

PLANNING COMMITTEE – 15 SEPTEMBER 2016

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 15/510527/FULL			
APPLICATION PROPOSAL Development of disused grazing paddock to form 15 new dwellings.			
ADDRESS Scocles Court, Scocles Road, Minster-On-Sea, Kent, ME12 3RU.			
RECOMMENDATION GRANT subject to the receipt of amended plan to include provision of footpath and completion of a S106 agreement to secure contributions towards SAMMS and wheelie bin provision.			
SUMMARY OF REASONS FOR RECOMMENDATION The application proposed the erection of new residential dwellings within the built up area and in a location considered to be sustainable in terms of access to shops, services and public transport links. The proposed dwellings are considered to be of a high standard of design, appropriate to this rural edge site and to the setting of the adjacent Grade II listed Scocles Court.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection (though these have now been addressed by amendments to the plans) and local objections.			
WARD Sheppey Central	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Mr Abhaey Singh AGENT Nigel Bird Architects
DECISION DUE DATE 25/04/16	PUBLICITY EXPIRY DATE 25/04/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/12/1172	Redevelopment of disused grazing paddock to form a housing estate with 14 dwellings.	Approved	04.04.13
The application proposed the erection of new residential dwellings within the built up area and in a location considered to be sustainable in terms of access to shops, services and public transport links. The proposed dwellings were of a high standard of design, and the development would not give rise to any serious amenity concerns.			

MAIN REPORT

1.0 BACKGROUND

1.01 Members will recall this proposal from the 18th August Planning Committee meeting (original report appended) where they voted to defer the application for further comments from Kent County Council Highways and Transportation in regards to the

provision of a footpath and for officers to negotiate to secure an amended layout showing the provision of the path along the entire site frontage. Also discussed was the wording of condition (7) to refer to reducing “volatile organic compounds” and requiring the development to meet the passive house construction standards.

1.02 The (draft) minutes say:

“Members considered the application and raised comments which included: highway concerns as the road was narrow and there was a blind bend as you approached the roundabout at the site; disappointed with KCC Highways and Transportations comments; the previous design would have allowed for a footpath; and the applicant has stated that they can reduce the Volatile Organic Compound (VOCs) so would like this added as a condition.

In response to queries from Members, the Major Projects Officer reported that if Members were minded to approve the application they could delegate authority to officers to enhance condition (7) to include reduction of VOCs and to require the passive house sustainable design and conclusion standard. The Major Projects Officer further reported that KCC Highways and Transportation had advised that it would not be possible to provide a footpath due to the narrowness of the road and the location of the pond.

Councillor Mike Henderson moved the following amendment: delegate to officers to re-word condition (7) to include reduction of VOCs and passive house sustainable standard and that a footpath was provided along entire site frontage to allow safe access for pedestrians at the end of the site. This was not seconded.

Councillor Andy Booth moved the following motion: That the application be deferred to allow KCC Highways and Transportation to comment further on the provision of a footpath. This was seconded by Councillor Cameron Beart. On being put to the vote the motion was agreed.”

2.0 COMMENTS

- 2.01 I would first reiterate that there is an extant permission (SW/12/1172) for erection of 14 dwellings on this site which firmly establishes the principle of residential development, and also of using the proposed vehicular access point. I appreciate Members’ concerns in regards vehicle access and the nature of Scocles Road, but in light of the previous approval officers would not be able to defend a highways reason for refusal at appeal.
- 2.02 I would also draw to Member’s attention that the previously approved scheme did not provide a footpath along the frontage of the site.
- 2.03 I have discussed the proposals further with KCC Highways & Transportation. They reiterate that they do not raise an objection on highways grounds, and are mindful of the previous approval. In respect of the pedestrian footway that Members and the Parish Council have requested, Kent Highways officers have stated that such a footway would need to be a minimum of 2m wide, a further 2m would be required as a safety buffer between the rear edge of the pavement and the pond, and the road would need to be a minimum of 5m wide.
- 2.04 Both the Council’s and Kent Highways’ GIS data shows a pinch point in the site frontage, where there is 6.5m from the edge of the pond to the far side of the road. If

the road is narrowed to a minimum 5m wide this would leave 1.5m between the carriageway and the edge of the pond (NB: edge of water, not top of bank). It is therefore impossible to incorporate a footway along the full extent of the site frontage unless a substantial portion of the pond is infilled – with consequent harm to biodiversity.

