

<b>2.7 REFERENCE NO - 17/500436/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a four bedroom detached dwelling with integral garage and associated parking and access (resubmission of 16/506927/FULL).			
<b>ADDRESS</b> Corner Plot Range Road Eastchurch Kent ME12 4DU			
<b>RECOMMENDATION</b> Grant Subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The Council does not currently have a five year supply of housing land and the site was found by the Inspector to be in a sustainable location and the benefits of one additional dwelling outweigh any harm caused to the countryside. Furthermore, the proposal would not unacceptably harm the residential amenities of future occupiers of the two properties approved under 14/506821/FULL and the additional dwelling would not cause any significant harm to residential or visual amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council and local objections			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr Lee Marshall <b>AGENT</b> Kent Design Partnership	
<b>DECISION DUE DATE</b> 02/05/17	<b>PUBLICITY EXPIRY DATE</b> 17/03/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/506927/FULL	Erection of a 4 Bedroom detached dwelling with integral garage and parking space and revised scheme from previously approved application 14/506821/FULL.	Refused	10.01.2017
14/506821/FULL	Erection of pair of 3 bedroom semi-detached houses with associated garages and car parking	Refused but allowed on Appeal (PINS ref: 3135783)	Application refused on 12.08.2015. Appeal allowed on 28.01.2016

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 Range Road is L shaped and the application site occupies the corner plot where the road turns at 90 degrees. The site is comprised of a pair of semi detached dwellings which have recently been constructed under 14/506821/FULL (referred to above and appeal decision attached as an appendix to this report).
- 1.02 Two storey residential dwellings are located to the north of the application site. Playing fields are immediately adjacent to the west with two storey residential development further to the west along Range Road. To the east lies open

countryside. The surrounding area in general is dominated by the Sheppey prison cluster which is situated to the south and south west.

## 2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a 4 bedroom detached dwelling with parking to the front and private amenity space to the rear. The application also proposes to reduce the private amenity space associated with both the dwellings recently constructed, and to amend the parking layout of one of the properties allowed on appeal (details above) and which form part of the application site.
- 2.02 The proposed dwelling would have a pitched roof with frontward projecting gable. The property would have an attached garage with a bedroom in the roofspace. The depth of the property would range between 11.7m and 8.1m with the width ranging between 5.7m and 8.9m. The eaves height of the garage would be 2.8m on the front elevation and 3.8m on the rear, with a ridge height of 6.2m. The main dwelling would have an eaves height of 5.4m. The ridge height of the front projecting gable would measure 8m with the main ridge measuring 8.5m.
- 2.03 A parking space is indicated to the front of the dwelling with private amenity space to the rear measuring 13m in depth at its longest point, 7.5m at its shortest point and 13m in width. A 2m high brick wall with a 300mm trellis is proposed along the common boundary with plots 1 and 2 separating the private amenity spaces.
- 2.04 The proposed property will result in the reduction of the private amenity space of the dwellings recently constructed on this site on plot 1 from 20m to 10.1m in depth and on plot 2 from 15.6m to 10.1m in depth. The proposed garage of the dwelling on plot 2 (under 14/506821/FULL) will be omitted and two parking spaces for this property will be provided adjacent to the additional property now being proposed.

## 3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance

## 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The NPPF at paragraph 14 states that central to the NPPF is *“a presumption in favour of sustainable development.*

*For decision-taking this means:*

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

- 4.02 At paragraph 49 the NPPF states that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

### Development Plan

- 4.03 Policies SP1 (Sustainable Development), SP2 (Environment), SP4 (Housing), SP5 (Rural Communities), SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside), E19 (Achieving High Quality Design and Distinctiveness), RC3 (Helping to Meet Rural Housing Needs), H2 (Providing for New Housing), T1 (Providing Safe Access to New Development) and T3 (Vehicle Parking for New Development) of the adopted Swale Borough Local Plan 2008
- 4.04 Policies ST1 (Delivering Sustainable Development in Swale), ST2 (Development Targets for Jobs and Homes 2011-2031 2014-2031), ST3 (The Swale Settlement Strategy), CP3 (Delivering a Wide Choice of High Quality Homes), CP4 (Requiring Good Design) and DM14 (General Development Criteria) of The Emerging Swale Borough Local Plan 'Bearing Fruits 2031' Proposed Main Modifications 2016.

