are considered below.

Impact on listed building

8.03 Sheppey Court is a Grade II listed building. The list description sets out that it was built in the early C19 for Sir Edward Banks as a country retreat and in a Greek Revival style. The building is stuccoed with a shallow pitched slate roof, and at the time of listing was little altered externally, with some original internal fittings – notwithstanding that one of the extensions to the west had been added in 1968. Members will be aware that Sir Edward Banks was an important local figure, involved in the construction of the Sheerness naval dockyard and the foundation of Banks Town (which later became Sheerness-on-sea).

8.04 The building has, in modern times, been in use as a care home, but has been vacant for more than 10 years. The building has fallen into disrepair and has been on the local Heritage at Risk register for many years. It is in need of substantial investment. As a result, the scheme put forward is an “enabling” form of development, with the

revenue raised by the quantum of new build development allowing for the repair, restoration and conversion of Sheppey Court (including demolition of the poor 1960s extensions).

- 8.05 The listed building itself would be substantially restored and improved through the development, and the internal layout has been designed to have minimal impact on the listed building through the conversion works. The removal of the extensions and restoration would directly enhance the special interest and significance of the listed building.
- 8.06 The new buildings would impact upon the setting of the listed building. They would add substantial built form within the grounds. However, they have been sited and designed in a way that maintains the prominence of the listed building, through the use of open courtyard areas, the use of lower eaves height in comparison to the listed building, and ridge lines that are no higher than the listed building. The scheme is considered to strike an appropriate balance between the quantum of development required to provide a viable scheme for the site, and the need to avoid substantial harmful impacts to the setting of this listed building through development within its grounds. The scheme is supported by the council's conservation officer and by Historic England, who both advise that there would be limited harm to the significance of the listed building.
- 8.07 The scheme would also affect the setting of the curtilage listed lodge building – but as this was significantly altered in the 1970s its significance is very limited, and it is not considered that any harm would arise to this building.
- 8.08 As noted above, S72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 places a strong presumption against any harm arising from development to a listed building and its setting, and this carries substantial weight in the decision making process. In my opinion, the limited harm to the setting of the listed building would be offset by the substantial enhancement to the listed building itself that would arise from the development.
- 8.09 The NPPF sets out that development that leads to less than substantial harm to the significance of a designated heritage asset should be refused, unless it can be demonstrated that such harm is necessary to achieve substantial public benefits to outweigh that harm. The key benefits outlined above would, in my opinion, be sufficient to outweigh this less than substantial harm. Likewise, and for the above reasons, I do not consider that there would be any conflict with Policy DM32 of the adopted plan.

Impact upon wider character and appearance of area

- 8.10 The site is located at the southern end of Halfway Road. The area is generally characterised by a consistent line of two storey built form along the eastern side of the road, and more intermittent development on the western side, where built form is separated by the presence of the cemetery and also by the grounds to Sheppey Court. Members will note, however, that a new development is being built at The Old Dairy site immediately to the south of the site. The dominant features of the site from Halfway Road are the tall brick boundary wall and landscaping beyond it. From the road, the building at Sheppey Court has very limited visual impact.
- 8.11 The proposal would substantially add to built form within the site. However, it would be set back from Halfway Road and the existing wall and tree screen would be retained, albeit that a number of trees would be removed within the site. The new buildings

would be visible from the road, and particularly from the site access, but such views would be limited by the set back from the road and the height of these buildings, which would be set below the level of the listed building, and the retained boundary screening. The main visually dominant feature of the site from the road would continue to be the wall and mature trees.

- 8.12 The existing carriage building would – as noted above - be re-located to the front of the site and would be sited just inside the boundary wall and within the landscaped area. It would be used as a cycle store, and would be located adjacent to an existing opening to be used as a pedestrian entrance for the new development. Due to the height of the carriage building, it would be visible above the wall. However it is modest in footprint and would not detract from the prevailing landscaped frontage that would be retained. It would enable a curtilage listed structure to be retained on the site, albeit in a new position.
- 8.13 Many of the trees on site are, as noted above, protected under an area Tree Preservation Order. The proposal would include the removal of a number of trees on site (including 11 subject to the TPO), in part to accommodate new buildings, but also for reasons of good arboricultural practice. The Council's Tree Consultant is satisfied that the most significant trees would be retained, and the scheme has been amended to address the relationship between the Southern Courtyard building and an adjacent London Plane tree. Despite the loss of a number of trees, I am satisfied that the landscaped character of the site would be retained – particularly when viewed from Halfway Road.
- 8.14 Overall, I consider that the impact from Halfway Road would be modest and would not be harmful to the character or appearance of the area.
- 8.15 The new buildings would be sited close to the north and west boundaries of the site, which are generally unscreened and with long range views across the open flat marsh landscape. It is likely that some long range public views of the site would be possible across this landscape, which is an Area of High Landscape Value – although it is important to stress that this designation does not cover the application site itself. The Swale Landscape Character and Biodiversity Appraisal (SPD) identifies this as part of the Sheppey Court and Diggs Marshes, with a moderate condition and sensitivity. The guidelines set out that proposals that would impinge on the sense of undeveloped openness between otherwise developed areas should be avoided.
- 8.16 The proposal would increase the mass and quantum of built form on the site. However, from the marshes, the existing building with substantial later extensions already has a visual impact on the current landscape, and the existing application site could not be described as adding to this sense of openness. Taking this into account, together with the fact that the site falls within the built confines of Halfway, and forms part of the backdrop of built form of the settlement to the marshes, I do not consider the visual impact of the development to be unacceptable or harmful to the sense of undeveloped openness of the marshes.
- 8.17 Overall, I conclude that the development would retain positive site features (for example the frontage landscaping and set-back from Halfway Road) and would not cause harm to the character and appearance of Halfway Road or the open marshland landscape to the north and west. On this basis, I consider that the application would be in accordance with policies CP4 and DM14 of the Local Plan, and would not conflict with policy DM24 of the Plan relating to the conservation of valued landscapes.

Impact upon surrounding residential amenities

- 8.18 Policy DM14 of the adopted Local Plan seeks to ensure that there would be no unacceptable impacts on surrounding amenities.
- 8.19 The lodge building at the site entrance is owned by the applicant, but is not part of the application site. The flank wall to the new Carriage House block would be sited approximately 18 metres from the rear of this property, and no windows are positioned within this flank wall. Given the relatively modest height of this building, which also steps down to single storey level at its closest point to the Lodge, I do not consider it would be likely to cause any unacceptable harm to light, privacy or outlook to this property.
- 8.20 The southern Courtyard building would be sited close to the boundary with the new residential development under construction at The Old Dairy site to the south. The southern elevation of the new building would be sited around 20 metres from the site boundary, with a greater distance to the new dwellings at the former dairy site. I consider this relationship to be acceptable. The eastern side of this building contains windows that would face towards Halfway Road and would be capable of views across gardens to The Old Dairy site. However, due the siting of the building and angle of views, I do not consider this to be unacceptable. However I would recommend that some screens are provided to balconies closest to this development, and this can be secured via a planning condition. The scheme includes rebuilding a 3 metre high wall on part of the southern boundary next to these adjacent new units. This would result in a degree of enclosure, although the adjacent units are over three storeys with habitable rooms at first floor level and above, which would not be materially affected by the wall. As the wall would be north facing, it would not obstruct sunlight to these gardens. Overall, I consider this relationship to be acceptable.
- 8.21 Given the set back of the development from Halfway Road itself, I do not consider that any unacceptable impact would occur to those properties on the eastern side of Halfway Road.
- 8.22 Taking the above into account, I consider that the development would not cause unacceptable harm to surrounding properties, and would comply with Policy DM14 of the adopted Local Plan.

Whether the development would provide a suitable level of amenity to future residents

- 8.23 The proposed units are of a good size and would provide a satisfactory internal level of accommodation for future occupants. Most units are provided with small private gardens and / or balconies. In addition, the remaining grounds would be for communal use. Some concern was initially raised regarding the relationship between the Southern Courtyard building and adjacent trees, but this has been improved through amendments to the siting of the building. In my opinion, the scheme would be high quality in design and would provide a good level of amenity for future residents.

Flood Risk

- 8.24 The site is located within Flood Zone 3 on Environment Agency maps and is at risk from flooding. A Flood Risk Assessment has been submitted to demonstrate how the development can be undertaken with raised floor levels to mitigate this. The Environment Agency do not raise objection to the scheme, on the basis that a condition is used to ensure that floor levels are suitable.

- 8.25 Policy DM21 of the adopted Local Plan seeks to avoid inappropriate development in areas at risk of flooding. The National Planning Policy Framework sets out a sequential approach to development, where development should be directed to sites within flood zone 1 (at least risk from flooding) before considering sites in flood zones 2 and 3 (at greater flood risk). In this instance, the justification for the new development on this site is to bring forward the restoration of the listed building, which would not take place if other sequentially preferable sites were used. Taken together with the absence of any objection from the Environment Agency, I am satisfied that the development would not be in conflict with the adopted policy or advice in the NPPF.

Highways safety and parking

- 8.26 Policies DM6 and DM7 seeks to ensure that traffic generation from new developments is acceptable, that access to other means of transport are available, and that parking is provided in accordance with guidelines.
- 8.27 The KCC Highways and Transportation Officer is satisfied that the traffic generated can be accommodated on the local highway network without any unacceptable impacts. Parking, including visitor parking, has been provided in accordance with guidelines.
- 8.28 The KCC Highways and Transportation Officer has raised some concern regarding the security of the carriage building as a cycle store, being divorced from the dwellings. This can be achieved through provision of a secure pedestrian gate at the access onto Halfway Road, the details of which can be dealt with via a planning condition.
- 8.29 On this basis, I am satisfied that the development would accord with the above policies.