- 2.05 The Highways officers have also stated that the County would be reluctant to encourage provision of a pedestrian footway that does not lead to anywhere (there is no footpath across the site frontages to the south of Scocles Court), and that the provision of a footpath and accompanying pedestrian guardrail may actually encourage motorists to go *faster*, as the works may give the impression that the road is wider than it is.
- 2.06 Nevertheless, the applicant for the scheme has agreed to provide a pedestrian footpath within the site, around the pond, rather than along the frontage. This would enable pedestrians to walk southwards along the pavement from the Thistle Hill roundabout to the north, westwards into the site, south along the internal road, and eastwards along the bottom edge of the pond back towards the highway.
- 2.07 At time of writing the applicant's agent was drafting a block plan to illustrate this arrangement, and anticipate that this will be available in time for the Committee meeting. I will update Members then.
- 2.08 I have also discussed the wording of condition (7) with the applicant, who has confirmed that he has no objection to the inclusion of wording to refer to passive house construction standards and reducing volatile organic compounds. Members will note the amended wording set out below.

3.0 CONCLUSION

- 3.01 The application proposes a low-density development of 15 high-quality dwellings on land within the built up area, and which has previously been granted planning permission for 14 dwellings. The development would sit comfortably within the context of this urban edge site, would not give rise to any serious amenity concerns, and would not significantly harm the character or setting of the adjacent Grade II listed farmhouse. I am also mindful that the previous consent has been implemented by virtue of formation of the access and footings for one unit.
- 3.02 The current proposal has two benefits when compared to the extant development, namely in terms of the sustainability standard that will be secured using condition (7) and that it should amount to a commercially viable scheme that should be capable of being delivered in the short to medium term.
- 3.03 Taking the above into account, and subject to the completion of a S106 agreement to secure contributions towards SAMMS and wheelie bin provision, I recommend that planning permission should be granted for the development incorporating the amended layout, showing a public footpath running parallel to the Scocles Road frontage.

4.0 RECOMMENDATION – GRANT Subject to the signing of a suitably-worded Section 106 agreement and 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 shall take place other than in accordance with the following drawings:

1414.301 C, 310 A, 311 A, 312 B, 313 A, 314 A, 315 A, 316 B, 317 A, 318 A, 319 A, 320 B, 321 A, 322 A, 323 A, 324 B, 325 A, 326 A, 327 B, 328 B, 329 A, 330 A, 331 A, 332 B, 333 A, 334 B, 335 B, 336 A, 350 B, 351 B, 352 B, 353 B, 354 C, 355 B, 356 B, 357 B, 358 C, 359 C, 360 B, 361 A, 362 C, 363 C, 364 A, 365 A, 366 B, 367 B, 368 B, 369 B, 370 B, 371 C, 372 B, 373 A, 374 B, 375 B, 376 A, 377 A, and 390 A.

Reason: For the avoidance of doubt.

- (3) The existing stable block shall not be demolished, and there shall be no works carried out within 10m of the stable block, until a further survey to establish the presence or otherwise of bats has been carried out and agreed in writing by the Local Planning Authority, and any necessary mitigation works have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interest of minimising harm to protected species.

- (4) Should at any point during the development Great Crested Newts or other reptiles be identified within the site then all works must stop and a suitably-qualified ecologist consulted on the appropriate manner in which to proceed.

Reason: To minimise potential harm to protected species.

- (5) The access details shown the approved drawings shall be completed prior to the commencement of any other works authorised by this permission, and thereafter maintained.

Reason: In the interest of highway safety and amenity.

- (6) The development hereby permitted shall not be commenced until visibility splays of 2.4m by 62m have been provided with no obstruction to visibility at or above a height of 0.9m above the nearside carriageway level in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interest of highway safety and amenity.

- (7) Prior to the commencement of construction on each block of dwellings, details shall be submitted to and approved in writing by the Local Planning Authority, setting out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. The package of measures - which shall be designed to target meeting the passive house standards - shall also set out how the use of VOCs in the construction of the dwellings will be minimised. Upon approval, the details shall be incorporated into the development as approved.

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

- (8) Prior to the commencement of development of each block of dwellings 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (9) No dwellings hereby permitted shall be erected until full details of the method of disposal of foul and surface waters, to consist of a Sustainable Urban Drainage System (SUDS) that attenuates surface water runoff to that of a Greenfield site up to and including the 1 in 100 years rainfall event +30% (to accommodate the effects of climate change), have been submitted to and approved in writing by the Local Planning Authority in consultation with the Kent County Council drainage and flood risk team. The approved details shall be implemented in full prior to first occupation of any dwelling hereby approved.

Reason: To ensure the site is adequately drained and to minimise the risk of flooding.