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 A site notice was displayed close to the site and neighbouring properties were sent a consultation letter. Three responses were received, raising objections on the following summarised grounds:
- If this application is approved then it will set a precedent for similar proposals;
  - Would all residents be able to build houses in their back garden?;
  - The roads are in a poor state and unable to cope with additional traffic;
  - The proposed property would not be in keeping with other properties in the road;
  - The proposed property would overlook the rear gardens of No.s 11-16 Range Road giving rise to loss of privacy, the 2m fence would not overcome this;

## **6.0 CONSULTATIONS**

- 6.01 **Eastchurch Parish Council** *“objects to this application and wishes to make the following points: There are very minor variations on the new application and the Committee see no reason to change the original objections to the application. It is still an over intensification of the site and still contradicts the original planning conditions and the comments of the Planning Inspector on appeal.”*
- 6.02 **Natural England** state that *“The comments provided in our previous response apply equally to this resubmission and the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.”*

The previous comments were as follows:

*“It is the Council’s responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.”*

- 6.03 **KCC Archaeology** state *“my comments remain the same as for the previous application at this site:*

*The proposed development is located within the area of the former First and Second World War airfields at Eastchurch which are of historical significance. An aerial photograph of 1946 indicates the presence of an airfield structure of unknown nature on the site or close to it.*

*It is possible that archaeological remains may be encountered during the proposed groundworks and I would recommend that provision is made for an archaeological watching brief."*

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers and correspondence relating to planning reference 17/500436/FULL, 16/506927/FULL and 14/506821/FULL.

## **8.0 APPLICANTS SUPPORTING COMMENTS**

- 8.01 A Design and Access Statement has been submitted with the application which sets out, amongst other details, the planning history of the site and the layout and design of the proposal.

## **9.0 APPRAISAL**

- 9.01 I firstly draw the attention of Members towards the previous application for one dwelling on the site which was reported to 5<sup>th</sup> January 2017 Planning Committee meeting under 16/506927/FULL with a recommendation for approval. It was resolved that the application be refused for the following two reasons:

- 1) The proposal to introduce an additional dwelling onto the plot would cause unacceptable harm to the character and appearance of the streetscene and would constitute over-intensive development giving rise to significantly harmful levels of overlooking and an overbearing impact upon neighbouring properties. This would be contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.
- 2) The introduction of an additional dwelling onto the application site would by virtue of reducing the rear private amenity space of the property on plot 2 to 9.4m in depth cause unacceptable harm to the amenities of the future occupiers of this dwelling and would be contrary to policies E1 and E19 of the Swale Borough Local Plan 2008.

- 9.02 Further to the above, this new application as now submitted has been amended to alter the rear gardens of the existing properties on plot 1 and 2 so that they are both 10.1m in depth and to erect a brick wall on the rear boundary of plots 1 and 2 / side boundary of the proposed dwelling at a height of 2m with a 300mm trellis on top. The remainder of this appraisal sets out my view on the acceptability of this revised application.

### **Principle of Development**

- 9.03 In planning policy terms the site lies outside of the built up area boundary and is therefore in the countryside. In regards to this the Council cannot currently demonstrate a five year supply of housing land and because of this the Council's policies in relation to the supply of housing are to be considered out of date, as set out in paragraph 49 of the NPPF. In addition to this I also give significant weight to the appeal decision which granted planning permission on this site (see reference

above) for two dwellings, i.e. those recently constructed. I have attached this appeal decision as an Appendix for ease of reference. Although since the appeal decision was made, the Council's emerging Local Plan has been re-examined in public, the Councils claimed five year housing land supply has yet to be confirmed. Therefore, the appeal decision was made in a very similar policy context regarding the Council's lack of a five year housing supply.

- 9.04 In accordance with the requirements of paragraph 14 of the NPPF, the approach adopted has been to assess the proposal against the NPPF's requirements to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework or taken as a whole. The appeal decision found that the site met the three roles of sustainable development, economic, social and environmental. The circumstances of the surrounding area remain predominately the same as when the appeal decision was made and I also note that the Inspector, in terms of sustainability found that there would be no adverse impacts arising from the development. On this basis I take the view that an additional dwelling would provide benefits in terms of the contribution towards housing supply which would outweigh what is in my view the very limited harm of the proposal. As a result I find no reason as to why a different stance should be taken from the Inspector's conclusions regarding the sustainability of the site and therefore I am of the view that the principle of development is accepted.

