

2.5 REFERENCE NO - 15/502694/FULL			
APPLICATION PROPOSAL Conversion and extension of former public house with existing first floor flat to provide nine additional one and two bedroom flats			
ADDRESS Elm Tree Inn Lower Road Minster-on-sea Kent ME12 3ST			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed development would bring a derelict rural building into beneficial without serious harm to amenity, landscape or to the highway network and as such would represent sustainable development in accordance with the requirements of the Development Plan and the National Planning Policy Framework.			
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr P Miller AGENT Woodstock Associates	
DECISION DUE DATE 11/06/15	PUBLICITY EXPIRY DATE 21/07/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/06/0966	Demolition of existing out building and construction of new extension to provide ten hotel bedrooms with associated parking (33 spaces)'.	Approved	26/09/2006

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site measures 0.25ha in area and lies on the south side of the Lower Road in open countryside between the Scocles Farm development at Minster 1km to the west and the village of Eastchurch 3km to the east. Minster is also accessible by a public footpath across fields to the north.
- 1.2 The site comprises a former public house and its curtilage. The public house business was closed in 2007 and the building is now derelict. The public house building is two-storey to eaves with traditional roof with central ridge and gable ends. There are single storey mono-pitch roof extensions to both flanks, and a flat roof two storey element to the rear with further single storey extension and walled storage enclosure. The ground floor was originally used for public house trade, with ancillary first floor and roof space accommodation comprising five habitable rooms.
- 1.3 The exterior elevations are characterised by ‘mock Tudor’ timber framing with rendered panel inserts. Land within the curtilage to the south and west of the inn premises include informal vehicle parking areas that are now partially overgrown.
- 1.4 Although a sensitive landscape including Elmley National Nature Reserve lies to the south, the application site and its immediate environs are not subject to National or Local Plan landscape or ecological designations.

2.0 PROPOSAL

- 2.1 Full planning permission is sought for conversion of the building from Class A4 (licensed premises) Use with ancillary residential use (manager's flat); to Class C2 (residential) Use (flats).
- 2.2 A first floor gable extension would be erected over the east flank ground floor extension; the ground floor store to the rear would be extended further and the existing flat roof replaced with a hip roof with short gabled outriggers. The principal pitch roof would be extended to the rear above an existing two-storey element.
- 2.3 The external fabric of the building would be thermally insulated and re-clad in weather-boarding.
- 2.4 The extended building would be remodelled and converted to provide a total of nine self-contained residential units . Five units would be accessed from a common ground floor entrance hall, while the remaining four units would each have their own dedicated external ground floor access.
- 2.5 All the flats on the ground floor of the building would benefit from private external amenity areas. The remaining flats would have use of shared communal garden amenity areas.
- 2.6 A single car-parking space would be provided for each flat. There would also be five visitor-parking bays and a single disabled car-parking bay and on-site vehicle turning. Cycle storage and a refuse storage facility would be provided.
- 2.7 Vehicular access to the site would be via the existing means of access, which would be upgraded to address visibility concerns.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.25ha (No change)
Proposed (Approximate) Ridge Height (m)	8.0m (No change)
Proposed (Approximate) Eaves Height (m)	5.3m (No change)
Flat 1	89sqm, 5 person, 3 bedroom
Flat 2	36sqm, 2 person, 1 bedroom
Flat 3	43sqm, 3 person, 2 bedroom
Flat 4	32.7sqm, 2 person, 1bedroom
Flat 5	79sqm, 5 person, 3 bedroom
Flat 6	25.6sqm 1 person, 1 bedroom
Flat 7	38.3sqm, 2 person, 1bedroom
Flat 8	26.3sqm, 1 person studio flat

Flat 9	40sqm, 3 person, 2 bedroom
Parking Spaces	9 resident bays, 5 visitor bays, 1 disabled bay
Site density	36 dwellings per hectare

4.0 PLANNING CONSTRAINTS

4.1 None.

5.0 POLICY AND OTHER CONSIDERATIONS

5.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are particularly relevant given the status of the emerging Local Plan.