- (10) Not more than 5 of the dwellings hereby permitted shall be constructed until full details of both hard and soft landscape works (including a management plan for the communal and open spaces including the ponds and highway verges, provision of a metal estate rail and hedgerow along the Scocles Road frontage, and safety fencing around the ponds) have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

Reason: In the interests of residential amenity.

- (12) Prior to construction of each block of dwellings hereby approved full details of all external joinery, fittings, eaves and verges, at a suggested scale of 1:5, together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (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 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.

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

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety and convenience.

- (19) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To minimise the risk of pollution.

- (20) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015

(as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (21) The car parking spaces and carports shown on the submitted drawings shall not be enclosed in any way, and 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 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) 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 or garaging of cars is likely to lead to car parking inconvenient to other road users.

- (22) Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street nameplates and other highway structures if any.

Reason: In the interests of highway safety and amenity.

- (23) Notwithstanding the submitted drawings, no dwelling hereby permitted shall be occupied until the footway shown on the approved plans on Scocles Road and alongside plot 1 has been provided at a minimum width of 1.8m, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

- (24) 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.

Reason: In the interests of residential amenity.

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

Reason: In the interests of the amenities of the area and in the interest of the special architectural or historic interest of the adjacent listed building.

- (26) None of the dwellings hereby approved shall be first occupied until the footpath to the site frontage has been provided and is available for public use. The path shall then be kept available for public use in perpetuity.

Reason: In the interests of local amenity and to encourage the use of non-car modes of travel.

The Council's approach to this application:

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

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the applicant/agent was advised of changes required to the application and these were agreed. The application was then 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 1**HABITATS REGULATIONS ASSESSMENT SCREENING****Context**

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

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that “*the presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.*”

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area. The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.

Associated information

The applicant's ecological appraisal dated October 2014 contains some information to assist the HRA. These matters have been considered within the attached committee report.

However, the appraisal does not include sufficient information to enable the HRA to be undertaken in its own right. As an example, it does not appear to contain a full assessment of the evidence collected by NKEPG but it does commit the applicant to a per dwelling payment for off-site mitigation as recommended by The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

Natural England's letter to SBC has also been considered; in particular that they have raised no objections to the proposals in terms of their impact on designated nature conservation sites. In advising SBC on the requirements relating to the Habitats Regulations Assessment, and to assist it in screening for the likelihood of significant effects, based upon the information provided, Natural England offered the following advice:

- The proposal are not necessary for the management of the European sites.
- That subject to an appropriate contribution being made to strategic mitigation, the proposal is unlikely to have a significant effect on any of the European sites mentioned above, and can therefore be screened out from any requirement for further assessment.
- Proportionate contributions for the extra care facility if they include permanent staff accommodation and or the residents are able to recreate on the SPA.

The applicant has confirmed that they will make a financial contribution to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy in accordance with the recommendations of the North Kent Environmental Planning Group. This strategic mitigation will need to be in place before the first dwelling is occupied.

As detailed in their letter of the 6 January 2015, Natural England has confirmed that a suite of strategic measures similar to those set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy will provide appropriate mitigation.

However, they consider it is up to the local authorities to ensure that appropriate measures are in place to allow the strategic mitigation to be delivered. This would include consideration of the appropriate tariff. The tariff amounts to £223.58 per dwelling and can be secured by

way of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).

The Assessment of Scocles Court

The application site is located within 1.56km north of the Medway SPA. Whilst there is not a direct point to point footpath between the application site and the SPA, a mixture of footpaths and lanes make the SPA readily accessible. In any event, recreational impacts are equally likely to occur as a result of visitors arriving by car. This assessment has taken into account proposals for on-site mitigation, which, whilst including an area of open space and a pond, provides limited opportunity for activities such as dog-walking. Whilst this open space would no doubt supplement many day-to-day recreational activities, the coastal SPA is nevertheless considered likely to be a likely draw of activity for residents and, as such, these factors will not be sufficient to prevent off site recreation taking place on the SPA.

Conclusions

Taking a precautionary approach, given the applicants commitment to provide on site mitigation in the form of financial contributions towards the SAMM, it leads to the conclusion that the proposals would not give rise to likely significant effects on the SPA. It is concluded that the proposals can be screened out for purposes of Appropriate Assessment. These would not lead to likely significant effects on the SPA.

