

PLANNING COMMITTEE – 13 OCTOBER 2016

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

REPORT SUMMARY

3.1 REFERENCE NO - 16/500006/FULL			
APPLICATION PROPOSAL Erection of a new detached two storey dwelling and garage			
ADDRESS 106 Scrapsgate Road Minster-On-Sea Kent ME12 2DJ			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR REFUSAL The proposed property due to its scale in the context of surrounding development and layout would have an unacceptable impact upon the streetscene, visual amenities and residential amenities.			
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to Parish Council view			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr A Brooks AGENT Anderson Design	
DECISION DUE DATE 04/04/16	PUBLICITY EXPIRY DATE 18/3/2016		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/01/1087	Outline application for a detached house	Approved	21.12.2001

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises a vacant parcel of land located between No.106 and No.104 Scrapsgate. The site measures approximately 45m in depth and 14m in width. Open land is situated to the rear of the site.
- 1.02 Although Scrapsgate in the wider sense is characterised by a variety of housing types and designs both adjacent properties are bungalows.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a detached two storey dwelling with rooms in the roofspace.

- 2.02 The dwelling would measure 13.6m in depth at its deepest point and 9.7m at its shortest point. The property would also have a frontward projecting attached garage measuring 5.7m in depth and 6m in width. The main dwelling would measure 5.8m to the eaves and 9.7m to the ridgeline. A chimney is also proposed finishing 0.6m above the ridge line of the property.
- 2.03 The rearward projecting element of the property measures 2.9m to the eaves and 5.3m in overall height whilst the frontward projecting garage measures 3m to the eaves and 5.4m in overall height.
- 2.04 The rear private amenity space will measure 18m in depth and an indicative planting scheme has been shown which includes a laurel hedge in front of the proposed garage and planting on each common boundary to the rear.
- 2.05 The internal layout of the property will be comprised of kitchen / dining room, living room, study, bathroom and utility at ground floor level, 3 bedrooms, 2 en-suites and a separate bathroom at first floor level and a bedroom and bathroom at second floor level within the roofspace.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.04 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.05 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.
- 4.06 The Swale Borough Local Plan Proposed Main modifications 2016 policies ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3

(Delivering a wide choice of high quality homes); DM14 (General development criteria) are also relevant.

5.0 LOCAL REPRESENTATIONS

- 5.01 Surrounding properties were sent a consultation letter and a site notice was displayed. No responses were received.

6.0 CONSULTATIONS

- 6.01 **Minster-on-sea Parish Council** support the application.
- 6.02 The **Environment Agency** (EA) initially objected to the proposal as the Flood Risk Assessment (FRA) did not confirm ground levels of the site or finished ground floor levels of the proposed new dwelling. Subsequent to this further information was submitted and on this basis the EA have confirmed that the objection can be removed.
- 6.03 **Natural England** raise no objection to the proposed development. Natural England state that the consultation documents do not include information to demonstrate the requirements Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA). In advising your authority on the requirements relating to the HRA, and to assist you in screening for the likelihood of significant effects, based upon the information provided, Natural England offers the following advice:
- The proposal is not necessary for the management of European sites;
 - Subject to appropriate financial contributions being made to strategic mitigation, the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment.

Natural England are also of the view that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSIs named above have been notified. The authority is therefore advised that these SSSIs do not represent a constraint in determining this application.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 16/500006/FULL and SW/01/1087.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area where the principle of residential development is accepted. I also note that an outline application submitted under SW/01/1087 approved in principle the development of a dwelling on this site (although not the siting, design, external appearance, means of access or landscaping). Although a period of time has passed between the granting of the outline permission and the consideration of this current application I am of the opinion that both national and local policies still support the principle of residential

development in this location. On this basis I am of the view that the principle of development is accepted.