Viability

- 8.30 Members will note from the consultation responses above that, in line with normal procedures for a development of this site, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure, primarily towards additional primary school places and NHS requirements. The total contributions are calculated at £141,102.24
- 8.31 The developer has submitted a viability appraisal to set out that the development is unable to viably meet these costs (other than the SAMMS payment (which is non-negotiable). This appraisal has been revised during the course of the application and has been assessed twice by consultants appointed by the Council. A copy of the latest report on viability by the Council's consultants is attached under Part 6, as Members will appreciate that it includes sensitive financial information.
- 8.32 In short, the appraisal concludes that the development would result in a negative Residual Land Value (RLV) (i.e the value of the site once development costs (including the developer's reasonable profit margin have been subtracted from the value of the completed development). This is calculated as a small negative value without the S106 contributions, rising to a substantial sum when the S106 contributions are taken into account. Members will note from the viability report that the developer's viability assessment shows an even greater negative value, and that the Council's consultant has challenged a number of these calculations and assumptions – but still concludes that a significant negative RLV would arise.

- 8.33 The practical effect of this is that the negative RLV would have to be absorbed within the developer's profit margin, which in turn would lower profit levels. When the negative RLV is taken into account, together with the benchmark land value for the site as set out in the attached viability assessment, this would reduce the margin to well below the standard 20% (as agreed by the Planning Inspectorate and others) that has been used in the viability appraisal for this development, and creates significant risk that the development would not proceed.
- 8.34 Government advice is contained within the National Planning Practice Guidance on Viability. This sets out that a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken. It states that where an applicant is able to demonstrate that S106 requirements would cause the development to be unviable, then the Local Planning Authority should be flexible in seeking such agreements.
- 8.35 It is clearly a disadvantage of the application that the development cannot reasonably make contributions towards local infrastructure. Nonetheless, in this instance I consider that there are two significant factors that would point in favour of the development. Firstly, that the development finances have been scrutinised by a consultant appointed by the Council and found to be unviable with the S106 costs. Secondly, that in this particular instance the development in question would result in significant enhancement of a listed building that has been on the local Heritage at Risk register for many years. The extent of new development within the site has been limited to avoid unacceptable impacts on the listed building, and this in turn also limits the overall development value of the site. The provision of additional housing to the Borough's stock is also a benefit, although I would give this less weight in itself, as the Council can currently demonstrate a 5-year housing supply.
- 8.36 Policy CP6 of the adopted Local Plan sets out that development proposals should provide for community facilities and infrastructure. However the policy does allow for viability to be taken into account. Whilst the policy does endorse a "claw-back" mechanism for review if property values rise, given the moderate nature of this development and the significant negative RLV, I do not consider that it would be of benefit to pursue this. Overall, I consider that the case on viability grounds has been robustly analysed and that the scheme cannot make contributions towards local infrastructure. In taking advice within the NPPG into account, together with the substantial enhancements to the listed building that would arise, I consider in this instance that the development should not be refused due to lack of contributions towards local infrastructure.

Ecology

- 8.37 The applicant has submitted a number of ecological reports and surveys which identify that bat roosts are present in some trees on site, that there is a low population of slow worms and grass snakes, and that a barn owl nests on the site. A series of mitigation measures are proposed including alternative roosts within the site, to the satisfaction of the county ecologist.
- 8.38 The proposed development site is 2.6km from the Medway Estuary and Marshes and 1.6km from the Outer Thames Estuary. The developer has agreed to make a financial contribution towards the Borough-wide mitigation strategy (SAMMS) to protect the estuary and marshes. These contributions should ensure that the proposed development avoids likely significant effects on the designated sites due to an

increase in recreation. The proposal can therefore be screened out of the need for further assessment.

- 8.39 I am satisfied that the proposal has been designed to provide suitable mitigation to ensure no adverse biodiversity impacts would arise, in accordance with Policy DM28 of the adopted Local Plan.

Other Matters

- 8.40 Local Play – The Council's Greenspaces Manager recommends that a small amount of toddler play equipment is provided within the site, but that otherwise no on or off site provision is required. This can be achieved by using a planning condition.

9.0 CONCLUSION

- 9.01 The site is located within the built confines of Halfway, where development is generally accepted. The existing listed building on the site is in very poor condition and at risk, and the development would ensure the restoration of this building which would be a direct significant enhancement to the building. The additional new built form around the site would affect the setting of the building, but is well designed and related to the listed building and the limited harm that would arise would be outweighed by the direct enhancement to the listed building itself.

- 9.02 The scheme would relate well to other features within the site and to the surrounding area, and would be unlikely to cause any unacceptable impacts to surrounding neighbouring properties. Highway impacts are considered to be acceptable, as are ecology and tree impacts.

- 9.03 The scheme would not make a financial contribution to local infrastructure, but the submitted viability appraisal has been reviewed by the Council's consultant and it has been found that the scheme cannot support such costs. Whilst this is a disadvantage, government advice is that Local Planning Authorities should be flexible when viability issues are raised. The benefits of restoring the listed building also weigh significantly in favour of such flexibility.

- 9.04 The scheme is considered to be in accordance with the adopted Local Plan and I recommend that planning permission and listed building consent should be granted, subject to completion of a legal agreement to secure the SAMMS payment to mitigate against impacts on the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).

10.0 RECOMMENDATION

- A) That Planning permission (16/506181/FULL) is Granted, subject to completion of a legal agreement and subject to the following conditions.**

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

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

2) No development beyond the construction of foundations shall take place until the following details have been submitted to, and approved in writing by the Local Planning Authority:

- (i) A sample panel of the render(s) to be used (in its proposed colour finish, or relevant through-coloured form) on the north and south courtyard buildings;
- (ii) A sample of the natural slate(s) and any associated ridge and hip tiles to be used on the new buildings, and sample of the natural slate(s), any associated ridge and hip tiles to be used on the existing listed building
- (iii) A sample of the weatherboarding to be used (in its proposed colour finish) on the new carriage house building; and
- (iv) A sample panel of any replacement stucco to be used (in its proposed colour finish) on the listed building.

Reason : To ensure that the development be carried out in accordance with the approved details.

3) The development shall be carried out in accordance with the following approved plans: 15072 S101, P201B, P202C, P210A, P211A, P212, P213, P214B, P215A, P216A, P217C, P218, P220.

Reason: In the interests of proper planning.

4) No development shall commence until an Arboricultural Impact Assessment and Method Statement (to take into account the revised layout) has been submitted to and approved in writing by the Local Planning Authority. The statement shall include measures to protect existing trees to be retained on site and measures to deal with contamination within the root protection area of retained trees. The development shall be carried out in accordance with the approved details, and the approved tree protection measures shall be fully installed prior to the commencement of any development on the site, and retained on site for the duration of the construction.

Reason: To protect important trees on site, in the interests of visual amenity.

5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

7) Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be

accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

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

- 8) Prior to the first occupation of the development details of the implementation, maintenance and management of the sustainable drainage scheme shall be 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.

- 9) Prior to the commencement of development details of the means of foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

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

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

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

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

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

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

- 13) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
- 1) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - 2) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 1. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure contaminated land is dealt with appropriately.

- 14) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) a programme for the suppression of dust during any demolition works and construction of the development
 - (ii) The areas to be used for the storage of plant and materials on site;
 - (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (iv) Measures to guard against the deposit of mud and similar substances on the public highway

The development shall be carried out in accordance with the approved details.

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- 15) No development beyond the construction of foundations 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, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- 16) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 17) No development beyond the construction of foundations shall take place until a scheme for the provision of a toddler play area within the site, together with a scheme for the long term management and maintenance of the play area, has been submitted to and approved in writing by the Local Planning Authority. The play area shall be installed on site prior to first occupation of any part of the development, and retained thereafter in accordance with the approved details.

Reason: To ensure that the development provides sufficient facilities for children.

- 18) No development beyond the construction of foundations shall take place until a management plan for the communal areas within the site has been submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of responsibilities for management, and measures for the long term management and maintenance of the areas. The development and maintenance of the land shall be carried out in accordance with the approved details.

Reason: To ensure that the communal areas are properly managed and maintained.

- 19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority 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 and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 20) Prior to the occupation of any dwelling, measures to provide a secure pedestrian gated entrance to the south east corner of the site, and to secure the cycle storage area as shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage area and approved security measures shall be provided prior to the occupation of any dwelling.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- 21) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 22) The finished floor levels for the Northern and Southern Courtyard buildings and for plot 2 within the Carriage House building shall be no lower than 3.80m AOD.

Reason To minimise risk of internal flooding.

- 23) Prior to the first occupation of plots 23, 29 and 31, details of privacy screens to be erected to the balconies to minimise overlooking into the residential development to the south of the site shall be submitted to and approved in writing by the Local Planning Authority, and installed in accordance with the approved details. The screens shall thereafter be retained as approved.

Reason: To protect neighbouring amenities.

- 24) The development shall proceed in accordance with the reptile measures detailed within the EAD ecology letter dated 14th September 2016.

Reason: To ensure ecological matters are dealt with appropriately.

