

REFERENCE NO - 15/503291/FULL		
APPLICATION PROPOSAL Construction of a 3-bedroom 2 1/2 storey house with detached single garage and laundry room and parking spaces		
ADDRESS 59 The Leas Minster-on-sea Kent ME12 2NL		
RECOMMENDATION: GRANT subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development is acceptable in principle being in an established settlement and would amount to sustainable development therefore. The proposed dwelling, although of a different design to the properties along The Leas and Seaside Avenue, would add to the mix of house types which display different roof pitches and heights. I do not consider that the proposed dwelling would have a detrimental impact on the visual amenities of the area or the character of the street scene. The proposal would also have no demonstrable harm on the residential amenities of the adjacent properties, in particular no. 66 Seaside Avenue. This is due to the nature of the windows within the side elevation of this neighbouring property and its position in relation to the proposed dwelling. The proposed dwelling would not impact upon the necessary sight lines at the junction of The Leas and Seaside Avenue and pedestrians crossing Seaside Avenue at the crossing point would have enough warning of cars travelling at slow speeds at this point. I therefore consider that there would be no detriment to highway safety or amenity.		
REASON FOR REFERRAL TO COMMITTEE Ward Member call-in and Parish Council objection.		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster	APPLICANT Mr Colin Overington AGENT Kent Design Partnership - Architect
DECISION DUE DATE 12/06/15	PUBLICITY EXPIRY DATE 12/06/15	OFFICER SITE VISIT DATE 16/06/15

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site lies within the built-up area boundary of Minster-on-Sea. It fronts onto The Leas and is opposite the beach/seafront. The site is located on the corner of The Leas and Seaside Avenue. The Little Oyster Care Home lies on the opposite corner of the road. The site currently comprises the side and rear garden of no. 59 The Leas, a detached two storey dwelling. This property has a garage and vehicular access to the rear off Seaside Avenue. This garage would be demolished as part of the proposal. No. 59 also has a vehicular access off the Leas and a block paved driveway to accommodate at least 3 cars.

1.02 The site is level and is at the same ground level as no. 59 and the adjacent road.

2.0 PROPOSAL

2.01 The proposal is for the erection of a two storey (with rooms in the roof) detached dwelling to be built within the side garden of no. 59 The Leas. The proposed dwelling would have three bedrooms, a hobby studio and home office at first and second floors and a living, kitchen and breakfast room at ground floor. Two parking spaces would be provided off Seaside Avenue. The rear garden would be 10.5m in depth taken from the main rear elevation. The dwelling would be a distance of 1.5m from the flank wall of 59 The Leas. A 1.8m high brick wall is proposed to be erected adjacent to Seaside Avenue and around the parking spaces to enclose the rear garden of the new dwelling.

2.02 The proposed dwelling would be of a contemporary design with a steeply pitched roof and large glazed sections to the elevation facing towards the sea. Front and rear balconies would be provided at first floor and the main roof would over-sail the front and rear elevations to shelter the balconies. The elevations would be clad with wood grain fibre cement boarding in a blue/grey colour and would have a brick plinth of yellow stocks. The windows and doors would be white powder-coated aluminium and the roof would be covered in grey fibre cement slates. The balconies would be flanked by glazed panels at 1.7m in height. The 900mm high boundary wall to the front of the site would be retained as well as an existing tree within the front garden of the proposed dwelling. The driveway to the front of 59 The Leas would be reduced in width to accommodate 2 cars only and it is anticipated that the area to the front of the new dwelling would be turfed. A small side extension to no. 59 would be demolished as part of the proposal.

2.03 The scheme has been amended to remove a large garage and laundry room that would have occupied the rear half of the garden to the proposed house, thereby increasing the usable garden space and reducing the impact on the adjacent property no. 66 Seaside Avenue. The application has also been amended to reduce the amount of hardstanding for parking to the front of the existing and proposed properties. An additional two parking spaces are shown to be provided off Seaside Avenue as a consequence.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.3ha
Approximate Ridge Height (m)	9.5m
Approximate Eaves Height (m)	5.2m
Approximate Depth (m)	9.5m
Approximate Width (m)	6.3m
No. of Storeys	2.5
Parking Spaces	2

4.0 PLANNING CONSTRAINTS

None

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Swale Borough Local Plan 2008: E1; E19; E24 & T3

6.0 LOCAL REPRESENTATIONS

6.01 Two letters of objection have been received from local residents. A summary of their comments is as follows:

- Over-intensive development;
- Little amenity space;
- There is a covenant that permits only one dwelling on this site;
- The 2 ½ storey dwelling will not be in-keeping with the properties in the area;
- The new building will be beyond the building line in Seaside Avenue;
- The rear windows and balcony will overlook the garden and the flank windows of 66 Seaside Avenue;
- The development will reduce visibility of drivers and pedestrians using the junction between The Leas and Seaside Avenue;
- The proposed 1.8m high wall would make reversing into the driveway of 66 Seaside Avenue difficult;
- The view from no. 66 Seaside Avenue would be lost but they recognise that there is no legal right to a view;
- Delivery vehicles to the proposed dwelling would be likely to block the driveway to no. 66 Seaside Avenue due to parking restrictions along this part of the road;
- The dwelling would look odd and 'unplanned';
- The dwelling is much higher than the adjacent properties and;
- The building would be too big for the plot.