5.2 The NPPF sets out the Governments position on the planning system explaining that

‘The purpose of the planning system is to contribute to the achievement of sustainable development’ (Para 6); and that (Para 14) ‘At the heart of the NPPF is a presumption in favour of sustainable development’. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. 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 the Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted.”

5.3 Paragraph 64 of the NPPF states “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

5.4 At the time of writing, the Development Plan for Swale comprises the adopted 2008 Local Plan. However – Members will be aware that the Inspectors Report relating to the emerging Local Plan has been published and as such the Policies can be given significant weight.

5.5 Relevant adopted Swale Borough Local Plan 2008 policies include:

- SP1 (Sustainable Development)
- SP2 (Environment)
- SP3 (Economy)
- SP4 (Housing)
- SH1 (Settlement Hierarchy)
- TG1 (Thames Gateway Area)
- E1 (General Development Criteria)
- E4 (Flooding and drainage)
- E6 (Countryside)
- E9 (Protecting the Character and Quality of the Borough’s Landscape)

- E19 (Good Quality Design)
- E24 (Alterations and extensions)
- RC1 (Helping to revitalise the rural economy)
- RC6 (Re-use of rural buildings for housing)
- H2 (Providing for New Housing)
- T1 (Providing Safe Access to the Highway Network)
- C3 (Open Space within Residential Development)

5.6 Relevant emerging Local Plan 'Bearing Fruits 2031' relevant policies include:

- ST1 (Delivering Sustainable Development in Swale)
- ST3 (Swale Settlement Strategy)
- CP2 (Promoting Sustainable Transport)
- CP3 Delivering a wide choice of high quality homes
- CP4 (Requiring Good Design)
- CP7 (Conserving & Enhancing the Natural Environment – Providing for Green Infrastructure)
- DM6 (managing transport demand and impact)
- DM7 Vehicle Parking
- DM19 Sustainable Design and Construction
- DM21 Water, flooding and drainage
- DM24 (Conserving and Enhancing Valued Landscapes)
- DM28 (Biodiversity and Geological Conservation)

6.0 LOCAL REPRESENTATIONS

6.1 None received

7.0 CONSULTATIONS

7.1 Minster-on Sea Parish Council:

- Minster on Sea PC raise objection as follows: 'Although Minster on Sea Parish Council fully supports the use of windfall brownfield sites for housing, this proposal represents over-intensive development of the building. In addition, the building and its extension's proximity to the A2500 Lower Road, makes it dangerous. It means anyone entering or leaving the site will have to connect with the A2500 Lower Road via a 60 mph zone where traffic coming from each direction will be travelling at that speed. This results in an adverse impact on highway safety. Visibility is also compromised from the east. In addition, with this number of residential units, sewage disposal and specifically land drainage from the east are concerns. This alongside the lack of amenities, footpaths, the distance from services etc. results in the unsustainable development of a rural site'.
- Subsequent to further consultation following minor amendment to the application the parish council commented that 'Members do not feel the amendments go any way to address its concerns. There are further concerns about the impact on the inadequate local highway network primarily the A2500 Lower Road route'.

7.2 Environmental Health:

- There is potential for nuisance to neighbouring residential properties to arise as a result of development works. A standard condition is recommended relating to hours of construction activity.

7.3 Lower Medway Internal Drainage Board (LMIDB)

- The site of this proposal is within the LMIDB's district but does not lie within a flood risk area. Although the proposal has the potential to affect the Board's interests (downstream flood risk), as this is a brownfield site and the footprint of built development would not substantially exceed that of existing development it is unlikely that the surface water discharge rate from the site would exceed current levels. The use of an open sustainable drainage system (SUDS) secured through condition would ensure that the development should not affect IDB interests.

