

**PLANNING COMMITTEE – 12 OCTOBER 2017****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>Def Item 1      REFERENCE NO - 16/506986/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of no. 116 Oak Lane and construction of 2 no. three bedroom houses and 1 no. four bedroom with associated garages and parking.			
<b>ADDRESS</b> 116 Oak Lane Upchurch Kent ME9 7AY			
<b>RECOMMENDATION</b> Grant subject to conditions and no fresh issues being raised from latest consultation, expiry date 6/10/2017.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application site lies within the built up area boundary where the principle of residential development is acceptable and does not give rise to unacceptable harm to residential, visual or highway amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Deferred following Planning Committee Meeting of 30 <sup>th</sup> March 2017 (Originally reported to Committee as recommendation was contrary to Parish Council view)			
<b>WARD</b> Hartlip, Newington And Upchurch		<b>PARISH/TOWN</b> Upchurch	<b>COUNCIL</b>  <b>APPLICANT</b> Gransden Construction <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 17/11/16		<b>PUBLICITY EXPIRY DATE</b> 09/02/17	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/504900/FULL	Demolition of no. 116 Oak Lane, construction of 3 four bedroom houses - one detached and a pair of semi-detached with integral garages.	Withdrawn	16.08.2016

**MAIN REPORT****1.0 INTRODUCTION**

- 1.01 Members will recall that this application was reported to Planning Committee on 2<sup>nd</sup> March 2017. This report is appended and includes full details of the application site, the proposal, planning constraints, local representations, consultations, policies, background papers and plans, appraisal and conclusion. Members resolved at that meeting, the following:

*“That application 16/506986/FULL be deferred to allow the Planning Working Group to meet on site.”*

- 1.02 The Planning Working Group met on 20<sup>th</sup> March 2017 and the application was reported back to Planning Committee on 30<sup>th</sup> March 2017 where Members resolved the following:

*“That application 16/506986/FULL be deferred to allow discussions with the applicant on further options for the scheme.”*

- 1.03 Further to that meeting I have liaised with the applicant and agent who have now submitted an additional drawing (H-01 Rev P4) which shows a change to the highway layout in Oak Lane. This is in response to concern that has been raised by a Ward Member, the Parish Council and local residents.
- 1.04 There has also been an amendment to the footpath running around part of the perimeter of the site has been reduced from 1.8m to 1.5m. The site has been cut into to incorporate the carriageway widening however the layout of the dwellings themselves remains as previously submitted (these details are shown on drawing 16.30.110).

## **2.0 LOCAL REPRESENTATIONS**

- 2.01 Since the application was reported to the Planning Committee Meeting of 30<sup>th</sup> March neighbours and the Parish Council have been re-consulted on 3 separate occasions due to the amended drawings that have been received. The most recent of these consultations expires on 6<sup>th</sup> October 2017 and therefore I will update Members on any fresh issues being raised at the meeting.

- 2.02 The previous two consultations have resulted in objections from 9 separate addresses. I have not repeated the reasons for objection that have previously been submitted and discussed in the original Committee Report (see Appendix 1), however, the following summarised additional points have been raised:

- The ‘build out’ into Oak Lane will restrict occupiers in Oak Lane accessing their property;
- Drivers will mount the pavement due to the highway works;
- The access to the new properties should be on Wallbridge Lane rather than Oak Lane;
- The highway works will *“restrict services required to the village infrastructure and businesses including agricultural vehicles, machinery and daily deliveries to the co-op.”*
- Queues of traffic back toward the junction with Wallbridge Lane will block this junction;
- Oak Lane and Wallbridge Lane will become narrower;
- “Under HSAW Regulations, a Suitable & Sufficient risk assessment should have been carried out”;
- Lack of information on the drawings;
- Street furniture such as a telegraph pole have not been shown;
- No speed assessment or vehicle count has been undertaken;
- The road should be widened further to meet the mandatory requirements for a local distributor road;
- The installation of a formal traffic system will indicate to drivers that there is sufficient space either side of the safety measures;
- Increased risk to cyclists using Oak Lane;

- The road safety audit should have been undertaken at peak times;
- The proposal will create further noise, increase pollution due to queuing cars and potentially increase the risk of accidents with drivers becoming impatient.