7.0 CONSULTATIONS

7.01 Minster-on-Sea Parish Council strongly object to the proposal on the grounds that the development would be over-intensive and not in-keeping with the street scene in terms of form and scale. They note that there would be 'encroachment on the building line' and no amenity space for the dwelling which could potentially have 5 bedrooms. They consider that the proposed dwelling would 'be the only one to off-set the street' and that it would impact on the vision of road users coming from Seaside Avenue and The Leas rounding the corner. The reduced visibility would also impact on wheelchair users from the opposite care home in their view.

- 7.02 Kent Highways have no comment noting that the development does not meet the criteria to warrant involvement from the Highway Authority.

8.0 BACKGROUND PAPERS AND PLANS

Design and Access Statement; Site Location Plan; Plans, Elevations and Site Plan and Site Survey.

9.0 APPRAISAL

Principle of Development

- 9.01 The proposed dwelling would provide an additional house within a established settlement and in this respect would amount to a sustainable form of development. I therefore consider that the development is acceptable in principle.

Visual Impact

- 9.02 The Leas has a mix of house types and designs. A number of the more 'traditionally' designed dwellings have been adapted in the past to add balconies and/or large areas of glazing to the front elevations. Differently orientated roof pitches and heights are a feature of this street scene. The proposed dwelling would add to this mix as opposed to being an incongruous feature within the street scene in my view. The corner location of this application site calls for a building of presence and of an interesting design in my view. I consider that the proposed dwelling would fulfil this. I do not consider it appropriate to discourage architecture that could be argued to be 'different' to the surrounding buildings. Paragraph 60 of the NPPF states:

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

- 9.03 It is clear that The Leas has developed sporadically over the years with individual plots being developed as opposed to a wider comprehensive development taking place. I see no harm in allowing the space to the side of no. 59 The Leas to be developed in a similar way to the development of other plots along The Leas. I am also mindful of the scale and design of The Little Oyster Care Home which sits on the opposite corner of the road. The proposed dwelling would not look out of place within this context in my view.
- 9.04 I acknowledge that the proposal would result in the loss of the 'openness' to this corner of The Leas/Seaside Avenue. However, I do not consider that the contribution of this openness to the street scene is so critical that one could identify harm as a result of its loss. Indeed, the opposite corner is occupied by the aforementioned care home which sits close to the back edge of the footpath. Enclosing the space at no. 59 would mirror this relationship with the road. I do not consider that the character or appearance of the street scene along Seaside Avenue

would be unduly affected by the projection of the proposed dwelling in front of the building line. The opposite side of Seaside Avenue has no established building line and I consider that the proposed dwelling would act as a landmark building at the end of this road.

- 9.05 The proposal would result in a decrease in the amount of hardstanding to the front of the site and increase the amount of soft landscaping. In this respect, I consider that the scheme would be an improvement.
- 9.06 In conclusion, I consider that the proposed dwelling, although of a different style to the properties along The Leas and Seaside Avenue, would add interest to the street scene and would be of a scale and height that would be appropriate for this corner location.

Residential Amenity

- 9.07 The main impact from the proposed dwelling would be on no. 66 Seaside Avenue. This property is sited to the rear of the proposed dwelling with its flank elevation facing the rear elevation of the proposed dwelling. This neighbouring property has two first floor flank windows facing the application site and one flank window that sits between the ground and first floor and is therefore assumed to serve a staircase. There would be a distance of approximately 12 metres between the rear elevation of the proposed dwelling and the flank elevation of no. 66 Seaside Avenue. This would be a sufficient distance, in my view, to ensure that the proposed dwelling would not unduly overshadow or have an overbearing impact on the residents of this neighbouring property. In terms of mutual overlooking, I note that one of the first floor windows serves a bathroom and so has frosted glass. The other first floor window is a secondary window to serve a bedroom. The main window to this bedroom looks onto Seaside Avenue and so the residents of this neighbouring property have the option to draw blinds across the secondary flank window if they feel their privacy is being compromised. They would still be provided with an outlook and light from the main window facing Seaside Avenue. It is common for a bedroom to only be served by one window. As the window serving the staircase is not a habitable space, I do not consider that the proposed dwelling would compromise the privacy of no. 66 if any overlooking into this window did occur.
- 9.08 There are ground floor flank windows within 66 Seaside Avenue but these are largely already blocked by the existing garage for no. 59. This garage would be demolished as part of this proposal and the boundary treatment here would be replaced with a 1.8m close boarded fence. The impact on the ground floor windows would therefore be no worse than the current situation.
- 9.09 Owing to the nature of the windows within the flank elevation of no. 66 and for the reasons set out above, I do not consider that no. 66 would unduly overlook the rear windows or garden space to the proposed new dwelling.
- 9.10 In terms of overlooking of the rear garden of no. 66 Seaside Avenue, I note that the flank elevation of this neighbouring property projects approximately

3m beyond the side elevation of the proposed new dwelling. As such, I am of the view that the position of the proposed dwelling in relation to no. 66 will ensure that overlooking of the rear garden space would be limited. I also note that no. 59 The Leas already overlooks no. 66 Seaside Avenue.