APPENDIX 2

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ITEM 2.11

REPORT SUMMARY

2.11 REFERENCE NO - 15/510527/FULL			
APPLICATION PROPOSAL Development of disused grazing paddock to form 15 new dwellings.			
ADDRESS Scocles Court, Scocles Road, Minster-On-Sea, Kent, ME12 3RU.			
RECOMMENDATION GRANT subject to the completion of a S106 agreement to secure contributions towards SAMMS and wheelie bin provision.			
SUMMARY OF REASONS FOR RECOMMENDATION The application proposed the erection of new residential dwellings within the built up area and in a location considered to be sustainable in terms of access to shops, services and public transport links. The proposed dwellings are considered to be of a high standard of design, appropriate to this rural edge site and to the setting of the adjacent Grade II listed Scocles Court.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection and local objections.			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr Abhaey Singh AGENT Nigel Bird Architects	
DECISION DUE DATE 25/04/16	PUBLICITY EXPIRY DATE 25/04/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
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MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a former grazing paddock situated to the north of Scocles Court, a Grade II Listed farmhouse on the eastern edge of Minster. The land lies within the defined built up area boundary and adjacent to the Thistle Hill housing development, but it is not allocated for any specific purpose in itself.
- 1.02 The land has not been used for grazing for many years and has become generally overgrown. It is enclosed on three sides, with Scocles Court to the south, new dwellings on the Thistle Hill site to the west, and Orchard Lodge to the north (approximately 12m to the north of Plot 2). Scocles Road runs along the eastern edge, from which views into the site are largely screened by existing trees and hedgerow along the boundary, and beyond which lies open countryside. Access to the site is currently via Scocles Court, but a new access is (at time of writing) being

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created to the north as approved under the previous permission for development of the site.

- 1.03 There is a large pond in the southeastern corner of the site, adjacent to the access to Scocles Court, and a smaller drainage pond in the northwestern corner, to the rear of Orchard Lodge. Land levels slope gently downwards to the north.
- 1.04 There is no planning history for the site other than the previous approval for 14 units, as mentioned above.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the redevelopment of 1.15 hectares (or 2.8 acres) of unused grazing land adjacent to Scocles Court, Minster, to provide a residential development of 15 dwellings.
- 2.02 The proposed houses will follow a similar layout to that approved under SW/12/1172 – units 1 and 2 will front onto Scocles Road at the northern end of the site, adjacent to the access road and Orchard Lodge, with units 13 and 14 sitting side-on to the road just to the south of the access. The existing pond lies to the south of units 13 and 14, with the entrance to the listed farmhouse beyond that. Within the site itself units 3 to 9 would be set out in a row running roughly north-south, and comprise two pairs of semis and a terrace of three. Unit 15, a detached chalet bungalow, is set to the rear of unit 9, closest to the listed farmhouse.
- 2.03 As shown on the amended drawings the dwellings are of a design reminiscent of converted farm buildings, such as stables or barns. They would feature boarded elevations with brick plinths, tall roofs, and narrow windows with shutters or projecting surrounds.
- 2.04 34 parking spaces are provided within the site, amounting to a minimum of two spaces per dwelling, 4 visitor spaces, and further informal parking available on the internal access road. Hedgerow planting and boundary fencing will prevent access to the units close to Scocles Road and thus discourage parking on the public highway.
- 2.05 A pedestrian footpath link is provided to the site from the existing pavement to the north. (It is not possible to continue this to the south due to the narrowness of the highway and the position of the pond.)

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	1.15ha (2.8 acres)
Parking Spaces	34
No. of Residential Units	15
No. of Affordable Units	0 (not viable)

4.0 PLANNING CONSTRAINTS

- 4.01 The site lies within an area of Potential Archaeological Importance, and adjacent to the Grade II listed Scocles Manor.

5.0 POLICY AND OTHER CONSIDERATIONS

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- 5.01 The NPPF was adopted on 27th March 2012 and is a material consideration in determining planning applications. It offers general advice in respect to proposed development, rather than the more detailed and often site-specific guidance of the Local Plan.
- 5.02 Local Plan policies must be assessed against the advice of the NPPF, and those with a "limited degree" of conflict can be considered to comply and thus remain a material consideration in the determination of planning applications.
- 5.03 Paragraph 46 of the NPPF requires Local Planning Authorities (LPA) to have an up-to-date five year housing supply. Swale does not currently have a five-year housing supply, and thus policy H2 of the Local Plan is not considered to comply with the provisions of the NPPF in terms of restricting housing supply.
- 5.04 However that does not have a significant bearing on the determination of the current application as the site lies within the built up area boundary; planning permission has previously been granted (and development has commenced on site for residential development); and the site lies within the built up area boundary where residential development is acceptable in principle.
- 5.05 National Planning Practice Guidance (NPPG) also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, and ecology, amongst others.
- 5.06 Policies SP1 (sustainable development), SP4 (Housing), E1 (general development criteria), E9 (Landscape), E14 (listed buildings), E19 (design), H2 (new housing), H5 (housing allocations), H8 (Thistle Hill), T1 (safe access to new development), T3 (vehicle parking), T4 (cyclists and pedestrians) and U4 (placing services underground) of the Swale Borough Local Plan 2008 are all relevant in the consideration of the application.
- 6.0 LOCAL REPRESENTATIONS**
- 6.01 5 letters of objection (from 4 residents) were received, raising the following summarised concerns:
- Incorrect ownership boundary identified [NB: this has now been corrected];
 - Insufficient emergency services access;
 - On-site ponds are a safety hazard, and application should be revised to include fencing around them;
 - Communal decking around the northern pond is close to plot 3 and may give rise to noise and disturbance;
 - Decking will stop birds from using part of the pond;
 - Rubbish entering pond will have to be cleared by neighbours outside of this development;
 - Insufficient parking provision;
 - Why are more houses being proposed than under the previous approval;
 - Any affordable housing units should be clearly indicated;
 - There should be a financial contribution towards the Lower Rd / Barton Hill junction;
 - Impact on listed building;
 - Highway safety concerns re: access onto Scocles Road, and potential impact of overspill parking;
 - Impact on Lower Road traffic;