### **Visual Impact**

- 9.05 I appreciate that the properties in the immediate vicinity of the application site are semi detached in nature. Although, the property proposed would be detached I consider it would be of a comparative scale to surrounding dwellings with a pitched roof and side facing gables. Therefore I am of the view that the style and design of the property itself would not be so significantly out of keeping with the surrounding development as to be unacceptable.
- 9.06 The application also proposes a change to the layout of the dwellings allowed on appeal. The result of this is that the parking arrangement for the dwelling labelled as plot 2 (occupying the very corner plot) has been amended to omit the garage and provide two independently accessible spaces adjacent to the newly proposed property. I also take into account that a parking space is shown in the frontage of the additional dwelling. The result of this would be that the parking layout for these two dwellings would be prominent in the streetscene from public vantage points. In terms of this, I again turn to the Inspector's appeal decision where it was found that frontage parking in this location would not cause unacceptable harm to visual amenities or the streetscene. This was in part due to the frontage parking that is common within other residential properties close to the application site. Furthermore, I note the large area of public open space that abuts the site and that there is an area of landscaping indicated within the frontage of the newly proposed property. As a result I do not believe that the revised parking area for one of the dwellings already granted planning permission, or the parking layout of the newly proposed property would cause significant harm to visual amenities or the streetscene.

### **Residential Amenity**

- 9.07 The frontage of the detached property would be turned 90 degrees from the properties previously approved and now in situ on this site. The result of this is the flank wall of the garage would be 10.1m from the rear of the property labelled as plot 2. In terms of separation, the Council would usually expect a flank to rear distance of

11m for two storey properties. In this case I note that the ridge height of the proposed garage is limited to a maximum of 6.2m, whilst the full two storey element of the proposed property would be 13.4m away from the rear of the closest dwelling – Plot 2. As a result I believe that due to the separation distance between the two storey element and the closest dwelling that the additional property would not have an unacceptably overbearing impact upon the future occupiers of this neighbouring dwelling.

- 9.08 The first floor rear elevation of the property would be 23m away from the area directly to the rear of No.11 Range Road. In this case I take into account that the rear windows would not be angled towards this part of the neighbouring private amenity space and the detached garage to the rear of plot 1 would also heavily disrupt the views available towards No.11. As a result I believe that the scheme would not introduce levels of overlooking that would be significantly harmful. Views from the new property towards the rear of plot 1 would be extremely limited due to the configuration of these dwellings and therefore I do not believe that the proposal would introduce the possibility of harmful levels of overlooking or a significant loss of privacy.
- 9.09 Of the surrounding properties, the most direct view of the rear private amenity space of the newly proposed dwelling would be from the recently constructed property on Plot 1. The upper level windows of this property would be 16.5m away from the central part of the rear garden. In terms of this current application a 2m high brick wall with a 300mm trellis along the common boundary between plot 1 and the proposed property has been indicated. The application as now submitted also includes a drawing showing vision splays from the rear of the properties on plots 1 and 2 which shows that a number of the views will be blocked by the wall and trellis. The result of this is that in my opinion, due to the only available views being side on, combined with the distance as set out above and the wall / trellis proposed I consider that the layout of these properties would not cause significant levels of overlooking or loss of privacy to future occupiers.

### **Other Matters**

- 9.10 Due to the change in layout, the properties allowed on appeal would have their private amenity space reduced. However, due to an amended layout from the previously refused application they would still be 10.1m in depth and therefore in my opinion sufficiently sized for the dwellings that they serve. As a result I am of the view that this overcomes the second reason for refusing the application as set out above. I also note that aside from the garage only one parking space is indicated for the additional property for which permission is now sought. Notwithstanding the garage, I consider that there is enough space for two vehicles to be parked within the curtilage of the dwelling and as a result the development would in my view not give rise to unacceptable harm to highway safety or amenity.
- 9.11 Although the majority of points raised by the objections received have been discussed in the appraisal above, of those that are outstanding I respond as follows. In terms of setting a precedent, applications for residential units within the curtilage of dwellings would be judged on their merits and as such I do not believe this application would set a precedent. Finally, I do not consider that the highway in the vicinity of the application site is in such a poor state that the introduction of 1 additional dwelling would cause such significant harm that this would substantiate a reason for refusal.

### **Impact upon SPA and Ramsar sites**

9.12 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.

## 10.0 CONCLUSION

10.01 Due to the Council's housing policies being out of date as a result of the current five housing land supply position, the benefits that the development would bring in terms of a welcome, albeit limited contribution to the housing land supply in a sustainable location would outweigh the very limited harm that this proposal would cause. I also give significant weight to the Inspector's decision in allowing the appeal for two dwellings on this site.