### 3.0 CONSULTATIONS

- 3.01 I have re-consulted with **KCC Highways & Transportation** on the basis of the latest amended drawings who have made the following comments:

*"I refer to the amended plan received on 22nd September 2017 in respect to the above planning application, and would comment as follows:*

*As per my previous response, it is acknowledged that the submitted drawings again propose a traffic calming feature on Oak Lane, formalising the pinch point that currently exists outside the neighbouring property. Combined with the proposed carriageway widening across the development site frontage, and provision of road markings and traffic signs, I anticipate that these highway works will achieve the intended purpose of preventing vehicles from overrunning the footway, and making clear that traffic will have to give way to one another to pass through this section. Additionally, the build-out will provide improved visibility splays for the proposed and existing accesses on the western side of Oak Lane, and is likely to reduce vehicle speeds too.*

*The independent Stage 1 Road Safety Audit for these proposals has been actioned and the few items that were raised within it have been responded to by the Design Team and accepted by the Auditors. The scheme is therefore considered deliverable and can be advanced through the Section 278 Agreement process in order to be constructed on the public highway.*

*I would therefore have no objection to the proposed development."*

- 3.02 On an earlier set of amended drawings the Parish Council commented that *"The Parish Council has considered the proposed traffic calming in 116 Oak Lane and approve the scheme for a build out with bollards as proposed by the developer. The proposed built out traffic calming with bollards will help resolve the traffic problems on this part of the road."* As set out above, I have re-consulted the Parish Council on the latest set of amended drawings and will update Members as to the response to this consultation at the Committee Meeting.

### 4.0 DISCUSSION

- 4.01 The issue of highway safety has been of concern to local residents, the Parish Council and a Ward Member throughout the course of this application. Although I was of the view, based upon the previous comments of KCC Highways & Transportation that the proposal was acceptable in its original form and would not give rise to unacceptable harm to highway safety, it is clear that from the Committee Resolution as set out above that amendments were to be sought.
- 4.02 In response to this a further drawing was submitted showing amendments to the highway layout in Oak Lane in order to attempt to address the concerns referred to above. Kent Highways & Transportation commented on this drawing requesting additional safety features (such as bollards) and subsequent to this additional amendments have been received. The latest drawing (H-01 Rev P4) now shows a traffic calming feature on Oak Lane with bollards placed upon the opposite side of the highway to prevent vehicles from mounting the pavement which has been a key

concern of local residents throughout the course of this application. On this basis I have re-consulted with KCC Highways & Transportation and their latest comments are as quoted in the Consultations section above.

- 4.03 As such, I am of the view that the applicant has offered a solution which would provide an improvement to the road layout in this part of Oak Lane. I also note that the footpath which runs along the perimeter of the site (shown on drawing 16.30.110) where it abuts Wallbridge Lane and Oak Lane has been slightly reduced in width from 1.8m to 1.5m in width. However, as the footpath only runs for a limited length I do not consider that this would give rise to serious harm to pedestrian safety, especially considering the current situation where there is no footpath at all.
- 4.04 I note the additional comments received from the neighbouring occupiers. All of the fresh issues raised relate to highway matters. I take the view that these points as set out above have been considered by way of the submitted Road Safety Audit, the amended drawings and by Kent Highways & Transportation.
- 4.05 Therefore, on the basis of the comments of KCC Highways & Transportation I again take the view that the proposal is acceptable. There are two ways in which the highway works could be carried out, either through a Section 278 Agreement or via a financial contribution. Although KCC Highways & Transportation favour a Section 278 Agreement this remains a matter to be clarified. However, regardless of the route via which the highway works are brought forward, in order to ensure that they are carried out prior to the commencement of the development I have recommended an additional condition (14) to this effect. As such I take the view that this will enable there to be control over the deliverability of the highway works before there would be the possibility of the newly proposed access onto Oak Lane being used.

## **5.0 CONCLUSION**

- 5.01 In overall terms I take the view that the proposal would provide for 3 dwellings in the built up area without giving rise to any unacceptable harm to residential, visual or highway amenities. I believe that the applicant has taken a proactive approach in this instance in order to provide highway amendments after concern was raised in this regard. I consider that on the basis of the above the proposal is acceptable and I recommend that planning permission is granted.

## **6.0 RECOMMENDATION – GRANT Subject to the following conditions:**

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 16.30.105 (received 21<sup>st</sup> September 2016); 16.30.106A (received 11<sup>th</sup> January 2017); 16.30.110 (received 27<sup>th</sup> July 2017); and H-01 Rev P4 (received 22<sup>nd</sup> September 2017) unless otherwise agreed in writing by the Local Planning Authority.