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- Increased runoff into ponds, and insufficient drainage;
- Impact on wildlife;
- Lack of local services / amenities.

6.02 2 further letters received noting that works have already started on site (see 9.01 below).

6.03 The Swale Footpath Group suggests that a footpath could be created along the road as part of a S106 agreement.

7.0 CONSULTATIONS

7.01 Minster Parish Council have objected to the application, commenting that the design falls short of what was previously approved; impact on highway safety and amenity; and lack of a continuous footpath across the site frontage. (Members will note, however, that amended drawings have been received.)

7.02 KCC Highways & Transportation comment that *"the proposals submitted now are fundamentally the same [as SW/12/1172] in respect to the road layout and parking provision, and it is stated that the access to the site will be identical to that which has already been approved. The access arrangements had been accepted based on the level of activity expected from the scale of development, and given the traffic surveys that were undertaken to determine the vehicle speeds past the site frontage, so that the visibility sightlines to be provided were appropriate for this location. As these details are planned to be same as already approved, it is considered that the access arrangements should still be regarded acceptable for the current submission."* They therefore have no objection subject to the conditions set out below.

7.03 Natural England has no objection.

7.04 The Lower Medway Internal Drainage Board raise concern with regard to drainage of the "seasonal pond" in the north-western corner of the site, and recommend a condition be attached to ensure it is properly attenuated.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The most relevant background document in this instance is the previous grant of permission (under ref. SW/12/1172) for the erection of 14 houses on the site, in approximately the same layout and with the same point of access.

9.0 APPRAISAL

Principle of Development

9.01 The application site is within the built up area of Minster as defined by the adopted Local Plan, and the principle of development is therefore acceptable. Whilst the application site is not, in itself, specifically designated for residential development Members should also note that the land is directly adjacent to the Thistle Hill development, and there is a clear precedent for such development within the area. Furthermore the previous grant of permission for 14 units on this site, in much the same layout and form as the current application, establishes a very clear precedent, and has, in fact been implemented by virtue of creation of the site access.

9.02 The site is also within reach of local shops, services and public transport facilities: the limited facilities of Minster High Street are within walking distance (approximately

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1km), and the wider services of Minster village and Sheerness can be accessed by car.

- 9.03 The principle of residential development here is thus clearly established, and it is only matters of detail that need to be evaluated under this application.

Visual Impact and Impact on Listed Building

- 9.04 I consider the proposed dwellings to be of a high standard of design, taking cues from traditional Kentish architecture and local vernacular features. In my opinion the development would set a high standard, and would be a pleasant deviation from the more modern developments on Thistle Hill, immediately to the west. I have recommended a condition to ensure that the Council has control over materials to ensure the design principles are upheld, and that high quality materials are used throughout.
- 9.05 The scale of development amounts to approximately 12 dwellings per hectare, which is much lower than the 30 dph used on Thistle Hill. I consider this to be appropriate, however, as the lower density serves to "tail off" the built up area into the countryside to the east (the built up area boundary runs along the eastern edge of the site), and to create a softer, less defined edge to the wider Thistle Hill development.
- 9.06 The lower density also serves to protect the character and setting of Scocles Court, which is Grade II Listed, by providing more land for landscaping and open space than if developed at a higher density – more typical of modern housing schemes. It is also considered that, whilst farmhouses would traditionally have had views across open fields, the inclusion of the site within the built up area and the encroachment of Thistle Hill have firmly established the acceptability of such development in proximity to the listed building.
- 9.07 Scocles Court is a Grade II listed building which enjoys a semi-rural setting despite significant residential encroachment from Thistle Hill to the west. The Council has a statutory duty to have special regard to preserving the listed building and its setting in considering this development proposal. The relationship of the farm to its farmland is an important characteristic which contributes to its architectural and historic significance as a listed building.
- 9.08 How to best preserve the rural setting has been the subject of much discussion over the years and is key to the acceptability of any proposals here. This proposal aims to create the effect of an organically evolved "rural hamlet" around the listed building. It does this by responding positively to existing site features (the ponds and hedgerows) and by adopting a Kentish vernacular design (albeit with some modern design features) to the dwellings. This is a valid approach to the development of the site, in my opinion.
- 9.09 There is (further to receipt of amended drawings) a clear vertical emphasis across the elevations, enforced by single-pane casement windows, tall entrance glazing, and high roof ridges, which give a distinctly clean and modern feel to the development. This will, in my opinion, sit very comfortably within the context of the site and create a neat transition from the very traditional detailing of the listed farmhouse to the relatively standard, modern houses at Thistle Hill.
- 9.10 Furthermore I believe that the proposed layout would work well, and satisfactorily maintain an open space in the vicinity of the listed building.