10.02 In addition I believe that the proposed dwelling would not unacceptably harm residential or visual amenities and the altered layout would still provide adequate private amenity space and parking provision for the previously approved dwellings on the site. I believe that both reasons for refusing the previous application would be difficult to defend at appeal due to the points as set out in the discussion above. I therefore recommend that planning permission is 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. The development hereby permitted shall take place in accordance with the following drawings: 16-51-06 (received 26<sup>th</sup> January 2017); 16-51-07 (received 26<sup>th</sup> January 2017); 16-51-08 (received 26<sup>th</sup> January 2017); and 16-51-09 (received 6<sup>th</sup> February 2017).

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

3. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, 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 in accordance with the approved details prior to the first use of any dwelling.

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

4. The materials to be used in the construction of the external surfaces of the development hereby approved shall match those as stated on the application form.

Reason: In the interests of visual amenities.

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded.

The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and to ensure that such matters are agreed before work is commenced.

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

7. 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.

8. 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.

9. No construction activities shall take place, other than between 0730 to 1900 hours (Monday to Friday) and 0790 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

10. The area shown on the submitted plan as vehicle parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (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 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 dwellings approved under 14/506821/FULL and the dwelling hereby permitted.



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

11. The garage hereby approved shall be kept available for the parking of vehicles 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 or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

12. Prior to the occupation of the dwelling hereby approved, the wall and trellis along the common boundary with plots 1 and 2 (as indicated on drawing no.16-51-08) shall be erected and shall thereafter remain 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 3km north of The Swale Special Protection Area (SPA) and Ramsar site 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 dwellings 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:

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

In this instance:

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

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

## APPENDIX A



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## Appeal Decision

Site visit made on 5 January 2016

by **Andrew Owen MA MRTPI**

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

Decision date: 28 January 2016

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**Appeal Ref: APP/V2255/W/15/3135783**

**Land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Lee Marshall against the decision of Swale Borough Council.
  - The application Ref 14/506821/FULL, dated 22 December 2014, was refused by notice dated 12 August 2015.
  - The development proposed is a pair of 3 bedroom semi detached dwellings with associated garages and parking.
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### Decision

1. The appeal is allowed and planning permission is granted for a pair of 3 bedroom semi detached dwellings with associated garages and parking at land adjacent to 11 Range Road, Eastchurch, Sheerness, Kent ME12 4DU in accordance with the terms of the application, Ref 14/506821/FULL, dated 22 December 2014, subject to the conditions listed in the attached Schedule.

### Main Issues

2. The main issues in this appeal are the effect of the proposal on the character and appearance of the area and whether the development would constitute sustainable development.

### Reasons

#### *Character and Appearance*

3. The site is within a small settlement dominated by three prisons forming the Sheppy prison cluster and also including a fire station and around 70 dwellings. It effectively comprises an undeveloped corner plot as it faces Range Road to its south and east. The adjacent development to the north is a row of two-storey, semi-detached properties and the dwellings to the west are of a similar form, design and appearance. There is a playing field to the rear of the site, Swaleside prison car park to the south and a paddock opposite. The paddock and the car park are visually separated from the site by bushes and hedgerows of around five metres in height and hence contribute little to the visual context of the site. As a result the site relates more strongly to the neighbouring residential development than to the rural land opposite. Consequently the development would have little impact on the character or appearance of the countryside.
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4. The dwellings on Range Road are of a regular form, scale and appearance being exclusively semi-detached, two-storey properties constructed of red or yellow brick and accompanied in parts by hanging tiles or weatherboarding. The development would reflect this form and scale and would incorporate weatherboarding at first floor level. The building would differ from the adjacent units by being marginally higher, incorporating dormers and having half hipped roofs. However these differences would not result in the development appearing incongruous in its setting.
5. The garage to the rear of plot 1 would be detached from the main house and would front the part of Range Road that runs parallel to the south boundary of the site. The garage would be largely screened from views from the west by the boundary fence and by a large tree that is positioned just beyond the south west corner of the site. The driveway in front of this garage would project forward of the rest of the development and would be visible in the street scene. However even when a car is parked on here, the driveway would not appear unduly prominent in the street scene. Indeed many of the other properties along Range Road have driveways forward of the dwelling. As such, in this respect the development would also not appear incongruous in its setting.
6. Consequently the development would not harm the character and appearance of the area, including the countryside, and would comply with Policy E1 of the Swale Borough Local Plan (SBLP) which seeks to ensure development is appropriate to its location, and Policy E19 of the SBLP which requires development to be of a high quality design.