- 9.11 The proposed rear balcony would have a glazed panel at either end (as would the front balcony) and I have recommended a condition to ensure that the panel closest to no. 59 The Leas is obscure glazed so as to avoid direct overlooking of the rear garden to this property from the rear balcony.
- 9.12 The proposed dwelling would have a sufficiently sized rear garden and internal space to ensure that it would provide a good living environment for future residents in my view.
- 9.13 In conclusion, I do not consider that the proposed dwelling, by virtue of its position in relation to no. 66 Seaside Avenue and the nature of the windows within the flank of this neighbouring property, would have a detrimental impact on residential amenities.

Highways

- 9.14 The proposal would provide two parking spaces for the proposed dwelling and two spaces for the existing dwelling. This would comply with the Kent Highway parking standards.
- 9.15 Local residents and the Parish Council have concerns about the impact that the proposed dwelling would have on visibility for cars and pedestrians at the junction of The Leas and Seaside Avenue. The proposed dwelling would be set back from the mouth of the junction by approximately 9.5m. Cars emerging from Seaside Avenue would not have their vision blocked by the proposed dwelling therefore. Similarly, cars turning into Seaside Avenue would not have their views impeded by the proposed dwelling. I note that there is a raised section of the highway on Seaside Avenue that is opposite the proposed dwelling. This raised table is likely used by wheelchair and motorised buggy users from the care home, as well as pedestrians. Local residents and the Parish Council are concerned that the users of this raised table would have reduced visibility of cars approaching the junction from The Leas. Whilst I acknowledge that due to the location of the raised table in relation to the new dwelling, there would be less warning for pedestrians using this crossing point, cars will have slowed down considerably to turn into Seaside Avenue and there is still a distance of some 14m between the mouth of the junction and the raised table. There will be sufficient warning therefore for both motorists and pedestrians.
- 9.16 The resident of no. 66 Seaside Avenue is concerned about visibility from their driveway. The plans indicate that there would be a low 900mm brick wall immediately adjacent to their drive (low enough to see approaching vehicles) and that the proposed 1.8m high brick wall would be a distance of 5.8m from their driveway and at an angle to incorporate the necessary pedestrian visibility splay needed for the parking spaces for the proposed dwelling.

- 9.17 In summary, I consider that the proposal would have no detriment to highway safety or amenity.

Other Matters

- 9.18 The application site would provide a new dwelling 0.8km to the south of The Swale Special Protection Area. Appended is a Habitat Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations) due to the sites proximity to the SPA and the potential for recreational disturbance as a cumulative impact with other small housing developments. This concludes that there would be no significant effects from the proposal on the SPA features of interest.
- 9.19 The neighbour has identified the fact that the application site is bound by a covenant that restricts the number of dwellings to one. No evidence of this covenant has been provided. Members will be aware that covenants do not hold any weight in terms of planning matters and regardless of the outcome of this planning application, the covenant, if it is still in place, would be a private legal matter that would need to be considered by the developer.
- 9.20 I appreciate that the resident of no. 66 will lose their view of the seafront as a consequence of this proposal. However, there is no legal right to a view and no planning harm that would arise in this respect.

10.0 CONCLUSION

- 10.01 Having considered the comment from local residents, the Parish Council and consultees and the relevant planning policies, I am of the view that the development is acceptable in principle. The proposed dwelling, although of a different design to the properties along The Leas and Seaside Avenue, would add to the mix of house types which display different roof pitches and heights. I do not consider that the proposed dwelling would have a detrimental impact on the visual amenities of the area or the character of the street scene. The proposal would also have no demonstrable harm on the residential amenities of the adjacent properties, in particular no. 66 Seaside Avenue. This is due to the nature of the windows within the side elevation of this neighbouring property and its position in relation to the proposed dwelling. The proposed dwelling would not impact upon the necessary sight lines at the junction of The Leas and Seaside Avenue and pedestrians crossing Seaside Avenue at the crossing point would have enough warning of cars travelling at slow speeds at this point. I therefore consider that there would be no detriment to highway safety or amenity.

- 11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

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

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

2. The development hereby approved shall be carried out in accordance with the following approved drawing: 14.69.10E

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

3. Upon completion, no further development, whether permitted by Classes A, B, C, D, E or F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) 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 the amenities of the area.

4. Before the development hereby permitted is first used, the proposed glazed panel to the rear balcony that faced no. 59 The Leas shall be obscure glazed and shall subsequently be maintained as such.

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

5. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-
Monday to Friday 0730 – 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.

6. The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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.

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

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

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

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

9. 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.

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

Reason: In the interest of visual amenity.

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

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

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.

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

Case Officer: Emma Eisinger

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:**Habitat Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 1.3km to the southwest of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. 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 dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.