

PLANNING COMMITTEE – 14 SEPTEMBER 2017

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

REFERENCE NO - 15/508683/OUT			
APPLICATION PROPOSAL Outline application for the erection of 4no. four bedroom detached dwellings with associated access and parking including an attached double garage, two detached double carports and an integral garage, with landscaping the only matter reserved.			
ADDRESS Land At The Tracies Newington Kent ME9 7TQ			
RECOMMENDATION: REFUSE subject to the views of Kent County Council Ecological Unit and Environmental Health Manager			
SUMMARY OF REASONS FOR RECOMMENDATION The site is located in the countryside, outside the built up area of Newington, and amounts to grade 1 agricultural land. Whilst there are material considerations which weigh in favour of approving the application, these are outweighed by the policies of the Local Plan.			
REASON FOR REFERRAL TO COMMITTEE Wider public interest			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Mrs Gillian Murray AGENT	
DECISION DUE DATE 24/03/16	PUBLICITY EXPIRY DATE 06/06/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
NK/9/62/193/7054	Use of land for residential development	Refused	1962
NK/9/67/32	Erection of 13 dwellings	Refused. Appeal Dismissed	1967
NK/9/67/32B/9198B	Use of land as a site for the extension of Tracies Estate	Refused	1971
NK/9/62/193A/7054A	Use of land as a site for residential development	Refused	1972
SW/75/225	Outline permission to erect 6 houses	Refused	1975
SW/75/226	Outline application for 36 houses	Refused	1975
SW/80/1110	Outline application for the erection of 6	Refused	1980

	four-bedroomed houses with one garage		
SW/81/471	Outline application for residential development	Refused	1981
SW/96/1055	Erection of 5 detached houses and garages	Refused	1996
SW/00/0125	Erection of 2 dwellings with integral garages	Refused Appeal Dismissed	2000.
SW/00/0126	Erection of 4 detached dwellings with integral garages.	Refused Appeal Dismissed	2000
SW/03/0850	Outline application for residential development.	Withdrawn	2003
PAA/13/0300	Redevelopment of site for housing	Unacceptable in principle, contrary to Policy E6 of the Adopted Local Plan.	2013

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies within a well established residential area within the village of Newington, Kent. The application site is 'beyond' but immediately adjoining the designated settlement boundary area and may be described as an open field with previous historical agricultural use as an orchard and is approximately 0.30 hectares in size.
- 1.02 The site is accessed directly from The Tracies: a public highway that currently serves seven existing houses. There is an existing 'unmade' public footpath that crosses the site. It is intended that this footpath will be retained to cross the cross however the final route of the public footpath will require consent to divert this footpath within the overall scheme adjacent to the Newington conservation area.
- 1.03 There are no existing buildings within the application site.
- 1.04 The architectural character within The Tracies generally comprises of detached residential properties with relatively modest front gardens fronting towards the adjoining public highway. The buildings are generally low in form with two storey dwellings with pitched roofs, predominantly brickwork facing material to the principal elevations.

- 1.05 To the north of the existing houses in The Tracies, there are several terraced houses fronting along the High Street with a variety of building types in terms of style, scale and massing.
- 1.06 The site amounts to grade I agricultural land, and is located to the south of the High Street, and immediately adjoins the Newington High Street Conservation Area. In addition, Lion House, a Grade II Listed residential property lies to the north of the application site. Lion House fronts onto the High Street and has a private garden to the rear, adjoining the application site.