*Sustainable Development*

7. It is not disputed that the Council cannot demonstrate a five year supply of housing land. In such circumstances, paragraph 49 of the National Planning Policy Framework advises that relevant policies for the supply of housing should not be considered up to date. Policies H2 and RC3 of the SBLP relate to the provision of housing and so should not be considered up to date. Policy E6 of the SBLP relates to development generally in the countryside and should also be considered out of date in so far as it relates to housing supply. As such, I can give these policies only limited weight.
8. The presumption in favour of sustainable development is set out in Paragraph 14 of the Framework. It adds that where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, or where specific policies in the Framework indicate development should be restricted.
9. The Framework identifies three dimensions to sustainable development: economic, social and environmental, and states that planning needs to perform roles in all three dimensions. It is necessary to consider the proposal in terms of all three roles to establish whether it constitutes sustainable development.
10. The site is located outside the defined settlement of Eastchurch, being approximately ¾ mile from the settlement boundary and around 1 mile from the village centre and the goods and services available there. Church Road, which links the Sheppy prison cluster to the village centre, does have a footway along its length and some lighting and so provides a safe pedestrian access to the village centre. Furthermore, on Church Street there is a bus stop around

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300 metres from the site which is served by three bus services providing links to the village centre and larger towns further afield. Accordingly because of the site's accessibility to goods, services and public transport links, the provision of housing in this location would support the well-being of the village and help to perform the social role in sustainable development.

11. The prison cluster dominates the context of the site, and the appellant has commented that the neighbouring houses were originally built to house prison staff and their families. It is not unreasonable to consider that the prisons could provide employment opportunities for future residents of the dwellings which would be accessible by walking or cycling. Furthermore there may also be a short term gain for the local economy during the construction period. Consequently, the development would contribute to the local economy and fulfil the economic role.
12. As set out above, the immediate area has a primarily domestic character and therefore no harm would be caused to the character or appearance of the countryside as a result of the development. As such the development would protect the countryside and the environmental role would be met.
13. In terms of complying with specific policies in the Framework, Paragraph 55 advises that isolated homes in the countryside should be avoided. However due to the size of the settlement within which the site is located and the links to the village centre, I do not consider that the development would be isolated.
14. In summary, there would be no adverse impacts arising from the proposed dwelling, there would be benefits when considered against the Framework as a whole and there are no specific policies in the Framework which indicate that development should be restricted. For all the above reasons, I find that the proposed dwelling would constitute sustainable development as defined in the Framework. The development would also accord with Policy H2 of the SBLP which supports sustainable forms of development, and Policy E6 of the SBLP which requires development to protect the character of the countryside.

**Conditions**

15. I have considered the conditions put forward by the Council against the requirements of the national Planning Practise Guidance and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
16. In addition to the standard timescale condition, I have attached conditions for the avoidance of doubt, to protect the character and appearance of the area, in the interests of sustainable development, in the interests of highway safety and in the interests of the residential amenity of neighbouring residents. Some conditions require compliance prior to the commencement of development so that the effects of the development are properly mitigated for.

**Conclusions**

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and planning permission granted subject to the conditions in the attached Schedule.

**APPENDIX A**Appeal Decision APP/V2255/W/15/3135783

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**Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14.48.01B, 14.48.02B and 14.48.03A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details have been submitted to and approved in writing by the local planning authority which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling and energy efficiency. Such measures shall be carried out as approved.
- 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 and these works shall be carried out as approved before the occupation of the development. These details shall include existing trees, shrubs and other landscape features; schedules of plants noting species (which shall be native species), plant sizes and proposed numbers/densities where appropriate, means of enclosure, hard surfacing materials and an implementation programme.
- 6) If within a period of five years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written approval to any variation.
- 7) No dwelling shall be occupied until the garages and vehicle parking and manoeuvring areas have been provided within the site in accordance with drawing No 14.48.01B.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the garages, vehicle parking and manoeuvring areas shall be kept available for vehicle parking and manoeuvring at all times.
- 9) Construction works shall not take place outside 0730 hours to 1900 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays, unless with the prior written approval of the Local Planning Authority.
- 10) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period unless any variation has been approved by the local planning authority.