Visual Amenity and Impact upon Streetscene

- 8.02 As set out above, Scrapsgate, considered in its overall context is a street comprised of a variety of properties, both in terms of scale and design. However, in the immediate vicinity of the application site the properties which flank the location of the proposed property are both bungalows. The result of this is that the built form in this specific part of Scrapsgate is characterised by single storey development which has a very modest impact upon visual amenities and the streetscene.
- 8.03 The proposal would introduce a two storey property with rooms in the roofspace, measuring 9.7m to the ridgeline. The result of the introduction of a property of this imposing scale and bulk would in my view be at odds with the immediately adjacent dwellings, would appear incongruous in the streetscene and result in a development which in my opinion would give rise to significant harm to the existing character of the streetscene and to visual amenities. On this basis I am of the view that the proposal would look significantly out of keeping, is unacceptable and should be refused for this reason.

Residential Amenity

- 8.04 The two adjacent properties, No.106 to the north and No.104 to the south are staggered with No.104 situated approximately 6.8m from the highway and No.106 set back by 15m.
- 8.05 As set out above, the proposed dwelling has a frontward projecting garage located 1.4m away from the flank wall of the existing property at No.106. The garage will project 6m beyond the front elevation of No.106, furthermore the proposed property is located to the south of this neighbouring property. I also take into consideration that the garage will be 5.4m in height. As such, when the depth of the projection is combined with its height and positioning south of the existing property at No.106 I am of the view that this element of the proposal would have a significantly overbearing impact upon the neighbouring property leading to a sense of enclosure and unacceptable loss of light.
- 8.06 On the opposite side the flank wall of the proposed property is separated from the flank wall of No.104 by 4.6m. The proposed property projects to the rear of No.104 at two storey height by 3.8m and a further 4m at single storey height. As such, the proposed property as a whole would project by 7.8m past the rear wall of No.104. I note that No.104 has outbuildings which project rearwards along the common boundary with the application site, however these are single storey and limited in height. As such, even though the proposed property is situated to the north of No.104 I believe that a rearward projection to this depth, a proportion of which would be at two storey height, would create a significant sense of enclosure and would lead to an unacceptably overbearing impact upon the occupiers of No.104.
- 8.07 As a result of the above assessment I am of the view that the proposal would introduce a dwelling which would cause significant harm to the residential amenities of the occupiers of both adjacent properties and for this reason is unacceptable.

Flood Risk

- 8.08 The application site lies within Flood Zone 3 and on this basis the EA were consulted. They initially objected to the proposal as the FRA did not confirm ground levels of the site or finished ground floor levels. After liaising with the agent additional information was included in the FRA and I re-consulted with the EA. They have confirmed that the additional information is acceptable and have removed their objection. As such I do not consider that the proposal would give rise to unacceptable risk of flooding to future occupants of the dwellings.

Impact Upon SPA and Ramsar Sites

- 8.09 I have for completeness set out a Habitat Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

9.0 CONCLUSION

- 9.01 Overall I consider that although the principle of development is accepted, the scale and layout of the proposed property would have an unacceptable impact on the streetscene, visual amenities and residential amenities. For these reasons I recommend that the application is refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The proposed property by virtue of its large scale and bulk would appear significantly out of character in the context of the adjacent properties and would give rise to unacceptable harm to the streetscene and visual amenities contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.
- (2) The proposed property by virtue of the forward projecting garage would have a significantly overbearing impact upon the occupiers of No.106 leading to an unacceptable sense of enclosure and loss of light causing unacceptable harm to residential amenities contrary to policies E1 and E19 of the Swale Borough Local Plan 2008 and the Council's adopted Supplementary Planning Guidance - Designing an Extension: A Guide for Householders.
- (3) The proposed property by virtue of its layout and projection past the rear elevation of No.104 would have a significantly overbearing impact upon the occupiers of this property leading to an unacceptable sense of enclosure contrary to policies E1 and E19 of the Swale Borough Local Plan 2008 and the Council's adopted Supplementary Planning Guidance - Designing an Extension: A Guide for Householders.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4.2km east of Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

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

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

order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

The Council's approach to this application:

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

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

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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