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

- 3) No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction

techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

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

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

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

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

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

Reason: In the interests of the visual amenities of the area.

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

Reason: In the interests of the visual amenities of the area.

- 8) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 9) The commencement of the development shall not take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local

Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

- 11) The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- 12) The access details as shown on drawing 16.30.110 (received 27<sup>th</sup> July 2017) shall be completed prior to the first occupation of the dwellings hereby approved.

Reason: In the interest of highway safety and convenience.

- 13) The footpath as shown on drawing 16.30.110 (received 27<sup>th</sup> July 2017) shall be completed prior to the first occupation of the dwellings hereby approved.

Reason: In the interest of highway safety and convenience.

- 14) No development shall take place until the off site highway works to Oak Lane have been completed in accordance with a timetable submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety and amenity.

### **Habitats Regulations Assessment**

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

The application site is located approximately 2km south west of the Medway Estuary and Marshes Special Protection Area and Ramsar site 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. 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 as this is for three dwellings, 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 applicant/agent was advised of minor changes required to the application and these were agreed.

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.





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<b>2.4 REFERENCE NO - 16/506986/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of no. 116 Oak Lane and construction of 2 no. three bedroom houses and 1 no. four bedroom with associated garages and parking.			
<b>ADDRESS</b> 116 Oak Lane Upchurch Kent ME9 7AY			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application site lies within the built up area boundary where the principle of residential development is acceptable and does not give rise to unacceptable harm to residential, visual or highway amenities.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Proposal contrary to Parish Council view and local objections			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN</b> Upchurch	<b>COUNCIL</b>	<b>APPLICANT</b> Gransden Construction <b>AGENT</b> Kent Design Partnership
<b>DECISION DUE DATE</b> 17/11/16	<b>PUBLICITY EXPIRY DATE</b> 28/10/16		
<b>RELEVANT PLANNING HISTORY</b> (including appeals and relevant history on adjoining sites):			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/504900/FULL	Demolition of no. 116 Oak Lane, construction of 3 four bedroom houses - one detached and a pair of semi-detached with integral garages.	Withdrawn	16.08.2016

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises a corner plot fronting Oak Lane and Wallbridge Lane. There is currently a detached bungalow on the site with amenity space surrounding the property. The existing access is taken from Wallbridge Lane.
- 1.02 The site is surrounded to the east, west and south by two storey residential properties of a mixture of designs and styles whilst to the south lies the Upchurch River Valley golf course.

**2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the erection of a pair of 3 bed semi detached dwellings and a detached 4 bedroom dwelling with associated parking and amenity space.
- 2.02 The principle elevation of the semi detached dwellings front Oak Lane. Both semi detached properties would measure 9m in depth and 5.9m in width. In addition to this each property would have an attached garage measuring 6.9m in depth and 3m

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in width. The properties would measure 5.2m to the eaves and 8.8m in overall height. The garages measure 2.8m to the eaves and 5.5m to the ridge.

- 2.03 Both semi detached dwellings have vehicular access taken from Oak Lane with two parking spaces for each provided to the front of the properties. To the rear would be private amenity space measuring 10.8m – 11.7m in depth and 10m in width. The properties would be symmetrical in design with pitched roofs and gable ends on each flank.
- 2.04 The principle elevation of the detached property would front Wallbridge Lane and would have a floor area of approximately 8m x 9m. It would measure 5m to the eaves and 8m in overall height. The property would have a pitched roof with gable ends on each flank. The design would also include a frontward projecting gable.
- 2.05 Vehicular access to the detached property would be taken from Wallbridge Lane with two parking spaces provided. A detached garage is indicated close to the western boundary of the site, adjacent to the existing property at No.2 Wallbridge Lane. The garage would have a footprint of 3.15m x 6m and would measure 2.5m to the eaves and 3.9m in overall height. Due to the layout of the site, with the detached property fronting Wallbridge Lane, the amenity space would be provided beyond each flank wall of the property providing a total area of 217sqm.
- 2.06 A visitor parking space is indicated in the southern part of the site, accessed from Wallbridge Lane and a 1.8m footpath is proposed along the perimeter. A row of planting is indicated to run along the majority of the eastern and southern boundary.

**3.0 PLANNING CONSTRAINTS**

- 3.01 None

**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.

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- 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 The Swale Borough Local Plan Proposed Main modifications 2016 policies ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); DM14 (General development criteria) are also relevant.

