

2.7 REFERENCE NO - 16/506453/FULL			
APPLICATION PROPOSAL Demolition of existing bungalow and erection of No.2 3 bed houses with parking spaces (Resubmission)			
ADDRESS 2 Kings Road Minster-on-sea Kent ME12 2HL			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Recommendation contrary to Parish Council view			
REASON FOR REFERRAL TO COMMITTEE The application site lies within the built up area boundary where the principle of residential development is accepted and does not give rise to unacceptable harm to residential, visual or highway amenities.			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr E Batten AGENT Prime Folio
DECISION DUE DATE 19/10/16	PUBLICITY EXPIRY DATE 16/09/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/503908/FULL	Demolition of existing bungalow and erection of 2No. 3 bed houses with parking spaces	Refused	08.07.2016
<i>Reason - The proposed dwellings would, by virtue of their bulk and scale, amount to an overdevelopment of the site, giving rise to a cramped appearance, harmful to visual amenity. In addition, the flank wall of the proposed development addressing Kings Road, by virtue of its proximity to the boundary combined with its scale would have a significantly detrimental impact upon the character and appearance of the streetscene and visual amenities in this part of Kings Road, contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.</i>			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 No.2 Kings Road is a corner plot measuring 29m x 10m and located on the junction with Queens Road.
- 1.02 A bungalow currently occupies the site which is set back from the frontage with Kings Road by 4m and from Queens Road by 10m. The remainder of the site consists of the bungalow’s amenity space.
- 1.03 The surrounding area is characterised by a mixture of dwelling types and designs including bungalows, two storey dwellings and two storey dwellings with rooms in the roofspace.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the erection of 2no. 3 bed dwellings.
- 2.02 The proposed dwellings would be semi detached with the main entrances located on the side of the dwellings. The principle elevations of the dwellings would front onto Queens Road.
- 2.03 The properties each measure 3.7m in width (excluding the canopy of the external doors on the flank elevations) and 10.7m in depth. The properties would be arranged in a symmetrical layout and would be two and a half stories in height with rooms in the roofspace. The dwellings measure 5.2m to the eaves and 9.2m in overall height with a pitched roof with hipped ends. 4 dormer windows are proposed, 2 on the front roofslope and 2 on the rear.
- 2.04 To the rear of the proposed dwellings private amenity space will be provided measuring 10.6m in depth and 5m – 6m in width. Further to the rear of the private amenity space lies a parking area for 4 cars. The private amenity space and the parking area will be largely screened by existing planting.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework

- 4.01 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*
- 4.02 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.
- 4.03 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Policies E1, E19 and T3 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.04 Although policy H2 of the Local Plan is not considered to comply with the provisions of the NPPF in as much as it aims to prevent residential development outside the built up area (due to Swale not currently having a five year housing supply), in this case this does not have a huge bearing as the site is within the built up area boundary but still subject to the considerations of the other policies (that do comply with the NPPF).

National Planning Practice Guidance (NPPG)

- 4.05 The 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 and urban design / architecture, amongst others.

Swale Borough Local Plan Adopted 2008

- 4.06 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;
- 4.07 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;
- 4.08 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.
- 4.09 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

The Emerging Swale Borough Local Plan 'Bearing Fruits 2031' Proposed Main Modifications 2016

- 4.10 Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2011-2031 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes) and DM14 (General development criteria) are all relevant to this application.

5.0 LOCAL REPRESENTATIONS

- 5.01 One letter of objection was received raising the following summarised concerns:
- Little has changed from the recently refused application;
 - The proposed dwellings would by virtue of their bulk and scale amount to an overdevelopment of the site with a cramped and oppressive appearance, harmful to visual amenities;
 - Anything other than the height of the existing bungalow would have a significant detrimental impact upon the character and appearance of the streetscene;
 - The proposed development will lead to a loss of views;
 - The proposed dwellings will have an overbearing impact and cause overshadowing and loss of the light to neighbouring dwellings;
 - The design of the proposed development does not afford adequate privacy to the occupants of surrounding properties, including the residential property opposite, No.7 Queens Road;
 - *"The space around and between the dwellings is an important factor in the creation of a pleasant residential environment, contributing to the individual character, identity and appearance of the area"*;
 - *'This is a desirable area with outstanding natural beauty'*;
 - Concerns regarding highway safety as this a corner plot;
 - Would lead to more vehicles parking on Queens Road impeding site lines at the Queens Road / Kings Road junction;

- Proposal would be detrimental to wildlife;
- Shortage of bungalows.