- 25) No development shall take place (including demolition) until a detailed Construction Ecological Management Plan for the removal of the trees and the demolition of the 1960s north and south wing extensions has been submitted to and approved in writing by the Local Planning Authority. The content of the Construction Ecological Management Plan shall include the:

- a) Purpose and objectives for the proposed works;
- b) Working method necessary to achieve stated objectives;
- c) Timings of works to ensure minimal disturbance to protected species;
- d) Provision for bat 'rescue' if animals are encountered;
- e) Provisions for reptile 'rescue' if animals are encountered;
- f) Extent and location of proposed works shown on appropriate scale plans;
- g) Persons responsible for implementing works.

The development shall be carried out in accordance with the approved details.

Reason: To ensure ecological matters are dealt with appropriately.

- 26) Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures including all species outlined in the Ecological Appraisal.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure ecological matters are dealt with appropriately.

- 27) No development beyond the construction of foundations shall take place until details of the location and design of the following ecological enhancement measures have been submitted to and approved in writing by the Local Planning Authority:
1. 15 x Schwegler Type 1A swift box;
 2. 5 x Schwegler Type 1B nest box;
 3. 15 x 1B stock Type B;
 4. 1 permanent barn owl box.
 5. The creation of one wildlife pond;
 6. Large basking bank for reptiles;
 7. Large hibernacula for amphibians.

The development shall be carried out in accordance with the approved details prior to first occupation of any unit.

Reason: To ensure ecological enhancements are secured.

- 28) Prior to the commencement of development details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To secure high quality communications infrastructure.

- 29) Notwithstanding the details shown on drawing no. P217 Rev. C, the piers dividing the parking bays shall be provided with angled straight or curved brackets close to their junction with the underside of the opening in accordance with a revised 1:25 part elevation and associated 1:1 or 1:2 plan section of the pier and bracket, that shall first have been submitted to and approved in writing by the LPA before any development beyond the construction of foundations.

Reason: In the interests of visual amenity and to preserve the setting of the listed building

- 30) Before any of the new residential units permitted are occupied, details of a scheme of heritage interpretation for the listed building, including details of the information to be provided, design of interpretation boards, siting, and measures to view the listed building (together with maintenance & management of the interpretation facility) shall be submitted to, approved in writing by the Local Planning Authority, and implemented in accordance with the details approved in relation to this condition. Thereafter the scheme shall be retained and maintained in accordance with the approved.

Reason: To enhance the significance of the listed building.

- 31) All windows and external doors shall be of timber construction and retained/maintained in timber thereafter.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 32) Before any development commences, 1:10 elevation details and 1:1 or 1:2 vertical and plan sections of each new/replacement window and door type to be used shall be submitted to and approved in writing by the Local Planning Authority. The sections to be provided shall show details of the head, jamb, cill/sub cill, glazing bar detailing, glazing section, timber or putty beading detailing, any trickle vent detailing, and in the case of external doors, framing, fanlight detailing, panelling, viewing window detailing, and detailing for any weatherboards to be used.

The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 33) Before any development commences, a colour scheme for all external joinery for the new and existing buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the colour scheme shall thereafter be retained and maintained in accordance with the details approved in relation to this condition.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

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

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 35) No satellite dishes or solar panels shall be erected or installed on any building.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 36) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site, other than those expressly approved under this planning permission.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 37) None of the residential units in the new buildings shall be occupied until (a) the works to the listed building have been carried out and completed in accordance with the approved drawings, and (b) the repair and reinstatement works to the curtilage listed boundary walls have been completed in accordance with the details approved under condition 5 of the corresponding listed building consent, unless agreed otherwise in writing by the Local Planning Authority

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

INFORMATIVES

- 1) Southern Water requests that the applicant contacts it to discuss the requirement for a formal application to; abandon a public sewer; provide foul and surface water drainage; and provide a water supply on 0330 303 0119. Should a sewer be found during construction the developer should contact Southern Water to discuss its requirements.
- 2) You are advised that adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- 3) (In relation to condition 30, you are recommended that the scheme should include the provision of two equally sized lava stone colour interpretation panels set flush into the brickwork either side of the viewing window. The text and illustrations to be shown on the panels is required to be provided as part of the submission of details for condition 6). The LPA also recommends the creation of a rectangular opening in the brickwork of the front boundary wall, which would be edged in a brick quoin detail to provide a well-presented modern intervention to the curtilage listed wall, and that the opening would be large enough to allow two persons to view the listed building in its new landscaped setting at the same time, but provided with painted (vertical) steel bars along its length to prevent possible unauthorised entry through the opening).

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 minor changes required to the application and these were agreed and submitted.

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

B) That Listed Building Consent (Ref: 16/506182/LBC) is granted, subject to the following conditions

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

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

- 2) Prior to any commencement, a detailed schedule of works for the conversion and extension of the listed building shall be submitted to and approved in writing by the Local Planning Authority. The schedule of works shall include a method statement detailing how the listed building will be protected from potential damage during the course of the demolition works to the attached modern extension. The works shall be carried out in accordance with the approved details.

Reason: To preserve and enhance the significance of the listed building.

- 3) Unless otherwise agreed in writing, no works shall take place to the listed building until the modern extension has been demolished in accordance with the method statement approved in relation to condition 2 of this consent.

Reason: To preserve and enhance the significance of the listed building.

- 4) The relocation of the curtilage listed carriage house building shall be carried out in accordance with a detailed schedule of works which shall have been submitted to and approved in writing by the LPA before any works commence. The schedule of works shall include a method statement detailing how (a) the partial demolition of the modern additions to the building will be demolished without harming the historic fabric, and (b) how the building will be practically relocated from its present to its proposed site.

Reason: To preserve and enhance the significance of the listed building.

- 5) Prior to the commencement of any works, a detailed schedule of repair and reinstatement works to the curtilage listed boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to any occupation of the listed building.

Reason: To preserve and enhance the significance of the listed building.

- 6) All works to the listed building and curtilage listed building and walls shall be carried out using matching materials and finishes, except as otherwise agreed in the required schedule of works detailed in the above stated conditions.

Reason: To preserve and enhance the significance of the listed building.

Habitats Regulation Assessment

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

The application site is located within the zone of influence of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take

appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

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

In considering the European site interest, Natural England (NE) 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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE 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) and; the strategic mitigation will need to be in place before the dwellings are occupied.

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England, I conclude that off site mitigation is required. On this basis and in accordance with the SAMM strategy, the applicant has agreed to contribute £281 per unit to address SPA recreational disturbance towards through strategic mitigation. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA. At this stage it can therefore be concluded that the proposals can be screened out for purposes of 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.



16/506181/FULL & 16/506182/LBC - Sheppey Court, Halfway Road, Minster ME12 3AS
Scale: 1:2500



PLANNING COMMITTEE 4 JANUARY 2018

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Brook Hall House, Waterham Road, Hernhill
APPEAL DISMISSED**

DELEGATED REFUSAL

Observations

In this decision the Inspector fully supported the newly adopted Local Plan policies for re-use of rural buildings.

- **Item 5.2 – Land on the west side of Spade Lane, Hartlip**

- Appeal A: APP/V2255/C/16/3165246
- Appeal B: APP/V2255/C/16/3165247
- Appeal C: APP/V2255/C/16/3165248
- Appeal D: APP/V2255/C/16/3165249
- Appeal E: APP/V2255/C/16/3165250
- Appeal F: APP/V2255/C/16/3165251
- Appeal G: APP/V2255/C/16/3165252
- Appeal H: APP/V2255/C/16/3165253
- Appeal I: PP/V2255/W/16/3165245

Appeals A and B ALLOWED – ENFORCEMENT NOTICE QUASHED

Appeals C to H NO FURTHER ACTION - ENFORCEMENT NOTICE QUASHED

Appeal I APPEAL DISMISSED

Observations

The Inspector has granted temporary planning permission for three years. Despite agreeing with the Council that the site was visually harmful and amounted to an unnecessary and harmful loss of best and most versatile agricultural land, he found in favour of the appellants, who Members may recall have occupied and developed this site in breach of several High Court Orders and an Enforcement Notice. His principal justification for doing so is that (my comments in italics):

- 1) The Council is wrong to rely on Brotherhood Woodyard as forming part of the range of pitches for gypsies/travellers within the Borough. *In doing so he takes a contrary view to Inspectors on appeals elsewhere, and to the Local Plan Inspector, who agreed that this site does amount to a gypsy/traveller site, and that it should be included as forming part of the supply of sites in the Borough. She agreed Policy DM10 of the now adopted Local Plan on this basis.*
- 2) The loss of Brotherhood Woodyard leaves a “substantial shortfall” in pitches

across the Borough over the Plan period. *It leaves a shortfall of 17 pitches over 14 years. This equates to just over one pitch per year. This is not “substantial”.*

- 3) The loss of Brotherhood Woodyard means that the Council cannot demonstrate a five year supply of pitches. *The Council can demonstrate a supply of 7 available pitches. The required five year supply figure is 7.*
- 4) The effect of dismissing the appeals would have been that the appellants would have been likely to resort to living by the roadside, with associated lack of access to health and education services. *The appellants themselves did not argue this – they stated in their grounds of appeal that a 12 month period to comply with the enforcement notice was sufficient for them to find an alternative site.*

Given the above, Members may share my frustration and dissatisfaction with this decision. I have referred the matter to Counsel for advice on the merits of challenging this decision in the High Court and will update Members at the Meeting.