## 5.0 LOCAL REPRESENTATIONS

- 5.01 A site notice was displayed close to the application site and surrounding properties were sent a consultation letter. Subsequent to this consultation it was noted that there were inconsistencies between the drawings submitted in terms of the site boundary and as a result amended details were received. On receipt of these drawings neighbours were re-consulted and an additional site notice displayed. In total, objections have been received from 10 separate addresses and raise the following points:

- The existing road layout in Oak Lane and the speed that vehicles travel along this section of the highway means that an additional access will cause danger to vehicles and also pedestrians using the footpaths;
- The development should not be able to go ahead without traffic calming measures being firstly installed or the road widened;
- The proposal provides inadequate parking spaces;
- The submitted drawings are inaccurate;
- Sufficient visibility splays can not be achieved from the newly proposed access into Oak Lane;
- The new properties will be overbearing and will cause unacceptable levels of overlooking to neighbouring properties;
- Removal of trees will result in the loss of important landscape features;
- The site is subject to flooding;
- Surrounding infrastructure and services can not cope with the additional residents;

## 6.0 CONSULTATIONS

- 6.01 Upchurch Parish Council object to the application and made the following comments: *"Councillors have considered the application and have expressed reservations about access and egress onto Oak Lane. This is also the view of local residents who point out that Oak Lane carries the highest volume of traffic into the village centre and at this point is effectively a single lane road. Also it is only some 50 yards after a speed reduction of 30 m.p.h. from 60 m.p.h. is signed."*
- 6.02 KCC Highways & Transportation state *"Whilst I have previously advised you that the application does not meet the criteria to warrant comment from Kent County Council, for your assistance I can confirm that the revised details do now demonstrate that the layout does provide sufficient parking provision for the proposed dwellings and visitor demand, and adequate turning space is included to allow vehicles to enter and exit the development in a forward gear from Oak Lane itself."*

*The visibility sightlines proposed for the new access are adequate, and the provision of a footway around the site to cater for pedestrian movement between the visitor parking space and the proposed dwellings has enabled improvement to the junction with Wallbridge Lane, as a visibility splay to the north will now be available.*



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*I would consider that the proposals are acceptable, and trust this is of assistance to you in your assessment of the application."*

After the receipt of amended drawings I again consulted with KCC Highways & Transportation who provided the following response:

*"I would consider that the proposed development on balance provides a betterment to the operation of the public highway, as it gives the opportunity to create appropriate visibility sightlines for the junction of Oak Lane with Wallbridge Lane, which will be more active than the new vehicular access to the proposed dwellings.*

*The new access will be afforded better visibility than the neighbouring property that actually controls the hedge to the north of that existing dwelling, and there is no record of any problems identified with the use of that current access."*

- 6.03 Natural England state *"The above consultation relates to proposals for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites."*

- 6.04 I have consulted verbally with the Council's Environmental Protection Team who raise no objection subject to conditions relating to construction hours and suppression of dust.

- 6.05 Health and Safety Executive *"does not advise, on safety grounds, against the granting of planning permission in this case."*

## 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 16/506986/FULL.

## 8.0 APPLICANTS SUPPORTING COMMENTS

- 8.01 A Design & Access Statement has been submitted with the application and in addition to this I set out the applicant's supporting comments:

*"The proposed development will improve the width and visibility of the existing road in this area, as it the intention to cut back the existing shrubs, trees and bushes that currently overhang into the road to install the proposed new driveway.*

*The road is well within a 30 MPH zone and has very good visibility in both directions. The new proposal means there is now only one access from the site on Oak lane, the other is an existing access.*

*There are already existing driveways closeby on this road and to our knowledge no serious accidents have occurred at this point in the road.*

~\*~

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*The road is also wide enough for 2 cars to pass side by side at this point, this will be aided by the clearing of shrubs etc.*

*The proposed driveways will have the appropriate vision splays installed and will be in full compliance with Kent highways requirements.*

*Also in support of the application, we feel that the proposed development will significantly enhance the street scene, as the existing dilapidated bungalow is the first thing seen on entry to the village."*