6.0 CONSULTATIONS

- 6.01 **Minster-on-sea Parish Council** objects to the application stating that their *“position remains unchanged. On 2nd June 2016, it objected to the proposal on the following grounds: “The proposed buildings are unnecessarily too far forward of the building line in both Queens Road and Kings Road and impede the site lines for vehicles turning from Queens Road into Kings Road”. The resubmission does nothing to resolve these issues or indeed the Parish Council's associated concerns about the risks this presents to highway safety and amenity. Although the matter was dealt with under delegated authority by an officer who recommended refusal, clarification is needed as to why the Officer disagreed with the Parish Council's view. There is concern that similar actions could lead to inappropriate development which could have been prevented. There is also concern about what appears to present as a means to shortcutting the planning process where safeguards are already in place to provide only sustainable development.”*
- 6.02 The Council's **Environmental Protection** team request conditions related to construction hours, asbestos and dust suppression. Asbestos is not a matter that is dealt with through the planning process and as such I have not recommended this condition.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Applications papers and correspondence relating to planning reference 16/506453/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area boundary as defined by the Proposals Map of the Swale Borough Local Plan 2008, where the principle of residential development is accepted.

Residential Amenities

- 8.02 As stated above, the existing property on the site is a bungalow which limits any impact upon neighbouring properties. As such the introduction of taller dwellings onto this site will need to be carefully considered as follows in terms of its impact upon neighbouring amenities.
- 8.03 Due to the rooms in the roofspace, from the perspective of overlooking the proposal would effectively introduce windows at three storey height. As the properties proposed will be located closer to Queens Road than the existing bungalow, rearward views will be available. However, in relation to the neighbouring property (No.6 Queens Road) I do not consider that these views would give rise to unacceptable levels of overlooking or a loss of privacy. The rearward views available will be consistent with a conventional streetscene and I also note that the rear windows at second floor height will serve a bathroom and would therefore be expected to be obscured. Further to this, some views will already be available from the upper windows of No.2 Queens Road towards the rear private amenity space of No.6. I note that there are two side windows proposed but these will serve a stairwell

and a bathroom. Although these will face towards the roof of No.6 I have included a relevant condition requiring these windows to be obscure glazed to stop any possible views towards this neighbouring property. As such I do not consider that this is unacceptable.

- 8.04 In relation to No.1 Kings Road, this is on the opposite side of the highway to the flank elevation of the proposed development, separated by a distance of 13.4m. Again, the two windows on the flank elevation facing this property serve a stairway and a bathroom and as such I do not consider that the relationship between the properties will give rise to overlooking to an unacceptable degree. In relation to No.7, this faces the front elevation of the proposed property. The relationship between the host property and this neighbouring property is repeated in a number of instances in the existing streetscene. I consider the levels of overlooking that would occur, even accounting for the dormer windows in the roofslope, to be as one would expect within a residential area. Finally, in relation to No.4 Kings Road at the rear, the rear to flank distance is 21.6m. This is comfortably in excess of the 11m that the Council would usually expect and therefore I take the view that the relationship between the proposed dwelling and the existing property at No.4 is acceptable.
- 8.05 In overall terms I do not consider that the proposal would give rise to unacceptable levels of overlooking or a significant loss of privacy to any of the surrounding properties. I also consider that due to the proposed properties being built on a similar building line to the other properties on this side of Queens Road, and that it projects to the rear of No.6 by only 1.2m, with a 2.4m gap between the properties that the dwellings proposed would not have an overbearing impact upon the amenities of neighbouring residents. I note that concern has been raised regarding loss of light but due to the siting of the proposal as explained above I do not consider this would be unacceptable.