- **Item 5.3 – 100 Station Road, Teynham**

APPEAL DISMISSED AND COSTS REFUSED

COMMITTEE REFUSAL – AGAINST OFFICER RECOMMENDATION

Observations

In this decision the Inspector has fully supported the concerns of Members on a scheme which did not contravene any specific policies and in which there was a fair degree of room for opinion. Officers feared that such an opinion might not be shared by all Inspectors and so suggested a carefully worded condition to safeguard the position. The Inspector rejected the Appellants claim for costs .



Appeal Decision

Site visit made on 14 November 2017

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: **1st December 2017**

Appeal Ref: APP/V2255/W/17/3177416

Brook Hall House, Waterham Road, Hernhill ME13 9JH

- 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 Martin Parsons against the decision of Swale Borough Council.
 - The application Ref, 16/507606/FULL dated 7 October 2016, was refused by notice dated 21 December 2016.
 - The development proposed is conversion of existing outbuilding into 1No dwelling house.
-

Decision

1. I dismiss the appeal.

Procedural Matters

2. The judgment in the High Court case of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited* [2017] EWHC 2743 (Admin) was issued after the site inspection but before the Decision was written. The judgment concerned the definition of 'isolated homes in the countryside' as referred to in paragraph 55 of the National Planning Policy Framework. Since the exceptions set out in the bullet points to that paragraph had been referred to by both of the parties in submissions to this appeal, opportunity was given for further submissions in light of the judgment.
3. A listed building consent application had been made for the works, on the basis that the building is curtilage listed along with the main house and this was also refused (Ref: 16/507607/LBC) but no appeal has been made on that refusal. Whilst the Council's Questionnaire to this planning appeal states at 13.a. that the development does not involve the demolition, alteration or extension of a listed building, this is plainly not the case. On the evidence, the building should be regarded as a curtilage listed building and hence a designated heritage asset.

Main Issues

4. With the above in mind, the main issues are;
 - The effect of the proposal on the aims of policy on development in the countryside.
 - The effect of the proposal on the significance of listed buildings.

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Appeal Decision APP/V2255/W/17/3177416

Reasons

Policy

5. Although referred to in the reasons for refusal as an emerging Plan, the Swale Borough Local Plan 'Bearing Fruits 2031' was adopted on 26 July 2017 and is therefore now part of the Development Plan. Policy ST1 seeks to deliver sustainable development that supports a prosperous rural economy, especially for sustainable farming and tourism and which accords with the Local Plan Settlement Strategy, which is set out in Policy ST3. That Strategy states that in the open countryside development will not 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, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The supporting text provides for some minor development for the social, economic or environmental health of a community, but this is not necessary to meet the Local Plan housing target.
6. The rural economy is the subject of Policy DM3 which states that planning permission for residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. The wording continues that proposals should firstly consider the appropriate re-use of existing buildings, and result in no significant harm to the historical, architectural, biodiversity, landscape or rural character of the area, among other matters. Valued landscapes are to be conserved and enhanced under Policy DM24, and Policy DM32 concerns the preservation of listed buildings.
7. Policy CP2 promotes sustainable development, with new development being located in accordance with Policies ST1 to ST7 which minimises the need to travel for employment and services and facilitates sustainable transport. Policy CP3 on delivering a wide choice of high quality homes makes clear that development proposals will, as appropriate, be steered to locations in accordance with Policy ST3.
8. The Council has published Planning and Development Guideline 3 'The Conservation of Traditional Farm Buildings' stated to have been adopted for development control purposes in December 1992. The council draw attention to the possible uses that such buildings could be put to; 'a community building, agricultural or other use, craft work shop/studio, farm shop, light business use, professional practice, recreation building, restaurant or tourist accommodation'. The Guidelines do acknowledge however that the most attractive alternative to agricultural use, from a purely commercial point of view, might be a residential use, but continues that this is seldom the best way to conserve the building in anything like its original form.
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
10. The Framework sets out the core planning principles that include recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, as well as the conservation of heritage assets.

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Appeal Decision APP/V2255/W/17/3177416

Paragraph 55 makes clear that new isolated homes in the countryside should be avoided unless there are special circumstances. Paragraph 132 of the same document states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Development in the Countryside

11. The Local Plan has only recently been found sound and been adopted and although the housing figures may have only a short life before being re-assessed as asserted by the appellant, the conclusion now is that the Council are able to demonstrate a 5 year supply of housing land as required by the Framework. The proposal is, as a result, not able to rely on paragraphs 49 and 14 of that document, although windfalls would be required, subject to compliance with the Development Plan.
12. The appellant has made a case in favour of permission by way on an exception in paragraph 55 of the Framework. The recent court case referred to under 'Procedural Matters' concerned a site that was within a village that did not have an adopted village envelope, and hence the site was within the countryside. The judgement was that the proposal in that case was not for a new isolated home in the countryside and the avoidance of such development in principle, together with the exceptions, did not apply.
13. The present appeal case concerns a building that is isolated from any settlement or significant cluster of built form, albeit associated with an existing home. There are a very limited number of other buildings nearby and the character of the surroundings, whilst heavily influenced by the main road, is of a remote rural area. The proposal should, as a matter of fact and degree, be considered as being for a new isolated home in the countryside, and consequently, the applicability of the exceptions should also be considered.
14. In fact only 2 of the exceptions at paragraph 55 could possibly apply to this case and that concerning redundant or disused buildings does not apply as the building is in a beneficial use as domestic storage. The other is where such development would represent the optimal viable use of a heritage asset.
15. The Council is critical of the location of the proposal for residential use, and its access to services, employment and the like. The location is adjacent to a busy main road, but the access onto and off it from Waterham Road is with the eastbound carriageway only and this fast dual carriageway road is not at all conducive to pedestrian use.
16. The appellant refers to a 'Spar' shop at the services to the east and it was noted that this is on the same side of the main road as the site. Access by car could be made by way of the poor turning onto the main road, but more safely by way of the longer Highstreet Road route, and the latter would be the best walking route. That shop would provide a range of day-to-day essentials, but with little choice and many weekly needs would be a car journey away. The site is not well-located and does not have ready access to a range of services other than with the likely use of a private vehicle. As a result, due to the location of the site the proposal does not accord with Policy CP2/6 on sustainable forms of transport, as the occupiers would be significantly reliant on a private vehicle for most journeys.

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Appeal Decision APP/V2255/W/17/3177416

17. The Council's clear preference is a tourism use and that would be in line with Policy ST1 and the traditional farm building Guidelines. Having mind to the proximity of the principal listed building and the nature of the surrounding area, that appears a more appropriate use than an employment one, which could involve more parking and activity that could undermine the tranquillity and rural isolation that is a significant aspect of the setting of the listed house particularly that part further from the main road. In the event, it is only a tourism use that has been addressed to any level of detail by the appellant with regard to viability.
18. Turning then to the viability appraisal for a tourism use, the capital costs may well be correct, as at least the total figure is broken down, whilst the revenue relies on 100% occupancy of each of the supposed 3 units. Such a high occupancy rate in this location does appear unrealistic, and although the building and its immediate setting is undoubtedly attractive, the surroundings militate against a premium rate being charged. However, there is little to compare the rate assumed with other premises on offer in the likely catchment area. The outgoings appear unusually high and are not justified.
19. No further information has been provided on which to judge the visual effect of such a tourism use, other than the appellant's assertion that it would be more harmful. The effect on the landscape quality, and the character and appearance of the area would likely differ between a tourism use and a residential one, particularly as it is clear from the appellant's submissions that a realistic occupancy rate for tourism would be less than as a full-time dwelling. The use of the curtilage and any items such as domestic paraphernalia could be more harmful with a residential use, but it is possible that there would be less parking and less vehicular movements. On balance the effect on the character and appearance of the area from the building becoming a full-time home as opposed to a tourism use would be only marginally more harmful, and weight applies to the present use and the activity that this must cause.
20. Taking all of the foregoing into consideration, it is not possible to conclude that the residential use as a new isolated home in the countryside would represent the optimal viable use of the heritage asset, as required by paragraph 55. Whilst it may well be the most advantageous financially, there are real doubts over the figures that purport to show the unviability of the tourism use, particularly the seemingly high running costs, and there is no evidence of market testing or compelling proof that the location is unsuited to such a use.
21. As a result, the exception in paragraph 55 has not been proved and the policies that seek to avoid the development of new homes in the countryside and which are in favour of sustainable locations should prevail. The proposal is contrary to the aims of Policies ST1, ST3, CP2 and CP3, as well as Paragraph 55 of the Framework.

Listed Building

22. The proposed residential use has been sufficiently detailed for this planning appeal, and the development would have little if any adverse effect on the external features of the curtilage listed building. The tightly drawn red-line site area with a post and rail fence and hedging delineating the proposed new curtilage would appear as an acceptable feature within the setting of the principal listed building and could be secured by condition.

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Appeal Decision APP/V2255/W/17/3177416

23. It is not possible to conclude whether or not the Council's preference for a tourism use would be more or less intrusive to the listed buildings due to there being no drawings of the works necessary, but subject to the grant of listed building consent, for which full internal details would be expected, the effect on designated heritage assets of the proposed residential use would be acceptable. The provisions of the test in the 1990 Act as well as the Framework are met and the proposal would accord with Policy DM32 and the guidance on traditional farm buildings.