2.0 PROPOSAL

- 2.01 The application site comprises of 0.30 hectares and the scheme proposes four new dwellings.
- 2.02 The original submission sought outline permission for the construction of five houses. The scheme has been amended and now seeks permission for four detached houses with associated access and parking, involving an attached double garage, two detached double carports and an integral garage, with landscaping the only matter reserved.
- 2.03 The proposed houses would be arranged as a continuation of the existing development in the cul de sac, and are of 4 distinct designs.
- 2.04 Plot 1 would sit adjacent to no.5 The Tracies, would have an attached garage and would measure 15.91 metres wide, a maximum of 9.76 metres deep, 4.7 metres to eaves and 7.6 metres to the ridge of its roof. It would project slightly forward of no.5 The Tracies, and would be a minimum of 3 metres from the boundary, 5 metres from the dwelling itself.
- 2.05 Plot 2 would be “L” shaped, measuring a maximum of 9.95 metres deep, 10.7 metres wide, 4.8 metres to eaves and 7.6 metres to the ridge of its roof. It would have a detached car port sited to the front, measuring 5.77 metres wide, 5.77 metres deep and 4.53 metres to the top of its roof.
- 2.06 Plot 3 would have 2 front facing dormer windows, and a single rear facing dormer window. It would measure 10.1 metres wide, a maximum of 12.31 metres deep, 4.8 metres to eaves and 8.2 metres to the ridge of its roof. This dwelling would also be served by a detached car port of identical dimensions to that above, which would sit to the front, facing into the cul de sac.
- 2.07 Finally, plot 4 would have an integral garage, and would measure 9.58 metres wide, 11.6 metres deep, 5 metres to eaves, 8.2 metres to the ridge of its roof. It would be sited rearwards of no.8 The Tracies, and would be 16 metres from this dwelling.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.30ha.	0.30ha.	0
No. of Residential Units	0	4	+4

4.0 PLANNING CONSTRAINTS

4.01 Adjacent to - Newington High Street Conservation Area.

4.02 Adjacent to Lion House, a grade II listed building.

5.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (March 2012)

5.01 The following policies and paragraphs of the National Planning Policy Framework (NPPF) are considered to be the most relevant:

5.02 **Paragraphs 7 and 8** set out that there are three mutually dependent facets to sustainable development – economic, social and environmental including protecting and enhancing the historic environment.

5.03 **Paragraph 14** explains the Framework's presumption in favour of sustainable development, stating that Local Planning Authorities should: '*positively seek opportunities to meet the development needs of their area*' and that decision takers should approve development proposals that accord with the development plan (or where development plan policies are out of date) without delay.

5.04 **Paragraph 15** states that Local Plans should follow the approach of the presumption in favour of sustainable development.

5.05 **Paragraph 17** outlines the overarching roles/core principles of the planning system, including to: take into account the needs of the residential and business communities; to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings and to encourage the effective use of brownfield land by re-using it. Planning should conserve heritage assets in a manner appropriate to their significance.

5.06 **Section 4** promotes sustainable transport for new development.

5.07 **Section 6** of the NPPF relates to the delivery of a wide choice of high quality homes.

5.08 **Paragraph 49** states that housing applications should be considered in the context of the presumption in favour of sustainable development.

5.09 **Paragraph 55** states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

5.10 **Paragraphs 56 and 58** outline the importance and principles of good design in new development.

5.11 In relation to conserving and enhancing the natural environment the NPPF, at **paragraph 109**, states:

- *"The planning system should contribute to and enhance the natural and local environment by:*

- *Protecting and enhancing valued landscapes, geological conservation interests and soils;*
- *Recognising the wider benefits of ecosystem services;*
- *Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- *Preventing both new and existing development from contributing to or being put at risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- *Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."*

5.12 **Paragraph 186** outlines that LPAs should approach decision taking in a positive way to foster the delivery of sustainable development.

5.13 **Paragraph 187** states that LPAs should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. LPAs should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

5.14 **Paragraph 215** states that due weight should be given to development plan policies adopted since 2004, according to their degree of consistency with the Framework.

The Swale Borough Local Plan 2017: "Bearing Fruits"

5.15 The following policies are relevant here:

- ST1 - Delivering sustainable development;
- ST3 – Settlement Hierarchy;
- CP3 – High quality homes;
- CP4 – requiring good design;
- DM7 – Vehicle parking;
- DM14 – General development criteria;
- DM19 – Sustainable design and construction;
- DM31 – Agricultural land;
- DM32 – Development affecting a listed building
- DM33 – Development affecting a conservation area.