7.4 Southern Water

- There are no public and surface water sewers in the vicinity of the site. The applicant is advised to examine alternative means of foul and surface water sewage disposal.
- The Environment Agency should be consulted directly regarding the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic system to ensure its long term effectiveness.
- The adequacy of soakaways to dispose of surface water from the development should be investigated.
- Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested by the developer, and subsequently provided to drain to a specific location. An informative is recommended advising the developer of the requirement to enter into a formal agreement with Southern Water that would secure the necessary sewerage infrastructure required to service the development.

7.5 KCC Highways

- KCC Highways note that the site is not ideally located in terms of proximity to public transport links, local amenities and services and that given the lack of a footway connection on either side of the carriageway of Lower Road, it is likely that the majority of residents will access the site by car. The proposal for 15 parking spaces is in line with the general principles of the current adopted KCC document IGN3 and exceeds the minimum requirement for 1 independently accessible space per unit and an additional 2 visitor spaces. The level of parking provision proposed is therefore deemed to be sufficient. • Further to submission of amended drawings showing compliant visibility splays KCC Highways has commented that provided requirements relating to the provision and permanent retention of parking spaces; provision and permanent retention of cycle parking facilities; provision and maintenance of visibility splays; and laying of a bound surface adjoining the highway are secured by condition; no objection is raised by the local highway authority.

7.6 KCC Ecology

- Bats: There is limited potential for roosting bats and consequently no requirement for emergence surveys. The site is over 1ha in area and BCT recommends that as such the site should be subject to an activity survey. Although no activity

survey has been conducted KCC are satisfied that there is no requirement in this instance for such a survey. However as the presence of bats cannot be excluded lighting for the proposed development must be designed to minimise the impact on foraging/commuting bats and on bats on vacation. The Bat Conservation Trust's 'Bats and Lighting in the UK' guidance should be adhered to.

- Enhancement: Site landscaping is to be a reserved matter and the opportunity should be taken for ecological enhancement to be incorporated into any landscape scheme.
- Designated Sites: The proposed development is within 3km of the Swale SPA, Ramsar and a SSSI site. Studies have demonstrated that an increase in recreational disturbance is a potential cause of decline in bird numbers within the SPA's. In order to avoid likely significant effects on the designated sites due to an increase in recreation a contribution is recommended to accord with the standard Swale Borough Council Tariff.

7.7 Natural England

- The application site is in close proximity to European designated sites (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is located approximately 1.3km north of the Swale Special Protection Area (SPA) and Ramsar site and 3km east of the Medway Estuary and Marshes SPA and Ramsar site.
- The above sites are also designated at a national level as Sites of Special Scientific Interest (SSSIs) (the Swale SSSI and Medway Estuary and Marshes SSSI, respectively). As detailed in Natural England's letter of the 6 January 2015, who confirmed that a suite of strategic measures similar to those set out in the Thames, Medway and Swale Estuaries SAMM Strategy will provide appropriate mitigation. However, they consider it is up to the local authorities to ensure that appropriate measures are in place to allow the strategic mitigation to be delivered. This would include consideration of the appropriate tariff.
- SSSIs - Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSIs named above have been notified. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England
- Other advice - We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application: local sites (biodiversity and geo-diversity); local landscape character; and local or national biodiversity priority habitats and species.
- Protected Species - We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

- Biodiversity enhancements - This application may provide opportunities to incorporate features into the design, which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF.

7.8 Environment Agency

- Although the Environment Agency has no comments on this planning application, the applicant may be required to apply for consents, permissions or licenses from the Agency.

8.0 APPRAISAL

8.1 Principle of development

8.2 A key consideration from a policy perspective centres on whether in the countryside, planning permission should be granted for conversion of a building to residential use.