Planning Balance and Conclusions

24. Those matters counting against the proposal are the countryside location and the poor accessibility with a likely reliance of vehicular journeys contrary to the Development Plan policies previously cited. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
25. Whilst an employment use appears unsuitable having regard to Policy DM3 and the heritage considerations, the viability evidence submitted against the policy-compliant tourism use is lacking in detail. The material consideration of the paragraph 55 exception, indicating a residential use contrary to the recently adopted Development Plan, should not prevail on that evidence. It is not possible to conclude that residential use is the optimal viable use of a heritage asset, as that phrase should not be taken to mean the most attractive alternative from a purely commercial point of view.
26. On the evidence presented, the case for residential use in the countryside as an exception to Development Plan and national policies of restraint, has not been made and for the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

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Appeal Decisions

Hearing Held on 31 October 2017

Site visit made on 31 October 2017

by **Paul Dignan MSc PhD**

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

Decision date: 15 December 2017

Appeal A: APP/V2255/C/16/3165246

Appeal B: APP/V2255/C/16/3165247

Appeal C: APP/V2255/C/16/3165248

Appeal D: APP/V2255/C/16/3165249

Appeal E: APP/V2255/C/16/3165250

Appeal F: APP/V2255/C/16/3165251

Appeal G: APP/V2255/C/16/3165252

Appeal H: APP/V2255/C/16/3165253

Land on the west side of Spade Lane, Hartlip, Kent ME9 7TT.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr S Maughan, Mr F Mongen, Miss J Doran, Mr J Mahoney, Mr J O'Driscoll, Mr P McCarthy, Mr M Maughan and Mr P Maughan against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 15 November 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agriculture to use as a residential traveller site (caravan site) comprising eight pitches with associated hardstanding, together with an access road.
 - The requirements of the notice are: (i) Cease the use of any part of the Land as a residential caravan site, including the stationing of any mobile homes or caravans in connection with that use; (ii) Remove from the Land all caravans, mobile homes, vehicles and other equipment brought onto the land in connection with the unauthorised use; (iii) Remove the post and rail fencing from the site located on the boundary of each plot; (iv) Remove the access road and all other hardstanding from the site; and (v) Reseed the resultant cleared areas from compliance with (iv) above with grass.
 - The period for compliance with the requirements is 12 months.
 - Appeals A and B are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended and the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered. Appeals C to H are proceeding on grounds (f) and (g) only.
-

Appeal I: APP/V2255/W/16/3165245

Land at Spade Lane, Hartlip, Kent ME9 7TT.

- 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 S Maughan against the decision of Swale Borough Council.
 - The application Ref. 16/506942/FULL was refused by notice dated 15 November 2016.
 - The development proposed is: Proposed private traveller site comprising 8 pitches, each with a mobile home, touring caravan and utility room together with access road.
-

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Appeal Decisions APP/V2255/C/16/3165246-53, APP/V2255/W/16/3165245

Decisions

Appeals A and B

1. It is directed that the enforcement notice be corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted, for a limited period of 3 years, on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the land from agriculture to use as a residential traveller site (caravan site) comprising eight pitches with associated hardstanding, together with an access road on the land shown edged and hatched black on the plan annexed to this decision, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Appeals C to H

2. Since the enforcement notice is quashed, I take no further action on these appeals.

Appeal I

3. The appeal is dismissed.

Preliminary matters

4. The appeals concern a piece of former pasture land in the countryside about 800m south of the A2 between the settlements of Rainham and Newington. The land is Grade 1 agricultural land and as such stands to be considered as best and most versatile agricultural land for National Planning Policy Framework (NPPF) purposes.
5. The land the subject of the planning application comprises a strip of 8 residential pitches with an access road running along the northern edge. The map annexed to the enforcement notice covers a larger area, showing additional land extending further to the south, as far as Meresborough Lane. As I understand it, one of the appellants owns the narrow paddock adjoining the pitches to the south, but none of the appellants have interests in the land further south. It was agreed at the hearing that it would be appropriate to amend the annexed map to show only the land occupied by the pitches and access road and the narrow adjoining paddock as being subject to the enforcement notice. This can be done without prejudice to any of the parties.
6. The amended enforcement notice land was the subject of an application for 2 traveller pitches in November 2013. That application was dismissed at appeal¹ in September 2014. In that case the proposed pitches were to be sited close to Spade Lane, with the highway access roughly mid-way along the road frontage.

Appeals A and B ground (a) and Appeal I

7. An appeal on ground (a) is that planning permission should be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice. The appeals are accompanied by deemed planning applications. Appeal I also seeks planning permission for the development of

¹ Appeal Ref. APP/V2255/A/14/2220447

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some of the land the subject of the notice. The main difference between the development the subject of the deemed planning applications and the development for which planning permission was refused is the inclusion of 8 utility buildings (each 6.8m long, 3.7m wide with a ridge height of 3.4m).

8. Having regard to the reasons given for issuing the notice and for refusing planning permission I consider that the main issues in these appeals are the effect of the development on the character and appearance of the rural area, the loss of best and most versatile agricultural land, the effect on highway safety, and whether there are other material considerations in favour of, or opposed to the appeals, and if so, the weight that I should attach.

Planning Policy

9. Over the course of the appeals the emerging Swale Borough Local Plan 2017 – “Bearing Fruits 2031” (SBLP) was under examination. The Examining Inspector’s Report, which found the plan to be sound, subject to a commitment to early review, was published in June 2017, and the plan was formally adopted by the Council in July 2017. The previous Local Plan (The Swale Borough Local Plan 2008) was therefore superseded.
10. Relevant SBLP policies include Policy ST3, which seeks to direct new development to suitable settlements, using a tiered approach. In the open countryside it aims to restrict development to that supported by national planning policy and able to demonstrate that it would contribute to protecting or enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside. Policy ST3 is to be read in conjunction with Policy DM10 when considering gypsy and traveller provision. Applications for new sites must consider the availability of sites at each tier of settlement category before a site in the next lower tier is considered. This policy is consistent with the locational criteria set out in Planning Policy for Traveller Sites (PPTS) which advises that ‘authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or areas allocated for development’. Whilst this policy guidance does not present an absolute restriction on the location of new gypsy and traveller sites in the countryside, the general thrust of the policy goes against such development in spatially isolated locations. Policy DM10 safeguards existing traveller sites and sets out criteria against which applications for traveller sites will be assessed. Amongst other things it expects proposals to demonstrate that they are not of a scale that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape or the capacity of local services, and can achieve safe vehicular access. Policy DM24 is also relevant in that it seeks to minimise adverse landscape impacts. Where significant adverse landscape impacts remain after mitigation, the social and economic benefits of a proposal must significantly and demonstrably outweigh the harm to the landscape character and value of the area.
11. In respect of development involving best and most versatile agricultural land (BMV), NPPF paragraph 112 indicates that economic and other benefits of BMV should be taken into account, and where significant development is demonstrated to be necessary, areas of poorer quality land should be preferred.

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Character and appearance

12. The appeal site is within a relatively flat roughly rectangular block of countryside bounded by the A2, Spade Lane to the east, South Bush Lane to the west, and Meresborough Lane to the south. It was undeveloped grazing land prior to the appeals development. As I understand it, the block was gifted in parcels to returning servicemen after the first World War, who were permitted to build houses on the South Bush Lane side. South Bush Lane now has sporadic housing along both sides, while residential development on the Spade Lane side is infrequent and confined to the eastern side of the lane. There are some larger developments alongside the A2, including a large cold store and car dealers, but Spade, South Bush and Meresborough Lanes are narrow single track country lanes with a rural character. Hedgerows along the lanes are thin or sporadic, allowing frequent open views across the block of countryside, which itself is generally open. The prevailing character in the vicinity of the appeal site is distinctly rural.
13. The appeal development is highly visible from a number of public viewpoints in the surrounding area, including a public footpath running across the block to the north. It extends away from Spade Lane for a distance of about 240m, almost all the way across the block to South Bush Lane, and is visually prominent and discordant. It appears as an incongruous and urbanising feature in what is an otherwise relatively undeveloped rural landscape. Completion of the development as proposed would see additional structures and paraphernalia that would increase its prominence. The site as it stands is starkly discordant in this rural setting and I could see little scope for satisfactorily integrating or assimilating it into the landscape. The significant planting that would be required to effectively screen the site would itself appear incongruous and out of keeping with the open rural character, notwithstanding that it would serve only to hide the development and would thus be contrary to good practice in any case.
14. The Inspector in the 2014 appeal was dealing with a much smaller and quite compact development which included significant landscaping, but he considered that that development would represent "a significant scale of development that would radically change the character of the appeal site. It would introduce a distinct urbanising element that would be alien and incongruous within the landscape and would be prominent from a number of viewpoints around the site, particularly in the winter months." The extent of harm to local character that results from this appeal development is considerably greater, due to the larger scale and the unsympathetic layout. The significant harm that it causes to the landscape and character of the area conflicts with SWLP Policies ST3, DM10 and DM24.

Loss of agricultural land

15. The development involves the loss of an area of land BMV in the highest category. The NPPF indicates that the economic and other benefits lost must weigh in the balance against the development. The appellant has suggested that there is no shortage of BMV in the area, but the relevance of that relates to the availability of lower quality land since BMV is a national resource. Apparently some 70% of farmed land in the Borough is BMV, the non-BMV land being largely confined to the Kent Downs AONB to the south and the Isle of Sheppey, with their attendant development issues. This suggests that there

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would be some difficulty at least in locating suitable non-BMV land for development of this type, reducing the weight that should be afforded to the loss of a finite resource. This is tempered however by the lack of any evidence that alternative sites were considered.