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- 9.11 It is also considered that the success of this scheme will be largely dependent upon the quality of external materials and the landscaping scheme and, in particular, upon the use of the road layout as submitted. The use of concrete kerbs, roadside barriers, etc. would compromise the well-considered aesthetic of the layout, and add a harsh urban appearance to the simple, vernacular design.
- 9.12 The conditions set out below include a requirement for submission of a management plan to ensure that the open spaces, ponds and highway verges are suitably maintained, and thus continue to contribute towards the high standard of appearance throughout the development.

Residential Amenity

- 9.13 The proposed dwellings have good-sized rooms, generous gardens, and would provide a high standard of amenity for future occupants. They are well spaced out across the site and there is unlikely to be any serious overlooking or overshadowing between the proposed units.
- 9.14 Similarly, in my opinion, due to the generous plot sizes and long rear gardens, the development would be very unlikely to give rise to any serious overlooking, overshadowing or loss of amenity for neighbouring residents.

Highways

- 9.15 As noted above the development provides 34 parking spaces, which is in excess of the adopted parking standards requirements. Members may also care to note that this is 10 spaces over and above what was to be provided on the previously approved scheme.
- 9.16 The site access, pedestrian pavement link to the north, and vehicle sightlines remain as per the previously approved scheme, and I have no serious concerns in this regard. As set out in paragraph 7.02, KCC Highways & Transportation raise no objections.

Landscaping

- 9.17 Substantial areas for landscaping have been indicated on the submitted layout drawings, and include retention of the existing ponds, landscaping within the frontage areas, tree planting across the site (including along the access), and hedgerow and tree planting along the roadside. I have recommended standard conditions to secure a detailed landscaping schedule, and to secure the retention of such planting.

Ecology

- 9.18 Concerns were raised during the course of the previous application (SW/12/1172) with regards to the potential presence of newts or bats on the site. Full ecological surveys have been submitted that indicated very low potential for any protected species due to the low quality of habitat on site. Furthermore no objection was raised by Natural England or the KCC Ecologist, subject to the imposition of conditions.
- 9.19 Initial works have recently started on the application site under the umbrella of that previous permission (namely partial site clearance and insertion of an access), further to submission of information to discharge the requirements of the relevant ecological conditions – which were reviewed and agreed by the County Ecologist.

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- 9.20 As part of this application further ecological surveys have been submitted in respect of reptiles, and Great Crested Newts in particular, indicating that nothing of note was found on site and works can therefore proceed (subject to condition 4, below, which requires work to cease and an ecologist to be notified if any reptiles are found during construction, in accordance with the requirements of the Wildlife & Countryside Act 1981).
- 9.21 There has been little evidence of bats across the site, but further to discharge of the previous consent's conditions the County ecologist has asked for further surveys of the existing stable block on site prior to work commencing. I have replicated this request in condition 3 below, and now consider that the development would not give rise to any serious harm to protected species. I also understand that the applicant is currently carrying out such surveys, with the intention of submitting the details as soon as possible.
- 9.22 The site lies approximately 1.56km north of the Medway Estuary and Marshes 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). This development, by virtue of introducing additional residents who may access the SPA for leisure purposes, has the potential to affect the SPA's features of interest. The Council has entered into an agreement with Natural England to secure financial contributions to mitigate such impacts on all developments of 10 or more dwellings, as set out in the appended Habitat Regulations Assessment, and a Section 106 agreement is being drafted to secure such funds (£223.58 per dwelling, totalling £3353.70).