8.3 Policy RC6 of the adopted Local Plan 2008 sets the requirements for the re-use of rural buildings. Policy RC6 seeks to secure the diversification of the rural economy, as promoted by Policy RC1, and states that planning permission will not be permitted for the conversion of buildings in the rural area to residential use, or a mixed-use including residential, unless:

- 1) the Borough Council is satisfied that the applicant has made a reasonable and sustained effort to secure an alternative acceptable re-use of the building for employment or community purposes; or
- 2) the Borough Council is satisfied that the building would be undesirable or unsuitable for a non-residential use in its own right or by way of its location or the scale of use that would otherwise result; and that in all cases, the building should be suitable for the proposed use, structurally sound and capable of conversion without: (a) the need for significant extension, alteration, or reconstruction; (b) significantly adversely affecting the countryside; and (c) without creating scales of residential use that would lead to unsustainable travel patterns.

8.4 A marketing exercise was undertaken which established that there was no demand on viability grounds for the building's continued use as a public house, or demand for any alternative business, or community use. Although the marketing report is now somewhat dated, the agent has supplied further information relating to the potential for commercial uses, noting amongst other things that the site is too remotely located to be successful for, for example, a doctors surgery, dentists etc, and that the need for commercial premises is being met nearby at Neatscourt. It is also pointed out that the site had been marketed between 2008 and 2012 and failed to attract a buyer.

There are no grounds to suppose that the current situation is any different to that current at the time of marketing given that the well documented decline in pub patronage throughout the country and particularly in country areas reliant upon car transport. Allowing for the level of investment that would be needed for renovation of the building, it is reasonable to conclude that residential use would be the only viable option and that the sequential test for the appropriateness of residential development in the countryside would be satisfied.

- 8.5 The Council's economic and community services manager (Regeneration) has commented that 'subject to a business being no longer financially viable then alternative uses should be supported rather than the building falling into disrepair with the possibility of vandalism. I am therefore happy to support this application for conversion'.
- 8.6 In accordance with Policy RC6, the building, although dilapidated, is structurally sound and capable of conversion without significant extension, adverse impact on the countryside. Having regard to its current authorised use as a public house it is considered that the proposal would not result in excessive additional travel movements and resulting unsustainable travel patterns and would be arguably less intensive than would have arisen had the motel permission been implemented. Furthermore, The proposed extensions are not of such scale as to be disproportionate (bearing in mind that permission was granted in 2006 extensions of similar volume for motel use). While there would be a degree of reliance on the use of private motor vehicles, commuting distances to local services would not be excessive (there is a local farm shop within 0.8km and comparison shopping and community facilities within 3km). A bus route with wheelchair facility passes the site and provides a service to Minster, Eastchurch and beyond. Accordingly it is considered that on such basis the requirements of Policy RC6 would be satisfied.
- 8.7 In my view, the development proposed is acceptable as a matter of principle.

8.8 **Sustainability**

Paragraph 14 of the NPPF confirms that in respect of housing, 'applications should be considered in the context of the presumption in favour of sustainable development'. As part of this process it is confirmed that there are three dimensions to sustainable development, 'economic, social and environmental'.

- 8.9 In this context the proposal will achieve social gains in terms of the provision of new housing, would make efficient use of redundant brownfield land and buildings in the countryside, and would not impact on ecology or heritage. Although the site does not lie within an existing settlement it is not remote from services, and on balance can be considered sustainable.

8.10 **Highway considerations**

Site Access: The existing access is to be retained and sightlines improved to satisfy highway design standards. Consequently access to and egress from the site is not a safety issue.

- 8.11 Pedestrian links: There would be no dedicated paved footway linking the site to the nearest service centre. Although this is not ideal and would give rise to potential conflict between pedestrians and motor vehicles, the scale of development does not justify refusal on such grounds and Members will of course recall the recent appeal decisions in nearby Greyhound Road, where planning permission was granted on appeal, despite the absence of such pedestrian links.
- 8.12 Parking: Dedicated, resident, visitor and disabled person's parking in excess of KCC parking standards would be provided.

