

PLANNING COMMITTEE – 25 MAY 2017

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

REFERENCE NO - 17/500392/FULL			
APPLICATION PROPOSAL Erection of 2 No. detached dwellings to replace existing chalet bungalow			
ADDRESS 177 Wards Hill Road Minster-on-sea Kent ME12 2JZ			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION This application is a revision to the proposal allowed on appeal under reference APP/V2255/W/16/3149881. I do not believe that the proposals are significantly different as to alter the decision reached on appeal - the site is within the built up area boundary where the principle of residential development is accepted and would in my view not give rise to serious concerns regarding visual or residential amenities or the streetscene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Andy Booth			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr & Mrs T Harris AGENT Design Quarter UK Ltd	
DECISION DUE DATE 30/05/17	PUBLICITY EXPIRY DATE 17/03/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/503681/FULL	Erection of 2 detached dwellings to replace existing chalet bungalow	Refused – allowed on appeal, PINS reference 3149881	Refused on 26.01.2016. Allowed on appeal 02.09.2016
SW/08/0096	Outline application for erection of 3 bungalows to replace existing chalet bungalow.	Approved	23.05.2008

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 No.177 Wards Hill Road is a detached, split level bungalow situated within a large plot in the built up area of Minster-on-sea.

- 1.02 The existing property sits to the rear of three existing dwellings, known as Four Winds, Carousel and Mwalimu. The land that these dwellings are located upon used to form part of the garden to No.177. Permission was granted for the three dwellings now situated there under reference NK/4/72/7.
- 1.03 The site is accessed via a driveway located between Four Winds and No.181 Wards Hill Road which opens out into the site at the bottom of Four Winds' garden. The siting of the property means that it is hidden from Wards Hill Road, and it effectively fronts onto Clovelly Drive, although there is currently no vehicular access from that side.
- 1.04 The plot slopes downwards from Wards Hill Road to Clovelly Drive so that the existing property is located on a higher level than those properties to the south.
- 1.05 Both Wards Hill Road and Clovelly Drive have a wide range of housing types and designs. To the north of the site are chalet bungalows with traditional bungalows either side and a terrace of three properties to the south.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the construction of two properties.
- 2.02 The properties would be located towards the southern boundary of the site, fronting Clovelly Drive with a landscaped garden and parking space to the front and private amenity space to the rear. The existing access from Wards Hill Road to an existing area of hardstanding would be retained.
- 2.03 Due to the sloping nature of the site from north to south the properties will be split level, with a lower ground floor, ground floor and first floor as viewed from the front elevation and a ground and first floor as viewed from the rear.
- 2.04 Both properties, as viewed from the front will have a finished ground floor level below that of the existing ground levels. As such, when viewed from the front elevation,(Clovelly Drive) the property on plot 1 will measure 9.2m to the ridge from the existing lowest site level.
- 2.05 The roof for plot 1 would comprise of hipped ends and a portion of flat roof, although there will also be a pitched roof element with front facing gable. Within the front roof slope there will be two pitched roof dormers. Due to the change in site levels, on the rear (north) elevation the roof space will effectively be the first floor level with three pitched roof elements above the first floor windows.
- 2.06 This property on plot 1 would have a footprint of 12m in width and be between 11.2m and 15.2m in depth. The materials have been indicated on the application form as brown interlocking concrete roof tiles, white painted render walls and white uPVC windows and doors. The rear garden would vary between 11m and 13.6m in depth, 14.8m in width. This property would be sited 2.52m from the boundary with No.16 Clovelly Drive and 1.94m from the boundary with plot 2.
- 2.07 The property on plot 2 would measure 8.8m to the ridge from the lowest natural ground level. The property will have a pitched roof with front and rear facing gables, a flat roofed dormer window on the east facing roofslope and three rooflights on the west facing roofslope.

- 2.08 Due to the change in site levels, the property on plot 2 would appear as a chalet bungalow from the rear(north) but as a two storey house with rooms in the roofspace from the front elevation (Clovelly Drive). The footprint of the property measures 8m in width and 12m in depth. The materials have been stated in the application form as set out above for plot 1..
- 2.09 The rear garden measures approximately 13.6m in depth and 11m in width. The flank wall of the dwelling would be 1.4m away from the boundary with plot 1 and on the opposite side a gap of 1.53m is proposed between the flank wall and the adjacent property, Lyndale.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 2

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 Policies, CP4 (Requiring good design), DM14 (General Development Criteria) and DM7 (Vehicle parking) are also relevant.