Developer Contributions

- 9.23 Members will be aware that an application of this scale (i.e. over 9 units) would normally be required to provide a number of financial contributions for things such as education provision, library books, management of open space, etc.
- 9.24 In this instance, however, the applicant has provided financial documentation to demonstrate that the viability threshold of this development is so low as to not be able to provide any contributions (it also appears that the budgeting for the previous application was incorrect, and would not have been viable either). This information has been reviewed by three separate, appropriately-qualified officers, all of whom agree that the figures presented are reasonable, and that they show there is definitely not any scope to provide any contributions.
- 9.25 The contributions foregone amount to £60,000 for primary education, and £720.24 towards libraries (total £60,720.24).
- 9.26 However, officers have made it clear to the applicant that the Strategic Access Management & Mitigation (SAMMS) funding requested by Natural England on all developments of 10 or more units (amounting to £223.58 per dwelling, as detailed at 9.22 above) and the Council's standard charge for wheelie bin provision are non-negotiable. I request that Members grant officers delegation to complete a S106 agreement (in preparation at the time of writing) to secure these payments.
- 9.27 Members should also note that some of the viability issues surrounding this development relate to the fact that the developer has forward-funded restoration works to the adjacent Grade II listed farmhouse, Scocles Manor. An application for Listed Building Consent to restore the farmhouse was approved earlier this year (ref. 15/508296/LBC) and works have been largely completed on site. This is a positive

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gain from this development, and has improved the character of the listed building significantly, which had been in a state of disrepair for many years.

Condition wording

- 9.28 Members may note that the wording of the conditions set out below differs from the usual wording in that they require some details to be agreed prior to development of each block, rather than prior to development as a whole. This is further to discussions with the developer, who is under considerable pressure to begin development on site in order to release funding. I am confident that wording the conditions in this way secures what the Council requires while affording the developer some flexibility in terms of timings / financing.

10.0 CONCLUSION

- 10.01 The application proposes a low-density development of 15 high-quality dwellings on land within the built up area, and which has previously been granted planning permission for 14 dwellings. The development would sit comfortably within the context of this urban edge site, would not give rise to any serious amenity concerns, and would not significantly harm the character or setting of the adjacent Grade II listed farmhouse. I am also mindful that the previous consent has been implemented by virtue of formation of the access and footings for one unit.

- 10.02 Taking the above into account, and subject to the completion of a S106 agreement to secure contributions towards SAMMS and wheelie bin provision, and receipt of comments from Kent Highways & Transportation, I recommend that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) No development shall take place other than in accordance with the following drawings:

1414.301 C, 310 A, 311 A, 312 B, 313 A, 314 A, 315 A, 316 B, 317 A, 318 A, 319 A, 320 B, 321 A, 322 A, 323 A, 324 B, 325 A, 326 A, 327 B, 328 B, 329 A, 330 A, 331 A, 332 B, 333 A, 334 B, 335 B, 336 A, 350 B, 351 B, 352 B, 353 B, 354 C, 355 B, 356 B, 357 B, 358 C, 359 C, 360 B, 361 A, 362 C, 363 C, 364 A, 365 A, 366 B, 367 B, 368 B, 369 B, 370 B, 371 C, 372 B, 373 A, 374 B, 375 B, 376 A, 377 A, and 390 A.

Reason: For the avoidance of doubt.

- (3) The existing stable block shall not be demolished, and there shall be no works carried out within 10m of the stable block, until a further survey to establish the presence or otherwise of bats has been carried out and agreed in writing by the Local Planning Authority, and any necessary mitigation works have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interest of minimising harm to protected species.

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- (4) Should at any point during the development Great Crested Newts or other reptiles be identified within the site then all works must stop and a suitably-qualified ecologist consulted on the appropriate manner in which to proceed.

Reason: To minimise potential harm to protected species.

- (5) The access details shown the approved drawings shall be completed prior to the commencement of any other works authorised by this permission, and thereafter maintained.

Reason: In the interest of highway safety and amenity.

- (6) The development hereby permitted shall not be commenced until visibility splays of 2.4m by 62m have been provided with no obstruction to visibility at or above a height of 0.9m above the nearside carriageway level in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interest of highway safety and amenity.

- (7) Prior to the commencement of each block of dwellings details shall be submitted to and approved in writing by the Local Planning Authority, setting 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.

- (8) Prior to the commencement of development of each block of dwellings 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 shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (9) No dwellings hereby permitted shall be erected until full details of the method of disposal of foul and surface waters, to consist of a Sustainable Urban Drainage System (SUDS) that attenuates surface water runoff to that of a Greenfield site up to and including the 1 in 100 years rainfall event +30% (to accommodate the effects of climate change), have been submitted to and approved in writing by the Local Planning Authority in consultation with the Kent County Council drainage and flood risk team. The approved details shall be implemented in full prior to first occupation of any dwelling hereby approved.