8.13 **Ecology**

Impact on Swale SPA/ Ramsar site: The application site is located within close proximity of the Swale Special Protection Area (SPA) and RAMSAR site, sites designated under European legislation for the conservation of wild birds. Under this legislation the Council has a duty to safeguard the habitats of migratory birds. Recent evidence commissioned by Swale Borough Council in conjunction with other Kent authorities has demonstrated that for all housing developments within a 6km distance from an access point onto the SPA there is the potential for disturbance to birds, principally (but not entirely) due to dog walking.

- 8.14 Natural England has not raised objection but has noted that the site lies in proximity to protected sites where impact can be mitigated by way of planning obligation. In this instance the scale of the proposal falls below the threshold for which contribution is normally sought. Providing standing advice is followed during the construction phase and subject to provision of on-site biodiversity enhancements to support wildlife, secured by condition, there are no ecological issues.
- 8.15 Paragraphs 118-119 of the NPPF, together with Policy E12 of the adopted Local Plan and Policies CP8 and DM28 of the emerging Local Plan would be satisfied.

8.16 **The effect on the landscape character and countryside**

Although the Elm Tree occupies a prominent location adjoining an 'A' category highway, it does not lie within a designated landscape or protected gap as defined under emerging Local Plan Policy DM25 and is not prominent in long range views.

- 8.17 Although the building would be extended, the ridge height would not be increased and the resulting building mass would not be materially greater than that previously granted for a motel extension (now lapsed) to the public house. Consequently the proposal would not result in excessive urbanisation, give rise to unacceptable skyline intrusion or result in significant loss to openness and rural character.

8.18 **Design and Layout**

The detailed design (as amended) establishes that 9 flats can be satisfactorily accommodated within the envelope of the proposed extended building without compromising local character or the residential amenity of future occupants. All units would be of acceptable size, would achieve acceptable standards of daylight and would have access to outdoor amenity areas that in the case of ground floor units would provide defensible space. Parking would be integrated and space provided for landscaping. The proposal has been amended during the course of its determination and is now deemed to satisfy Policies E19 and E24 in this regard. There are no issues in respect of neighbouring property.

- 8.19 The existing 'mock Tudor' exterior of the building would be over-clad in shiplap boarding, more appropriate and visually sympathetic to the local vernacular and the coastal location of the property, while the opportunity to control building material specification through imposition of condition provides the opportunity for further enhancement. The proposed erection of traditional ironwork fencing would delineate the boundary between the highway and the building improving the appearance of the site from public views.

8.20 **Third Party Objections**

While no neighbour objections have been received, Minster Parish Council maintain an earlier objection on the grounds of highway impact and the perceived

unsustainable location. The Parish Council has also raised concern in respect of foul and storm-water drainage. All highway issues have been resolved to the satisfaction of the highway authority, the location whilst not ideal is deemed to comply with Policy R6 as set out above, while drainage can be satisfactorily addressed through imposition of a suitable condition.

9.0 CONCLUSION

The proposed development would bring a derelict rural non-agricultural building into beneficial use, would be acceptable as a matter of principle without serious harm to amenity, landscape or to the highway network and as such would represent sustainable development in accordance with the requirements of the development plan and the National Planning Policy Framework.

9.1 As such I recommend approval.

RECOMMENDATION – Grant full planning permission subject to conditions as set out below.

- 1) The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

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

- 2) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 3) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans and specifications:
MI/09/132.02 Rev 'C' (Site Location and proposed layout plan); MI/09/132.02 Rev 'C' (Proposed plans and elevations);

Reason: In the interests of residential amenity

- 4) 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.

- 5) All hard and soft landscape works as agreed pursuant to Condition (4) shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- 6) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- 7) Prior to surfacing of the site, surface water drainage works shall be implemented in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SUDS) and the results of the assessment shall be provided to the Local Planning Authority. Where a sustainable drainage system is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme through its lifetime.

Reason: To ensure that surface water run-off is controlled and does not exacerbate the potential for flooding or groundwater contamination.