6.0 LOCAL REPRESENTATIONS

6.01 32 letters of objection have been received from the local area and may be summarised as follows:

- Lack of detail on drawings;
- Development breaching Newington built-up area boundary line – creating a precedent in conservation area;
- Increase in traffic and congestion;
- Newington should be preserved as a village and “Green Belt buffer” – safeguarding its rural aspect;
- Housing stock in recent years has virtually doubled in the Borough;
- Increase in poor air quality in Newington;
- Previous applications refused on this site including appeals dismissed;
- Inaccuracies on plans – parcel of land adjoining no. 8 is separately owned;
- There is a public footpath across the proposed development;
- Objection to lack of new or altered vehicle access proposed;
- No details of builder, style of houses shown on plans;
- Inappropriate car parking;
- Dispute over classification of application site – described as ‘vacant field – scrub land’, but, actually originally an orchard;
- Loss of natural wildlife;
- Loss of established trees;
- Increase in pollution on High Street – building houses over the Newington village boundary;
- Loss of privacy and overshadowing;
- Loss of view;
- Development contrary to Policy BE5 of Kent Structure Plan;
- Inconsistent with EC policy by ‘shrinking natural heritage’;
- Reptile surveys should not be conducted during July and August;
- Reptile report makes no mention of insects and endangered species;
- Presence of established walnut tree;
- Land used for recreation by ramblers, children and walkers;
- Confusion over description of development proposal;
- Increase in noise.

6.02 One of these objection letters comments that they consider that the design of the proposed dwellings are of good quality.

7.0 CONSULTATIONS

7.01 Newington Parish Council raise objection and comment as follows:

“Newington Parish Council objects to this application as it is beyond the ‘built-up area’ of the Village. It is on land that was offered, considered and rejected by the Local Development Framework Panel in May 2016 when preparing recommendations to expand the planned dwellings per annum as part of the modifications to the Local Plan. On this basis the Parish Council believes this proposal should be rejected.

The development is on grade 1 agricultural land. The Parish Council remains concerned that the layout of the development leaves a significant gap between the proposed houses on plots 1 and 4 and between plots 2 and 3 and makes it possible for a future application to turn the close into a road - with access through to the

adjacent field, joining to the land beyond it which is currently subject to a planning application. Any loss of farmland through the extension of the built-up area is unacceptable to the Parish Council.

The outline application gives no indication of the design or alignment of the proposed development. It does not address the important issues of the effect of increased traffic on Callaways Lane or of increased air pollution in the Village centre.

We urge rejection of the application on these grounds.”

7.02 Swale Footpaths Group state:

‘Please check Definitive Map. ZR 61 crosses the site (though the route on the ground seems to be a dog leg rather than the diagonal shown on the Map). Please remind applicant that planning consent, even if granted, does not of itself divert or extinguish a PROW (which would require an Order under the Town and Country Planning Act), nor authorize any obstruction of it.’

7.03 Kent County Council Public Rights of Way and Access Service state:

- Public footpath ZR61 passes through part of the proposed site
- There is also a well walked route that is not recorded on the definitive map which passes through the middle of the site.
- The existence of the right of way is a material consideration. Should consent be granted, the development will impact upon the public use, enjoyment and amenity of the Public Right of Way.
- Please note that no furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority.
- Furthermore, there must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
- Please make sure that the applicant is made aware that any planning consent given confers no consent or right to disturb or divert any Public Right of Way at any time without the express permission of the Highway Authority.

7.04 I am awaiting the comments of KCC Ecology and the Environmental Health Manager and will update Members at the Meeting.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers and drawings, including a Design and Access Statement and a brief Heritage Statement relating to planning reference 15/508683/OUT.

9.0 APPRAISAL

Principle of Development

9.01 The key issue for consideration is whether planning permission should be granted for a residential development on a site that lies outside the defined urban confines of Newington. In addition, the application site is not allocated for development in the Adopted Local Plan. Policy ST3 of Bearing Fruits 2031 sets out the settlement

strategy that emphasises development on brownfield land within built-up areas and on sites allocated by the Local Plan. Outside of these, new residential development will only be granted for certain limited exceptions. It is considered that, the application site is outside of the built-up area boundary and as such any housing development would normally be contrary to the Policy ST3 and not in accordance with the Development Plan.