5.0 LOCAL REPRESENTATIONS

- 5.01 Three letters of objection and one letter of support have been received. The objections raise the following summarised points:
- Loss of light, outlook and privacy to the properties fronting the development on Clovelly Drive;
 - Loss of light to adjacent property;

- Proposed dwellings not in keeping with the rest of the properties in this road;
- The road will not be able to cope with lorries delivering heavy materials;
- Water will run from the site towards properties on the opposite side of Clovelly Drive;
- Car headlights will shine into the opposite dwellings;
- Clovelly Drive already experiences parking pressure and this development will only add to it;
- Emergency services are unable to gain access along Clovelly Drive when cars are parked either side of the road;
- High risk of flooding from surface water after heavy rainfall;

5.02 The letter of support raised the following summarised points:

- The existing bungalow on the site is an eyesore;
- The design of the proposed properties is impressive and fits well into the road which includes a variety of house types;
- There is an abundance of off road parking;
- The houses will be energy efficient;
- The proposal will contribute to the housing need in the Borough.

6.0 CONSULTATIONS

6.01 **Minster-on-sea Parish Council** support the application.

6.02 **KCC Highways & Transportation** *“confirm that subject to the amended plans I would raise no objection on behalf of the highway authority.”*

6.03 The **Environment Agency** have stated that *“Flood zone 2 at this location does not accurately show the 1 in 1000 year tidal flood outline. Therefore if the lower ground floor level is at approximately 16m AOD, then we would have no objections to residential development. The finished floor levels should be confirmed within the application.”*

6.04 **Environmental Health** raised no objection subject to conditions relating to dust suppression, hours of construction and asbestos. I have not included the condition related to asbestos as this is not dealt with via the planning process.

6.05 **Cllr Andy Booth** commented *“I'd like to see this before committee”*

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/503681/FULL; appeal reference APP/V2255/W/16/3149881 and planning reference 17/500392/FULL.

8.0 APPRAISAL

8.01 The application as now submitted is broadly similar to the proposal for two dwellings allowed on appeal in September 2016. I have included this appeal decision as an Appendix for ease of reference.

Principle of Development

- 8.02 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. It should also be noted that outline planning permission for three dwellings on this site was granted under SW/08/0096 as well as the permission granted on appeal for two dwellings as set out above. In my view this firmly establishes the principle of residential development in this location.

Residential Amenity

- 8.03 The layout and scale of the dwellings differs slightly from that previously approved. In terms of the impact upon adjacent dwellings, it is noted that the property on plot 1 has been moved approximately 1m further away from the common boundary with the existing adjacent property, No.16 Clovelly Drive. As a result the proposed property would be 2.5m away from the common boundary and 4.8m away from the flank wall. I note that the dwelling as now proposed would be 1m higher than previously allowed on appeal. However, I am of the view that the 1m increase in height will be offset by the increase of 1m to the boundary and as such would not be any more harmful than the previous proposal in this regard. Further to this, the proposed property does extend rearwards of No.16 by an additional 0.5m in comparison to what was previously allowed on appeal. However, I again take the view that the increased gap to the boundary would mean that this would not be significantly harmful to residential amenities. As a result I am of the view that this property would have not give rise to a more harmful impact upon this neighbouring property than what was considered acceptable by the Inspector.
- 8.04 On the opposite side, the property on plot 2 would be 5.8m away from 'Lyndale'. The proposed dwelling is 1.1m higher than that allowed on appeal however it is 0.53m further away from the common boundary with Lyndale than the previously approved dwelling. In this case I am of the view that the limited increase in height, combined with the gap between the proposed and existing property, which has now been increased, would in my view not give rise to unacceptable harm to the residential amenities of this neighbouring property. I also take into consideration that this property does not project as far rearwards as Lyndale. I believe that the Inspector's comments in relation to the layout of the properties (which are largely the same in this application) are relevant and state *"I consider that the demolition of No 177 and the siting of the replacement dwellings closer to Clovelly Drive would to some degree improve the outlook from within the gardens of the immediately neighbouring properties"*.
- 8.05 I also note in paragraph 6 of the 2016 appeal decision that the Inspector found that the scheme would not affect the primary outlook from No16 and Lyndale (i.e. their front and rear facing windows) and similarly it is considered this application would not impact significantly on the primary outlook of these properties identified by the Inspector .
- 8.06 The objection letters also raise the point regarding loss of privacy for the dwellings facing the front of the proposed properties in Clovelly Drive. In response to this I take the view that the properties would be constructed in a manner addressing the street in a conventional manner. This would reflect the relationship between the existing properties in Clovelly Drive. I also give significant weight to the Inspector's comments as follows, *"Clovelly Drive is a street that is characterised by properties on both sides of the road and some mutual overlooking between the properties is therefore a characteristic of this street. The proposed dwellings would be sited opposite Nos 13, 15 and 17, however, the distance between the front elevations of those properties and the new dwellings, at around 25 metres, would be similar to that*