Highway safety

16. This matter concerns the adequacy of visibility splays at the site entrance. The Highway Authority puts the design speed (85th percentile) at 30mph, and this is not disputed. The appropriate visibility splay at the site entrance is 2.4m by 45m, by reference to Manual for Streets 2. This can be achieved to the south on land within the appellants' ownership. However, to the north towards the A2 the visibility splay falls short of 45m and it crosses private land, the adjoining field, over which the appellants have no control. At present the field boundary along the highway is a post and wire fence through which oncoming traffic can be seen from about 25-30 m, but there is some vegetation inside the fenceline, blackthorn and a field maple, which would significantly reduce visibility as it grows, to the extent that use of the existing entrance would become prejudicial to highway safety, in my view. Without vegetation control on this adjoining land, which cannot be secured, the development would be potentially harmful to highway safety and thus contrary to SBLP Policy DM10.
17. The 2013 planning application addressed this matter by proposing that access to the site be taken from about mid-way along the site frontage, and this was considered acceptable by the Highway Authority, the requisite visibility splays being achievable on land controlled by the appellant. The appellants in this case have argued that the highway safety issue could be resolved by conditioning any planning permission to secure this alternative access to the site with appropriate visibility splays.
18. It was not disputed that safe highway access in this way could be achieved by condition, but the Council and other objectors consider that it would not be possible to amend the site layout at this stage. I disagree. The primary nature of the breach of planning control, and the basis of the planning application, is the change of use of the land. The existing boundary treatment along the road frontage is post and wire fencing with recently planted hedging behind. Changes to this, combined with closure of the existing access and changes to the internal layout, can be controlled by condition and would have negligible, if any, effects on the character and appearance of the area, or any other planning matters save for highway safety. The *Wheatcroft*² judgement was raised, but I consider that no parties interests would be realistically or genuinely prejudiced by my considering the appeals on the basis of an access that has already been considered by the Council recently, and that has been open to public consultation, albeit in the context of the 2013 application. It does not, in my view, change the development so much that those who should be consulted have been deprived of a proper opportunity to be consulted.
19. I am satisfied therefore that the harm to highway safety due to the present access, and the conflict with SBLP Policy DM10, can be overcome by condition.

² Bernard Wheatcroft v Secretary of State for the Environment [1982] P & CR 233

*Other considerations*The need for, and provision of, traveller sites and the availability of alternative sites

20. PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. The Council's current position is that it has met the need identified in its *Update Paper on GTAA and policy implications* (GTAA Update), which re-evaluated the need for traveller pitches established in the *2013 Gypsy, Traveller and Travelling Showpeople Accommodation Assessment: Swale* (2013 GTAA) in the light of the new definition of traveller in the 2015 version of PPTS. The GTAA Update used re-analysis of the 2013 GTAA data rather than new survey work, and has been criticised accordingly. However, criticism of the Update Paper was considered by the Local Plan Inspector during the recent examination. She found that the Council's evidence update, which included the GTAA Update and a *2014/15 Update of Gypsy and Traveller Land Supply*, provided a well-reasoned and pragmatic solution to ensure that the plan aligns with up to date policy on Gypsy and Traveller Sites. At that time the GTAA Update established need was for 61 pitches to 2030/31. The Council's position at the hearing was that 63 pitches have now been granted planning permission, of which 56 have been implemented, with the other 7 still capable of being delivered and therefore counting towards supply. In short, it has met its identified need.
21. I acknowledge that there are difficulties that inevitably arise where the identified need is claimed to be met so early in the plan period, including household formation and in-migration in the remaining plan period, but I do not propose to rehearse the criticisms of the GTAA Update here. Those criticisms have been considered in the recent Local Plan examination, and the Council has in any case already commissioned a new assessment of need, with survey work expected to commence this winter.
22. A specific ongoing issue was raised however concerning one of the larger sites in the Borough, Brotherhood Woodyard, where permission for 19 pitches was granted in the relevant period. It seems that the site layout was not in accordance with the permission, and there were allegations that the occupants of the pitches, which exceeded the 19 permitted, did not meet the PPTS definition. The response to a Planning Contravention Notice issued last year stated that all of the relevant pitches are now occupied by travellers, but there remains the outstanding issue of its suitability for travellers actively pursuing a nomadic way of life. In essence, the site is currently dominated by static caravans with no room for touring caravans and no day rooms. The Council has opened an enforcement case and there is currently negotiation on a revised planning application, which seeks to increase the number of pitches.
23. It seems to me that the Council is being pro-active and is well advanced in its approach to resolving the planning issues at Brotherhood Woodyard. However, the site makes up a large proportion of the identified need, and the evidence I heard suggests that there must be considerable doubt that the site is at present genuinely meeting the identified needs of travellers who meet the PPTS Annex 1 definition. In the light of this I consider that it would be reasonable

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and appropriate to take a precautionary approach and disregard the contribution made by this site to meeting the identified need. This leaves a substantial shortfall over the full plan period and, on the balance of probability, in the 5 year supply, as discussed further below. These are matters which carry significant weight in favour of the appeal.

24. Of the 7 pitches which are in the current supply, 5 are on private family sites and the other is an outline permission only at this stage. While theoretically available to the appellants, the pitches on family sites are, in reality, specifically for household formation for the families concerned and as such are not realistic alternatives available to the appellants. Similarly, the outline permission is not an available site, for obvious reasons. These aside, no alternative sites have been identified by the Council, and there are long waiting lists for the public sites in Kent as a whole. The lack of available alternative sites is therefore a matter that weighs in favour of the appeal development.

Sustainability issues

25. Accessibility to local services is a matter that bears on the sustainability of any residential development in the countryside. In this case there are reasonably large towns nearby which provide a good range of services. Travel to these towns by foot or cycle would not be difficult, albeit parts of any journey would be on narrow poorly-lit country lanes or cross-field public footpaths. Indeed the occupants of one of the pitches do not have a car and regularly walk to Rainham for shopping and other trips. Nonetheless, I agree with the view of the previous Inspector that many journeys to access services and facilities would be by car, and hence the development, by virtue of its location, would not promote sustainable transport. Having said that, traveller sites in rural areas are envisaged by PPTS, and it recognises that traditional lifestyles, whereby some travellers live and work from the same location thereby omitting many travel to work journeys, can contribute to sustainability. Further, the NPPF notes that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. On balance I consider that the site location, so far as it relates to the need to travel by private car, does not weigh for or against the development.
26. PPTS also cautions against traveller sites that, by virtue of scale, may dominate the nearest settled community. The nearest settled community is not defined, but I consider that it must extend beyond the sporadic housing along Spade, Meresborough and South Bush Lanes. In this context, notwithstanding that the unauthorised nature of the development has evidently caused tension in the surrounding area, I consider that 8 traveller pitches would not be likely to dominate the nearest settled community.

Personal considerations

27. The pitches are occupied by related Irish Travellers who say that they have travelled together on and off for a number of years. On the evidence put to me, on balance, I am satisfied that the appellants have a nomadic habit of life and are travellers as defined in Annexe A of the PPTS.
28. The 8 pitches are occupied by individual families or family groups, totalling about 18 adults and 12 children at the time of the hearing. A number of the adults on the site have health problems and would benefit undoubtedly from stable access to health services. Some have indicated that they have been

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reluctant to establish relationships with health professionals because of the possibility of having to move on, and they attribute some of their health problems to the lack of a settled base. The older children on the site appear to have had very unsettled education, but 3 of the younger children are attending primary school at present, 2 locally, and 2 others are below school age. Some of the older children wish to attend college or further education.

29. Poor access for travellers to health and education is one of the problems that PPTS seeks to address through the provision of settled bases that reduce the need for long-distance travelling, enable access to appropriate health services and that allow children to attend school on a regular basis. Ms Clarke's view is that the lack of a settled base has contributed to the appellant's health problems and poor education outcomes. She also emphasised the value of support within large family groups. Living arrangements whereby extended families live together and provide mutual support is characteristic of the traveller way of life, and in this respect the development would be consistent with the Government's aim of facilitating travellers' traditional and nomadic way of life.
30. In view of the situation regarding alternative sites, it is very likely that on leaving the site some or all of the current occupiers would have to resort to a roadside existence. Roadside camping can have adverse environmental impacts and is known to create disharmony between the travelling and settled community. Furthermore, in addition to the general health problems associated with roadside living, which are well documented, the education prospects of the children living on the site could be seriously compromised. These are all matters to which I attach significant weight.

Intentional unauthorised development

31. It is now government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. There can be little doubt that the appeals development falls into this category. Before the appellants started to prepare the site for occupation the Council sought an injunction to prevent anticipated unauthorised development. The injunction was granted and a copy attached to the gate. The appellants claim not to have seen it, but it was brought to their attention by the Council shortly after they started to develop the site. Since then I understand that further injunctions intended to prevent further development or site occupation have been ignored, and contempt proceeding brought successfully. There is currently a High Court injunction which allows for the conclusion of the planning appeal, requiring the site to be cleared and vacated within 2 months in the absence of a grant of planning permission. Even while this injunction has been in place it appears that there has been further development of the site, including the installation of pipework and septic tanks. Clearly this policy applies to the present development, and accordingly this must weigh against the appeal.

Planning balance

32. At the onset of considering the issues in the planning balance I have borne in mind the duty placed on me within the Public Sector Equality Duty. I have also considered the best interests of the children as a primary consideration.