Reason: To ensure the site is adequately drained and to minimise the risk of flooding.

- (10) Not more than 5 of the dwellings hereby permitted shall be constructed until full details of both hard and soft landscape works (including a management plan for the communal and open spaces including the ponds and highway verges, provision of a metal estate rail and hedgerow along the Scocles Road frontage, and safety fencing around the ponds) have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other

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features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

Reason: In the interests of residential amenity.

- (12) Prior to construction of each block of dwellings hereby approved full details of all external joinery, fittings, eaves and verges, at a suggested scale of 1:5, together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (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 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.

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

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety and convenience.

- (19) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To minimise the risk of pollution.

- (20) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without recourse to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interest of visual amenity and in the interest of the special architectural or historic interest of the adjacent listed building.

- (21) The car parking spaces and carports shown on the submitted drawings shall not be enclosed in any way, and 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 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) 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 or garaging of cars is likely to lead to car parking inconvenient to other road users.

- (22) Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

(A) Footways and/or footpaths shall be completed, with the exception of the wearing course;

(B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (1) highway drainage, including off-site works,

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- (2) junction visibility splays,
- (3) street nameplates and other highway structures if any.

Reason: In the interests of highway safety and amenity.

- (23) Notwithstanding the submitted drawings, no dwelling hereby permitted shall be occupied until the footway shown on the approved plans on Scocles Road and alongside plot 1 has been provided at a minimum width of 1.8m, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

- (24) 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.

Reason: In the interests of residential amenity.

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

Reason: In the interests of the amenities of the area and in the interest of the special architectural or historic interest of the adjacent listed building.

The Council's approach to this application:

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

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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APPENDIX**HABITATS REGULATIONS ASSESSMENT SCREENING****Context**

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

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *“the presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.

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- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area. The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the ELP.

Associated information

The applicant's ecological appraisal dated October 2014 contains some information to assist the HRA. These matters have been considered within the attached committee report.

However, the appraisal does not include sufficient information to enable the HRA to be undertaken in its own right. As an example, it does not appear to contain a full assessment of the evidence collected by NKEPG but it does commit the applicant to a per dwelling payment for off-site mitigation as recommended by The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

Natural England's letter to SBC has also been considered; in particular that they have raised no objections to the proposals in terms of their impact on designated nature conservation sites. In advising SBC on the requirements relating to the Habitats Regulations Assessment, and to assist it in screening for the likelihood of significant effects, based upon the information provided, Natural England offered the following advice:

- The proposal are not necessary for the management of the European sites.

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- That subject to an appropriate contribution being made to strategic mitigation, the proposal is unlikely to have a significant effect on any of the European sites mentioned above, and can therefore be screened out from any requirement for further assessment.
- Proportionate contributions for the extra care facility if they include permanent staff accommodation and or the residents are able to recreate on the SPA.

The applicant has confirmed that they will make a financial contribution to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy in accordance with the recommendations of the North Kent Environmental Planning Group. This strategic mitigation will need to be in place before the first dwelling is occupied.

As detailed in their letter of the 6 January 2015, Natural England has confirmed that a suite of strategic measures similar to those set out in the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy will provide appropriate mitigation.

However, they consider it is up to the local authorities to ensure that appropriate measures are in place to allow the strategic mitigation to be delivered. This would include consideration of the appropriate tariff. The tariff amounts to £223.58 per dwelling and can be secured by way of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).

The Assessment of Scocles Court

The application site is located within 1.56km north of the Medway SPA. Whilst there is not a direct point to point footpath between the application site and the SPA, a mixture of footpaths and lanes make the SPA readily accessible. In any event, recreational impacts are equally likely to occur as a result of visitors arriving by car. This assessment has taken into account proposals for on-site mitigation, which, whilst including an area of open space and a pond, provides limited opportunity for activities such as dog-walking. Whilst this open space would no doubt supplement many day-to-day recreational activities, the coastal SPA is nevertheless considered likely to be a likely draw of activity for residents and, as such, these factors will not be sufficient to prevent off site recreation taking place on the SPA.

Conclusions

Taking a precautionary approach, given the applicants commitment to provide on site mitigation in the form of financial contributions towards the SAMM, it leads to the conclusion that the proposals would not give rise to likely significant effects on the SPA. It is concluded that the proposals can be screened out for purposes of Appropriate Assessment. These would not lead to likely significant effects on the SPA.