- 9.02 In addition, the site amounts to grade 1 agricultural land. Policy DM31 of the Local Plan states that:

Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

- 1. The site is allocated for development by the Local Plan; or*
- 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and*
- 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high quality agricultural land.*

- 9.03 The site is not allocated for development by the local plan, there are alternative sites for the provision of housing (namely those sites allocated in the Local Plan) and there is no overriding need to develop this site. The proposed development would be contrary to this Policy.

- 9.04 Thus, the site lies outside any area where planning permission would normally be granted for residential development, and on grade 1 agricultural land, which affords the site a further layer of protection.

- 9.05 The key question for Members is therefore whether there are sufficient material considerations which weigh in favour of approval of this scheme. In this respect, there are a number of factors which weigh in favour of approval. Firstly, the site is comparatively well contained – it lies at the end of an existing cul de sac, and whilst verdant, it can clearly be seen in the context of the surrounding suburban development. Secondly, the site lies in a highly sustainable location – it is within easy walking distance of shops, services, the local primary school, a bus route and the mainline railway station.

- 9.06 With reference to its location at the end of the cul de sac, one could take the view that, despite its location outside the built up area boundary of the village, the development of this site would provide a rounding off of the end of the cul de sac and a completion of development here. In addition, the scheme could be considered to amount to a comparatively minor infill development.

- 9.07 This must be weighed against the fact that development of the site would be contrary to the Local Plan. This is a finely balanced decision, which Members should give very careful consideration to. The key question is whether the limited benefits of this development, as set out above, outweigh the fact that the site is outside the built up area of Newington and therefore contrary to the newly adopted Local Plan. I am, on balance, of the view that despite the specific circumstances of the site, which would not result in harm to the character and appearance or the intrinsic beauty of the

countryside, this is outweighed by the policy objection. I therefore consider the development to be unacceptable as a matter of principle.

DESIGN, IMPACT ON STREETSCENE & IMPACT ON RESIDENTIAL AMENITY

- 9.08 The proposed housing layout, as amended, reflects the general character of the surrounding local area. The four proposed detached houses will achieve reasonable separation distances to the site boundary and neighbouring properties. These new dwellings will present a continuation of the general streetscene along The Tracies.
- 9.09 Each proposed property has been provided with both a garage and associated access drive and, in each case, ample parking area. The proposed houses generally utilise a traditional form of roof configuration with a variety of architectural style and fenestration that is in-keeping with the visual character of the area. Principal elevations propose red multi stock facing brickwork with white casement windows, white rainwater goods and red / brown roofing tiles. The form of roof design and architectural style reflect the architectural vernacular within an established residential area.
- 9.10 These proposals have been designed specifically to respect the scale and mass of the residential character of the area that generally comprises of two storey houses - and will ensure that the new properties will respect the general character of the surrounding area.
- 9.11 The existing public footpath that passes through the site would be retained within the overall scheme however the formal alignment and the current use as evidenced 'on the ground' would be regularised by the subsequent diversion of the public footpath.
- 9.12 Members will note that landscaping is reserved for future consideration. In my view, there is nothing inherent within the site that would prevent an effective and appropriate landscaping scheme being secured.
- 9.13 The layout of the proposed dwellings and their relationship with the existing is such that, in my view, there would be no significant harm to residential amenity. The dwellings closest to the existing in The Tracies would be 5 metres (plot 1) and 16 metres (plot 4) from the closest dwellings, and their siting relative to those dwellings is such that no significant overshadowing, loss of light nor overlooking would occur. To the north, the boundary of the site located a minimum of 20 metres from the closest dwelling, and to the south the closest dwelling would be 30 metres from the boundary of the site. The southern two plots would give rise to limited overlooking of the rearmost parts of the gardens of Dromore and Langarth in Callaways Lane. However – this would not give rise to such harm to residential amenity that planning permission should be refused.
- 9.14 Each of the proposed dwellings would have an acceptable provision of private amenity space and I consider that the occupiers of the proposed dwellings would benefit from an acceptable level of residential amenity.