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33. The development is significantly at odds with the character of the local landscape and countryside, contrary to the development plan, and it results in the loss of BMV. I attach very substantial weight to this harm, and further moderate weight against the development arises from its unauthorised nature.
34. On the other side of the balance there are a number of factors that weigh in favour of planning permission. These include the unmet need for sites in the Borough, and indeed further afield, the Council's failure to demonstrate a 5-year supply of deliverable sites, the lack of any alternative site, and the personal circumstances of the site occupants, including the interests of the resident children which would be best served by enabling them to have a settled base. These carry substantial weight, particularly since a consequence of refusing planning permission is that those living at the appeal site would become homeless. However, I consider that these matters do not outweigh the harm identified and that a permanent planning permission should not be granted.
35. In the context of a temporary permission the overall harm is time-limited and therefore considerably less, and PPTS advises that the absence of a 5 year supply of deliverable sites, as is the case here, should be a significant material consideration when considering applications for a grant of temporary planning permission. There is a high likelihood that circumstances in the Borough will change in the next few years. There is a planning application for Brotherhood Woodyard which seems likely to deliver at least some traveller pitches, and there is the existing situation regarding needs assessment. The local plan Examining Inspector found the GTAA Update to be adequate to move forward on, but only with the comfort of an early review. The situation is likely to be clarified and brought up to date with the programmed needs assessment already commissioned and due to commence. Amongst other things the needs of the site occupants will obviously be taken into account. I consider therefore that there is a reasonable likelihood of alternative sites becoming available in the foreseeable future, and in these circumstances I consider that the balancing of harm and benefits falls firmly in favour of a grant of planning permission for a limited period of 3 years, after which the need and supply situation should be up to date and available for consideration in the early review of the local plan. Restricting permission to a temporary period would still represent an interference with the rights of the occupants under the Human Rights Act 1998. However, taking into account all material considerations, I am satisfied that this interference is necessary and proportionate in the circumstances.

Separate conclusion on Appeal I

36. The difference between Appeals A and B, the enforcement notice appeals, and Appeal I, the appeal against the refusal of planning permission, is the inclusion of 8 utility buildings in the planning application proposal. The erection of the proposed buildings would add significantly to the extent of operational development on the site, which in turn would significantly increase the level of harm to the character and appearance of the area. I consider that this further harm would tip the balance against a grant of temporary planning permission. It is open to me to make a split decision, permitting the temporary change of use and refusing permission for the utility buildings. However, since I will grant permission on the deemed planning application for the development the subject

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of the enforcement notice, rather than granting 2 separate permissions I consider it appropriate to dismiss the planning application appeal, Appeal I.

Conditions

37. In view of the material considerations relevant to these appeals it is necessary to restrict future occupation of the site to gypsies and travellers. The personal circumstances of the occupants have contributed to my conclusions, but they are not so exceptional as to warrant the imposition of a personal condition. The permission is for a temporary period of 3 years and a condition shall be imposed to reflect this and to ensure removal of the caravans and other items, and to secure the restoration of the site, at the end of the period. In the interests of the character and appearance of the site and surrounding area, of highway safety, and to safeguard residential and visual amenity, I shall impose a condition requiring the submission of a Site Development Scheme, covering the internal layout of the site, including alterations to the site access as discussed above, the position of the caravans, the extent of internal fencing, hardstanding, parking and amenity areas, external lighting, surface water and foul sewage disposal, landscaping and boundary treatments, including details of all trees to be retained on the site and measures for their protection, and a scheme for restoration of the site. For clarity, it was brought to my attention at the hearing that at least part of the site is in a designated groundwater protection zone where septic tanks may not be an appropriate foul sewage disposal solution, so this matter will need to be addressed in the Site Development Scheme. I shall also limit the number of pitches and the number of caravans on each pitch, preclude commercial activity and regulate the keeping of commercial vehicles on the site in the interests of local character and amenity.

Overall conclusions

38. For the reason set out above, and having considered all other matters raised, I conclude that Appeals A and B should succeed and that planning permission, for a limited period of 3 years, should be granted on the deemed planning application. Appeal I is dismissed.

Appeals A-H grounds (f) and (g)

39. As a result of the grant of planning permission the enforcement notice is quashed and the appeals on these grounds require no further action.

Paul Dignan

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Alison Heine	Heine Planning Consultancy
Diane Clark	Independent Social Worker
F Mangan	Site occupant
M Maughan	Site occupant
J Mahoney	Site occupant

FOR THE LOCAL PLANNING AUTHORITY:

Rob Bailey	Area Planning Officer
Shelley Rouse	Senior Planning Officer, Policy
Graham Thomas	Area Planning Officer

INTERESTED PERSONS:

Heather Stevens	Kent Legal Services
Phillip Hughes	PHD Planning, representing Hartlip Parish Council and local residents
David Clarke	Landscape consultant, instructed by Mr Hughes
Cllr Gerry Lewin	Ward Councillor, Swale Borough Council
Cllr John Wright	Ward Councillor, Swale Borough Council and Hartlip Parish Council

DOCUMENTS

- 1 Council's site inspection note of 20 October 2017
- 2 Council's updated master list of traveller sites
- 3 Letters of support – appellants
- 4 Extract from Local Plan – Indicative Map of Accessibility to Services
- 5 Statement of Common Ground
- 6 Application plan for 2013 proposal – Ref. SW/13/1485
- 7 Note on need for sites – Alison Heine
- 8 Latest iteration of layout plan for Brotherhood Woodyard planning application (Ref. 17/502338/FULL)
- 9 Submission in respect of current Brotherhood Woodyard planning application - Shelley Rouse
- 10 Comments on Brotherhood Woodyard planning application – Alison Heine

SCHEDULE OF CONDITIONS

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
2. The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
3. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation. The Site Development Scheme shall include details of: alterations to the site access in line with the details submitted with planning application Ref. SW/13/1485; the internal layout of the site, including the siting of caravans; areas for vehicular access and turning and manoeuvring; proposed and existing external lighting on the boundary of and within the site; the means of foul and surface water drainage or disposal; areas of hardstanding; fencing and other means of enclosure; hard and soft landscaping including details of species, plant sizes and proposed numbers and densities; and details of the condition of the land before the development took place and the works necessary to restore the land to that condition, or some other state as agreed with the local planning authority, and the time period within which the restoration works must be undertaken,
 - ii) within 6 months of the date of this decision the Site Development Scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable, and works comprised in the scheme shall be thereafter retained for the duration of the development.

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5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.
6. No commercial activities shall take place on the land, including the storage of materials.



Enforcement Notice Plan

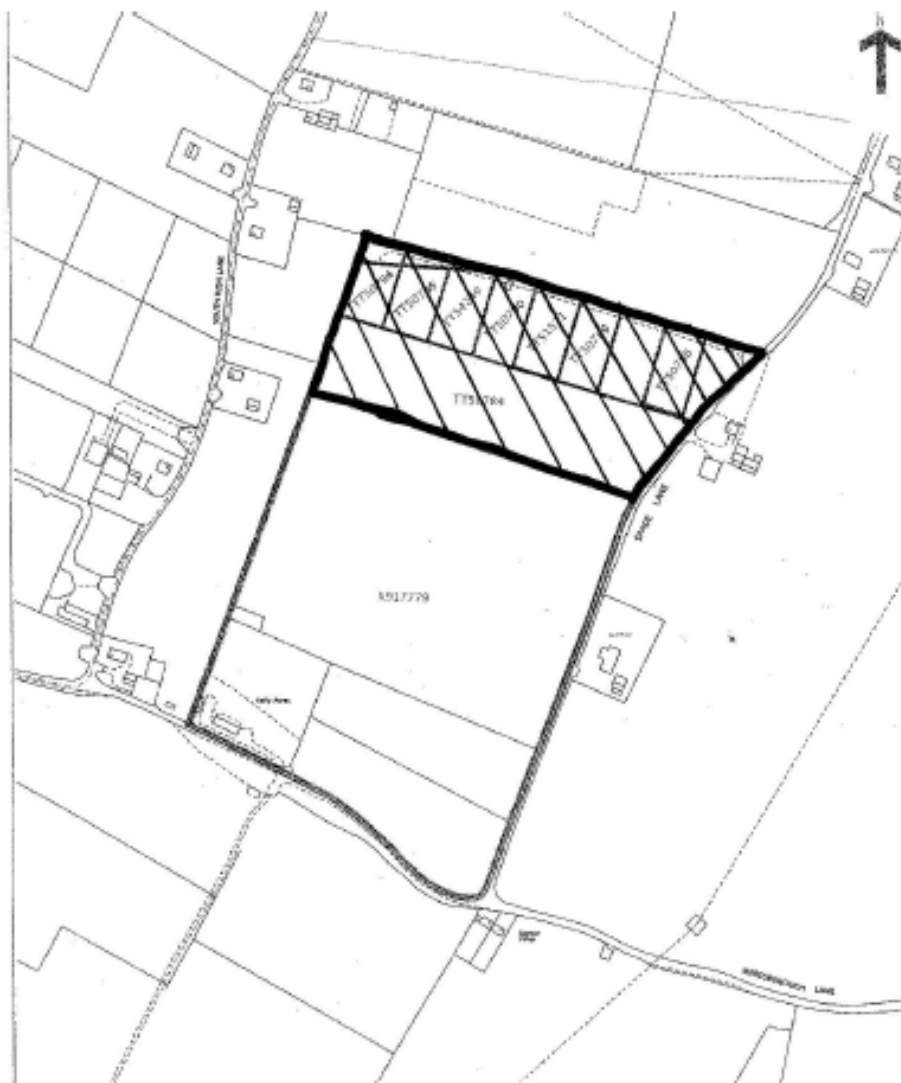
This is the plan referred to in my decision dated: 15 December 2017

by Paul Dignan MSc PhD

Land on the west side of Spade Lane, Hartlip, Kent ME9 7TT

References: APP/V2255/C/16/3165246-53

Scale: No Scale



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Appeal Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

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

Decision date: 13th December 2017

Appeal Ref: APP/V2255/W/17/3177002

100 Station Road, Teynham, ME9 9TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs D Hogben against the decision of Swale Borough Council.
 - The application Ref 16/506288/OUT, dated 8 August 2016, was refused by notice dated 19 December 2016
 - The development proposed is residential development with all matters reserved.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs D Hogben against Swale Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The effect of the development on
 - the character and appearance of the area, and
 - the living conditions of occupants of surrounding residential buildings, with particular regard to whether or not there would be an unacceptable overbearing effect, loss of light or privacy arising from the proposed development.