Visual Amenities and the Streetscene

- 8.06 The properties in this part of Kings Road and Queens Road are characterised by a mix of property types and designs. This includes two storey dwellings with additional rooms in the roofspace, as is being proposed here. As a result I do not consider that the proposal, simply by virtue of its design would have an unacceptable impact upon visual amenities.
- 8.07 The reason for refusing the previous application (16/503908/FULL) is set out above. However, to summarise, the bulk and scale of the proposal amounted to overdevelopment of the site, giving rise to a cramped appearance and that the limited gap to the side boundary would have an unacceptably overbearing impact upon the streetscene in Kings Road, creating a dominant and oppressive environment.
- 8.08 In regards to the previously refused application the distance from the side boundary to the flank wall which was considered unacceptable was between 0.2m and 0.6m. The gap has now been increased to between 1.4m and 2m. I have noted that the overall height to the ridge of the proposed dwellings has been increased from the previous application by 0.3m to 9.2m. Furthermore I appreciate that the existing dwelling on the site is a bungalow which is set back from Kings Road by approximately 4m and as a result has a limited impact upon the streetscene. However, I also take into consideration that the proposed eaves height remains the same and the roof is hipped and therefore slopes away from Kings Road.
- 8.09 Although finely balanced, in overall terms I consider that the narrowing of the width of the dwellings and the consequent increase in the gap to the side boundary has now

led to a development which would not have a significantly overbearing impact upon the streetscene. By virtue of this I am also of the view that on balance the proposal does not amount to an overdevelopment of the site. On this basis I do not believe that the proposal would have an unacceptable impact upon visual amenities or the streetscene.

Highway Amenity and Parking

- 8.10 The application proposes 2, 3 bedroom properties and a total of 4 parking spaces. I have paid regard to Kent County Council's Kent Design Guide Review: Interim Guidance Note 3 Residential Parking which states that 3 bed houses in suburban locations (which I consider this to be) are required to have 1.5 spaces per unit. As the development proposes 4 spaces I consider this to be over and above the requirements of this Guidance and therefore I believe this to be acceptable.
- 8.11 In relation to the Parish Council's comments regarding sightlines for vehicles turning from Queens Road into Kings Road I respond as follows. The site as existing has a close boarded fence and well established heavy planting on the corner of Kings Road and Queens Road. This runs hard up against the boundary of the site and extends to a height over what would be visible from the vast majority of vehicles. As such, I do not consider that the properties as proposed in this application would give rise to additional harm to highway safety or amenity.

Impact upon SPA and Ramsar sites

- 8.12 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.

Other Matters

- 8.13 The majority of the points raised within the neighbour objection have been responded to by virtue of the discussion above. However, of those that remain I make the following points. The site comprises of an existing dwelling and its associated amenity space, as such I do not consider that the proposal would be significantly harmful to wildlife. However, if there is wildlife on the site then they are protected by virtue of the Wildlife and Countryside Act 1981. Secondly, the Council does not have a policy which requires the retention of bungalows per se and as such I do not believe that its loss would substantiate a reason for refusal.

9.0 CONCLUSION

- 9.01 Overall I believe that when assessed against the previously refused application the proposal now being considered would not in my view amount to overdevelopment of the site or have an unacceptable impact upon the streetscene or visual amenities. I am also of the view that the proposal would be acceptable in relation to its impact upon residential and highway amenities. I recommend that planning permission is granted.

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

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 16-16-11 (received 18th August 2016); 16-16-12-A (received 24th October 2016) and 16-16-13 (received 18th August 2016).

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

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

Reason: In the interest of promoting energy efficiency and sustainable development and to ensure details are agreed prior to commencement of development.

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

Reason: In the interest of visual amenity and to ensure details are agreed prior to commencement of development.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

- 6) 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.

- 7) 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.

- 8) 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 – 1800 hours, Saturdays 0830 – 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.

- 9) The commencement of the development shall not 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 in writing by the Local Planning Authority. The measures approved 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.

- 10) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 11) The access details as shown on drawing 16-16-11 (received 18th August 2016) shall be completed prior to the first occupation of the dwellings hereby approved.

Reason: In the interest of highway safety and convenience.

- 12) The windows on the flank elevation (facing towards No.6 Queens Road) shall be obscure glazed before first occupation of this dwelling and will remain so in perpetuity.

Reason: In the interests of residential amenities.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 5.5km north of The Swale Special Protection Area (SPA) and Ramsar site and 5.1km east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds

being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

The Council's approach to this application:

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

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

In this instance:

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

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