- 8) The visibility splays, shown on approved drawing Ref: MI/09/132.02 Rev 'C' hereby approved shall be provided prior to the development hereby approved being brought into use. The visibility splays shall thereafter be retained in perpetuity free of obstruction above a height of 0.6m above the level of the adjoining highway.

Reason: In the interests of highway safety

- 9) The vehicular parking and turning areas and site access shown on the approved plan MI/09/132.02 Rev 'C' shall be provided in bound surfacing prior to first occupation of the building and shall thereafter be retained for such purpose and without impediment in perpetuity. 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 reserved land or in a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking and turning of cars or service vehicles is likely to lead to car parking on the public highway to the detriment of highway safety and the inconvenience of other road users.

- 10) The cycle parking facility shown on the approved plan MI/09/132.02 Rev 'C' shall be provided prior to first occupation of the building. The facility shall incorporate a BS

compliant secure cycle rack for each of the approved flats. The facility shall thereafter be retained for such purpose and without impediment in perpetuity.

Reason: In order to encourage the use of sustainable modes of transport and ensure a satisfactory standard of cycle parking at all times.

- 11) Details of a ventilated refuse facility in the location shown on the approved plan MI/09/132.02 Rev 'C' shall be submitted to and approved by the Local Planning Authority and thereafter erected in accordance with the approved details prior to first occupation of the building. The approved facility shall be retained for refuse purposes in perpetuity.

Reason: In order to secure a satisfactory standard of refuse facility.

- 12) 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.

- 13) No development beyond the construction of foundations shall take place until full details of the method of disposal of foul waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to achieve an acceptable drainage scheme in the interests of minimising flood risk and ground water contamination.

- 14) No development of the scheme hereby approved shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:

- (i) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase;
- (ii) The loading and unloading and storage of plant and materials on site;
- (iii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (iv) The control and suppression of dust and noise including arrangements to monitor dust emissions from the development site during the construction phase;
- (v) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
- (vi) Measures to control mud deposition off-site from vehicles leaving the site;
- (vii) The control of surface water drainage from parking and hard-standing areas including the design and construction of oil interceptors (including during the operational phase);
- (viii) The use if any of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site;

- (ix) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (x) Lighting strategy for the construction phase, designed to minimise light spillage from the application site; and
- (xi) Working hours;

Reason: To ensure the development does not prejudice conditions of residential amenity, highway safety and convenience, and local ecology, through adverse levels of noise and disturbance during construction.

- 15) Prior to commencement of development details of a scheme to secure biodiversity enhancement should be submitted to the Local Planning Authority for approval. The approved scheme shall be implemented prior to first occupation of the development hereby approved and thereafter retained.

Reason: In the interests of site biodiversity.

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.

INFORMATIVES

- (1) (a) The applicant should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 303 0119) or www.southernwater.co.uk;
- (b) Prior to the commencement of development the applicant should contact the Environment Agency in order to establish whether permits are required for any sewage treatment plant.
- (2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (3) Should any evidence of protected species be found, immediately prior to or during the works, work must stop immediately and Natural England contacted for further advice

before works can proceed. All contractors should be made aware of it and provided with Natural England's Contact details: please refer to Natural England's website for these details (www.naturalengland.org.uk).

- (4) As the presence of bats cannot be excluded, lighting for the proposed development must be designed to minimise the impact on foraging/commuting bats. The Bat Conservation Trust's 'Bats and Lighting in the UK' guidance should be adhered to.
- (5) The applicant is advised to seek the input of the Kent Police Crime Prevention Design Advisors (CPDA's) to ensure that all efforts are made to incorporate the principles of Designing out Crime (A Kent Design Guide for Developers, Designers and Planners) into the design of any proposal.

Habitats Regulations Assessment

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

The application site is located approximately within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a 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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE 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) and; 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 of 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 would cost substantially 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, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** 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 single dwellings upwards 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 what is acceptable to officers as a common route forward. Swale 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.

- 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.