Procedural Matters

4. Outline planning permission is sought, with all matters reserved. Nevertheless, a layout plan and details of the dwelling were submitted with the planning application. These were amended during the course of the application and both sets of plans were taken in to account by the Council in its decision as an illustration of how the future development of the site may be carried out. I shall also have regard to both sets of plans, on the same basis, in determining this appeal.
5. Following the decision the Council have adopted the Swale Borough Local Plan 'Bearing Fruits' 2031 ("Local Plan"). The Council have confirmed that policies CP4 and DM14 are the Local Plan policies relevant to the main issues in the appeal. Policies E1 and E19 of the Swale Borough Local Plan 2008 are no longer

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part of the development plan and have no weight. I have dealt with the appeal accordingly. The appellant has had the opportunity to comment on the Local Plan policies in the course of this appeal.

Reasons

Character and Appearance

6. No.100 is located within a group of semi-detached dwellings along Station Road. I observed that these buildings have a uniform layout and appearance, and pattern of spacing between them. Amber Close is one of a number of cul-de-sacs that lead off Station Road, exhibiting a similar arrangement of semi-detached pairs. I observed that, in common with other corner properties within the group, there is a substantial garden area between the side elevation of No.100 and the edge of Amber Close which forms its north eastern boundary.
7. This arrangement means that the respective side elevation of the corner properties facing Station Road broadly align with the mass of the buildings facing the cul-de-sacs immediately to their rear. This appears to be a feature of the layout of this part of the housing estate. It leaves significant visual space around the respective corners, which consequently provides an open setting for the cul-de-sacs behind, including Amber Close. Whilst some of the equivalent corner properties had been extended in to their side garden areas, these extensions were not of a bulk or scale that had diminished the prevailing relationship between the corner properties and the respective roads to which they adjoin. Whilst these garden areas were enclosed with various fences and walls, such boundary treatments had not diminished the open character of the respective garden areas.
8. The partitioning of the side garden area in to a separate plot, together with the construction of a dwelling within it, as shown on the illustrative plans, would therefore depart from the prevailing pattern of development found within this group of buildings. It would infill an existing undeveloped area on the corner, thereby diminishing the open setting of Amber Close in relation to Station Road. This loss of visual openness would be to the detriment to the prevailing symmetry exhibited by the group of buildings within which the development would be located.
9. Whilst the appellant contends that the large side garden to No.100 represents the low density estate planning of the era in which it was built, for the reasons set out above I consider that the undeveloped space performs an important role in providing an open setting to Amber Close. The total plot size of the proposed dwelling could be similar to others on the estate, however, this would not justify the proposal given the effect the development would have on its surroundings.
10. I therefore conclude the development would result in harm to the character and appearance of the area. The development conflicts with policy CP4 of the Local Plan and paragraph 58 of the National Planning Policy Framework (the Framework) which require new development to be appropriate to its surroundings, and to promote and reinforce local distinctiveness. In coming to this view I have had regard to both sets of illustrative plans submitted. Whilst the application is in outline with all matters reserved, these plans fail to provide evidence that an acceptable scheme could be advanced at the reserved matters stage.

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Living conditions.

11. Concerns are raised by the Council and third parties that the bulk of the building would be overbearing in relation to the surrounding properties to the rear along Amber Close, and would lead to a loss of light and overlooking. However, both sets of illustrative plans demonstrate that the bulk of the new building could be aligned with No.100 and set a similar distance away from the respective properties. Were this to occur, the physical bulk of the building would be located a substantial distance away from the nearby properties on Amber Close. In consequence, it would not appear overbearing from these locations, nor would it result in any significant loss of light to these residential properties.
12. I observed that there is already an environment of mutual overlooking between the properties facing on to Amber Close. In this context, subject to the building being sited an acceptable distance away from the common boundary, any additional overlooking from the proposed development would not result in material harm. The site is set well away from the respective garden area and side elevation of No.102 Station Road, across Amber Close, and the development would not therefore appear overbearing, lead to any significant loss of light, or otherwise result in an unacceptable loss of privacy in respect of this residential property.
13. I therefore conclude that there would be no unacceptable harm to the living conditions of the occupants of existing residential buildings through any overbearing effect, loss of light or privacy as a consequence of the proposed development. There is no conflict with policy DM14 of the Local Plan which requires new development to cause no significant harm to amenity and other sensitive uses or areas.

Other Matters.

14. The illustrative plans show that two off street parking spaces would be provided for the new dwelling, together with two further spaces for No.100. Concern is expressed regarding the effect of the development on the demand for parking within the local area, and highway safety given the possible access arrangements associated with the proposed dwelling. In the event that the principle of development is found to be acceptable, access to and from the site would be a reserved matter, at which point the highway safety implications of any proposed access could be given full consideration. In broad terms however, I observed that Station Road and Amber Close are residential streets that do not experience high volumes of traffic. On the evidence before me, I consider that they could in principle safely absorb any additional on street parking demand and vehicular movements associated with one additional residential unit. The enforcement of existing rules relating to parking along Amber Close is a matter for the relevant highway authority.
15. The proposed development would deliver a new family sized residential dwelling which would meet a housing demand in the local area. It would be located in an existing village with a wide range of local services and public transport links. It would create jobs within the construction process, and future residents are likely to use and contribute to local businesses and services as well as raising tax revenue for the Council. However, the matters weighing in favour of the scheme, including the scope of possible planning conditions, do not outweigh the harm I have identified in relation to the character and

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appearance of the area, and the conflict with the development plan in this regard.

16. For the reasons set out above, I have found that the development would conflict with up to date development plan policies and the relevant parts of the Framework on the first main issue in this appeal. I have had regard to the presumption in favour of sustainable development, as set out in the Framework, in dealing with this appeal.

Conclusion

17. I have found that the proposed development would be acceptable in terms of its effect on the living conditions of the occupants of surrounding residential buildings. However, it would result in unacceptable harm to the character and appearance of the area. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

Neil Holdsworth

INSPECTOR



Costs Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

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

Decision date: 13th December 2017

**Costs application in relation to Appeal Ref: APP/V2255/W/17/3177002
100 Station Road, Teynham, ME9 9TB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs D Hogben for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for residential development with all matters reserved.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance ("PPG") advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that local planning authorities are at risk of an award of costs if they; prevent or delay development which should clearly be permitted having regard to the development plan, national policy and any other material considerations; fail to produce evidence to substantiate each reason for refusal on appeal, and if they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or refuse planning permission on a planning ground capable of being dealt with by conditions where such conditions would enable the development to go ahead.
3. The appellant considers that the Council failed to provide evidence to support its position that the proposed development would harm the character and appearance of the area and the living conditions of the occupiers of surrounding buildings. The reason for refusal is considered to be vague, generalised and unsubstantiated; and rooted in concerns that could be overcome by planning conditions.
4. However, the single reason for refusal does clearly set out the two issues which form the basis of the Council's objections to the development. Furthermore, it identifies the policies within the development plan applicable at the time the decision was taken, and where there was found to be conflict. My decision makes it clear that I agree with Council Members decision on the effect of the development on the character and appearance of the area.

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5. Whilst brief, the information provided by the Council in its decision notice is sufficient to understand the basis of its concern with the proposal on the two main issues in the appeal. On the first main issue, its appeal statement elaborates on the reason for refusal by identifying that the proposal would "result in the loss of the open aspect of Amber Close". With regard to the second main issue, concerns are set out to the effect that the development would have an "overbearing effect on the area".
6. The application was submitted in outline with all matters reserved. Whilst indicative plans were submitted, the final appearance of the building was not known at the time the decision was taken. As such, criticism of the development would inevitably focus on the principle of development. Provision of a detailed analysis of the prevailing pattern of development, or other illustrative material explaining its position on the two main issues is not essential to explain its reason for refusal. Whilst it was brief, I consider that the Council's position was nonetheless set out with sufficient clarity in its decision notice and appeal statement.
7. The report to planning committee suggested a number of planning conditions that would, in the officer's view, make the development acceptable in planning terms. However, it is clear that Members took a different view on the principle of development, which led to the refusal of planning permission. The nature of planning conditions is such that they rely on the acceptance of the principle of development, which was not apparent in this case.
8. In its appeal statement the Council draw attention to highway safety concerns expressed by Members at the committee meeting. This was not identified as a reason for refusal. The Council have clarified that this was an account of the discussion that took place between Members at the committee meeting, and not an attempt to introduce a further reason for refusal at the appeal stage.
9. Members do not have to accept the advice of officers, and in this instance a decision was made that the proposed development would be unacceptable. The reason for refusal related to valid planning reasons which were articulated sufficiently for the purposes of participating in the appeal. In consequence, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

Neil Holdsworth

INSPECTOR

By virtue of paragraph(s) 5, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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