Heritage Impact

- 9.15 The site lies adjacent to the Newington High Street Conservation Area and to Lion House, a grade II listed building. Members will be aware that they are required to have regard to the desirability of preserving the setting of the listed building and preserving or enhancing the special character of the conservation area. These matters should be given very significant weight in the decision making process..
- 9.16 The site abuts the rear boundary of Lion House, which also amounts to the conservation area boundary.
- 9.17 In my view, the development proposed will not have a harmful impact on the special character of the conservation area. As I set out above, the proposed houses would complement the existing in the Tracies, and would be seen in that context. Views from the site to the conservation area are currently restricted due to the overgrown nature of the site, and whilst the development will be visible from the conservation area, it would not in my view give rise to harm to this designated heritage asset.
- 9.18 Equally, the proposed dwellings would not give rise to harm to the setting of the listed building. Lion House is set at a slightly higher level than the site, and whilst the proposed development and the listed building would clearly be indivisible, the proposed dwellings would not dominate the listed building, nor would they appear obtrusive from it or in the limited views towards it.

Ecology

- 9.19 I am awaiting the comments of the KCC Ecologist and will update Members at the Meeting.

Access and Parking

- 9.20 I am mindful that the LDF Panel in May 2016 decided not to allocate the site in the Local Plan on the basis of issues relating to access. Although the minutes do not record specifically what this relates to, I presume it relates to access to Callaways Lane from the A2. I am mindful that access here is difficult, but am of the view that the addition of 4 dwellings would not give rise to so significant an increase in vehicle movements that the convenience and safety of users of the highway would be harmed.
- 9.21 The proposed development would include independent access and parking for each of the detached houses. Each of the new dwellings will be provided with either a detached/attached garage together with further parking spaces on each of the plots. The proposed dwellings will have ample 'private' gardens allowing adequate storage facility for cycles and domestic refuse collection.
- 9.22 It is acknowledged that some local residents are concerned with a potential increase in traffic and parking which may be created by the new development. However, it is considered that the introduction of four dwellings with provision of their own parking spaces will have no adverse impact upon the existing streetscene or residential amenities of the local residents.
- 9.23 There is a public footpath, ref: ZR61 that passes through the site however it appears that the alignment of the footpath follows a 'line of desire' rather than the line according to the formal footpath records. It is understood that this footpath has existed on this current route for nearly 50 years. Within the development proposals, the public

footpath has been maintained where it enters and exits the site boundary however there will be a requirement to apply to Kent County Council for consent to divert this formal alignment in order to build the southernmost two houses however it will still be possible for this footpath to be retained within the overall scheme and would not extinguish such rights.

AIR QUALITY

- 9.24 Members will of course be aware that the site lies close to the Newington AQMA. In this regard, I am awaiting the comments of the Environmental Health Manager. However – it seems unlikely to me that the addition of 4 new dwellings would result in a material increase in vehicles using the A2, given the extremely high volume of traffic which uses it, and as such, it is equally unlikely that the development would have a significant detrimental impact on air quality within the village.

10.0 CONCLUSION

- 10.01 In my view, the proposed development would not give rise to harm to the nearby designated heritage assets, nor to visual or residential amenity. The parking provision proposed is acceptable, and I do not consider that the development would materially harm air quality within the village.
- 10.02 The key issue here is whether this development is acceptable as a matter of principle. I have set out above that this is a finely balanced decision – the development of this site would be contrary to the newly adopted Local Plan and as such would ordinarily be considered unacceptable. There are material considerations which weigh in favour of approval, but I am on balance not persuaded that planning permission should be granted. I therefore recommend that outline planning permission is refused.

11.0 RECOMMENDATION – REFUSE for the following reason:

- 1) The site is located outside the built up area of Newington and amounts to best and most versatile (grade 1) agricultural land. The development of the site is not necessary in order to provide for the objectively assessed need for housing within the Borough and there is therefore no overriding need that would justify the loss of this agricultural land. The proposed development would be contrary to Policies ST3 and DM31 of the Swale Borough Local Plan 2017 “Bearing Fruits 2031”.

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.