found throughout Clovelly Drive. Based upon my observations on site and allowing for the fact that the proposed dwellings would have accommodation on three floors, I find that their presence, including the use of Plot 1's balcony area, would not give rise to any unacceptable loss of privacy for the occupiers of Nos 13, 15 and 17." The properties as now proposed would also be approximately 25m away from the front elevation of Nos 13, 15 and 17. Therefore I do not believe that the small increase in height of the buildings, over what has previously been approved would give rise to significantly levels of overlooking. I also note in paragraph 6 of the appeal decision that the Inspector found the scheme would not affect the primary outlook from within the interior of No.16 and Lyndale (i.e the front and rear elevations), and similarly this application would not impact upon this primary outlook identified by the Inspector.

- 8.07 I note that the scheme as now submitted does include flank windows on plot 1 which serve bedrooms. Therefore in order to protect the amenities of adjacent occupiers I have included a condition requiring these windows to be obscure glazed. Taking all of the above into account I do not believe that the proposal would have an unacceptable impact upon the amenities of surrounding occupiers.

Visual Amenities and the streetscene

- 8.08 Although there have been some slight amendments at ground floor level to the property on Plot 1, and the scale and height would be slightly greater, the design of the dwellings is very similar to the development allowed on appeal. I note that the application previously refused at Planning Committee was not refused on the basis of the impact on visual amenities or the streetscene. Furthermore, the Inspector on allowing the appeal considered the visual impact to be acceptable.
- 8.09 The property at plot 1 would have an element of flat roof, due to the depth of the property and the falling gradient on the site. A design which incorporates an element of flat roof would not usually be encouraged, however in this case I am of the opinion that views of the flat roof from public vantage points would be largely unobtainable. From the front of the property the roof would appear as being pitched with hipped ends whilst to the side and rear, views towards the flat roofed area would be largely blocked by existing residential development. As such I consider the design of the property to be acceptable. I also note a small scale flat roofed dormer window on the side elevation of the property on plot 2. Due to its scale and that it sits comfortably within the roofslope I consider this to be acceptable. To ensure that an appropriate blend of materials are used I have included a condition which requires details of materials in the interests of visual amenities.
- 8.10 As referred to above, the existing site is fairly large with a split level bungalow situated some 21m away from the boundary with Clovelly Drive. The properties as proposed will address Clovelly Drive in a similar fashion to the existing properties located along this road and will broadly follow the established building line of the existing dwellings. As such, I consider that the construction of dwellings in the location proposed would be in keeping with the surrounding area, which is predominately residential in nature.
- 8.11 Clovelly Drive is made up of a wide variety of property types and designs and therefore the scale and designs of the proposed development would not be out of keeping with the built form within the existing streetscene, despite being flanked by bungalows. As such, in overall terms I consider that the properties would not have an unacceptable impact upon visual amenities and would not significantly harm the existing character of the streetscene.

Flood Implications

- 8.12 Flood Zone 2 cuts across the application site. A Flood Risk Assessment has been submitted with the application which includes details showing the site levels in relation to Ordnance Datum. This application does differ from the scheme previously allowed on appeal by virtue of including a bedroom at lower ground floor level in the property on plot 1. As a result I have contacted the EA for their views. Due to the site levels above Ordnance Datum the EA do not raise an objection to the application. I have included a condition which requires compliance with the submitted drawings, which includes finished floor levels and as a result in line with the EA's comments I do not believe that the application would give rise to unacceptable risk to the occupiers of the development.

Protected Species

- 8.13 In the Minute's of the 14th January 2016 Planning Committee it was noted that if the application had been delegated to approve then it would have been subject to the receipt of a bat survey and no subsequent objection from the KCC Ecologist. The Inspector paid close attention to this and stated *"On the available evidence, and having regard to the provisions of paragraph 99 of Circular 06/2005, I am not persuaded that this is a case where there is a reasonable prospect of protected species being present. I therefore consider that this is an instance when it would not be appropriate to dismiss this appeal because of the absence of ecological survey information. I also consider that it would be inappropriate to impose a condition requiring ecological survey work to be undertaken, given that it has not been demonstrated that there would be a reasonable prospect of protected species being found on site. On this issue I therefore conclude that the development would not be harmful to protected species."* As a result of these comments I am of the view that it would be unreasonable to request further details in relation to protected species or to impose a condition on this basis.

Impact upon SPA and Ramsar sites

- 8.14 Natural England have suggested that developer contributions are required for off site mitigation of the impacts of new residential developments on the nearby SPA and Ramsar sites. However, as set out in the Habitat Regulations Assessment below, 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

- 8.15 Parking has been raised as a concern in the objection letters, however, the amount of parking, due to the rear access also being made available is above that which the Inspector considered acceptable. Although the property on Plot 1 does include an additional bedroom, it is noted that there is now a large amount of parking space at the rear of the dwelling, in addition to the spaces at the front and the garages. Therefore I believe that the parking provision is acceptable.
- 8.16 In relation to the remaining concerns raised I make the following points. I do not consider the road to be in such a poor condition that construction vehicles and / or emergency vehicles would be unable to gain access. The flood risk at the site has been discussed above and is not considered unacceptable. For a scheme of this

size, drainage would be dealt with by Building Regulations and as such I will not elaborate further on this. Finally, in this residential area I do not believe that car headlights from the proposed development shining into surrounding properties could reasonably substantiate a reason for refusal.

9.0 CONCLUSION

- 9.01 In this case I give very significant weight to the decision of the Inspector for a similar development on this site. I am of the view that the amendments to the scheme do not create a proposal which mean that a different view to the Inspector's should now be reached. Furthermore, I am of the opinion that due to the similarities between the scheme and what was previously allowed on appeal if the Council were to refuse this application then there is the strong possibility that the Council would be at risk of an award of costs being made against it in a subsequent appeal. However, notwithstanding the above I am of the view that the proposal as now submitted does not cause unacceptable harm to residential, visual or highway amenity and does not pose an unacceptable flood risk to future occupiers of the development. I note the conditions that the Inspector imposed on the previous scheme and consider these also to be appropriate in this case. On this basis 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 be carried out in accordance with the following approved plans: 694-PL-05B (received 14th March 2017) 694/PL/06A (received 21st February 2017); 694/PL/07B (received 27th April 2017).

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

- 3) No development above foundation level shall take place until details and samples of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenities.

- 4) No development above foundation level shall commence until hard and soft landscaping details have been submitted to and approved in writing by the local planning authority. These details shall include: existing trees and shrubs, schedules for new planting, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers and densities; planting plans; written specifications for the establishment and cultivation of the plants; and an implementation and maintenance programme. The hard and soft landscaping works shall be carried out in accordance with the approved details, including the agreed implementation programme. Thereafter the planting shall be maintained in accordance with the approved maintenance programme.

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

- 5) Before the dwellings hereby permitted are first occupied the garages and drive parking spaces shown on the approved drawings shall be provided and made available for use. The garages and drive parking spaces shall be retained thereafter and not be used for any purposes other than the parking and manoeuvring of vehicles.

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.

- 6) Demolition and construction works shall only take place between the hours of 07.30 to 19.00 on Mondays to Fridays inclusive and 07.30 to 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

Reasons: In the interests of visual amenities.

- 7) No development shall take place, including any works of demolition, until details for the suppression of dust during the demolition and construction phases of the development have been submitted to and approved in writing by the local planning authority. The approved details for the suppression of dust shall be adhered to throughout the demolition and construction phases of the development.

Reason: In the interests of visual amenities.

- 8) Before the dwelling on plot 1 hereby permitted is occupied, the two flank windows at first floor level serving bedrooms shall be obscure glazed and remain as such in perpetuity.

Reasons: To protect the privacy of neighbouring occupiers.

- 9) Details in the form of cross sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Reasons: for the sake of clarity and in order to ensure a satisfactory form of development having regard to the sloping nature of the site.

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 and 4.2km 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:

- 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.