**9.0 APPRAISAL****Principle of Development**

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

**Visual Impact**

- 9.02 The existing dwelling on the site is a detached bungalow with amenity space surrounding the entirety of the property. Upon approaching the site, especially travelling north along Oak Lane the site has a verdant appearance which I believe any development upon this site should seek to retain. The layout of the site shows planting along the majority of the southern and eastern boundary of the site. As a result of this I am of the view that the character of the site would be sufficiently retained. The exact type of landscaping will be achieved via the inclusion of a relevant landscaping condition. As a result I am of the view that this element of the proposal is acceptable.
- 9.03 The three dwellings on the site will largely follow the building line of the properties to the north of the application site in Oak Lane. The surrounding properties are a mixture of single storey, two storey and two and a half storeys. The majority of surrounding properties are detached or semi detached. Therefore I am of the view that the design of the properties proposed are acceptable and would be in keeping with the surrounding pattern of development.
- 9.04 The proposal will introduce two separate parking areas, one in front of the semi detached properties and one accessed from the existing access to the site from Wallbridge Lane. Parking arrangements in the surrounding area are mixed with some areas of hardstanding prominent in the streetscene. I am of the view that the parking layout as proposed would not be significantly out of keeping with the surrounding area and consider this not to have an unacceptable impact upon visual amenities.

**Residential Amenity**

- 9.05 The closest proposed dwelling to No.114 Oak Lane would be separated from the main side elevation of this property by 4.4m and set back from the main rear elevation of this property by 2m. Due to this separation distance and the limited projection past the rear of this adjacent dwelling I do not consider that this would have an unacceptable impact upon the residential amenities of this property.

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- 9.06 Due to the layout of the proposed properties the semi detached dwellings would be turned at a 90 degree angle from No.2 Wallbridge Lane. The result of this is that the property located in the northern most part of the application site would have sideways views into the rear private amenity space of No.2. The distance between the rear elevation of the proposed property and the central part of the private amenity space directly to the rear of No.2 would be 18m. I consider this distance to be acceptable as to not cause an unacceptable loss of privacy to neighbouring occupiers. The rear of the remaining semi detached property would be angled toward the flank wall of No.2 rather than the rear private amenity space and therefore I consider that unacceptable levels of overlooking from this property would not occur.
- 9.07 The private amenity space of the proposed detached dwelling would be located either side of the property. Opportunities for overlooking from the windows of the closest proposed property to the north would be heavily disrupted due to the angle of the view and as such I believe that the layout in this respect is acceptable.

**Highways**

- 9.08 I appreciate that this application has attracted a number of objections from local residents with the concern largely based around highway safety, the width of the existing road and the new access to the semi detached properties from Oak Lane. As a result of this, on receipt of the original application I gained the views of Kent Highways & Transportation and have set these out above in full. Subsequent to receiving these comments it was noted that the drawings did not fully correspond in relation to the site boundary and as a result the agent has submitted amended details. Due to both the level of interest that the application has attracted in relation to this issue and the amendments I considered it prudent to again consult Kent Highways & Transportation. I have set out their subsequent comments in full above and on this basis am of the view that the impact of the access upon highway safety or amenity would not be unacceptable. It has been taken into consideration that the development will allow for increased visibility at the Oak Lane / Wallbridge Lane junction (this will be ensured by condition 2 requiring compliance with the drawings). Furthermore, although it is appreciated that there is an existing hedge located within the curtilage of No.114 (which would be outside the control of applicant), the proposed access in Oak Lane would have better visibility than the current access of No.114 of which there is no record of any problems. As a result, as set out above it is considered that the development as a whole provides a betterment to the operation of the public highway.
- 9.09 The proposal also includes two independently accessible parking spaces for each property and turning space within the site boundary. As such, vehicles will be able to enter and exit the site in forward gear. There is also a visitor parking space indicated in the southern most part of the site. I refer to the comments of Kent Highways & Transportation who state that there is sufficient parking provision provided. I also note that there is a footpath indicated around the site which will provide safe pedestrian routes. I have included relevant conditions in relation to highway safety and convenience.

**Other Matters**

- 9.10 I note the further grounds of objection and respond as follows. In regards to the consistency between the drawings I have liaised with the agent and amended drawings have been received. None of the trees or vegetation on the site are protected and in my view are not of special amenity value, as such their removal required would not be controlled by the Council. The site does not lie within Flood



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Zone 2 or 3 and as such the possibility of flooding is not considered to be an unacceptable risk. Finally, the application is for 3 dwellings and as such although there will be some additional use of local services I do not consider that this would be so significant as to be unacceptable. I also take into account that the development is below the threshold for developer contributions and as such these can not be requested.

**10.0 CONCLUSION**

- 10.01 I consider that the scheme is acceptable in terms of its impact upon residential and visual amenities. As set out above, the application has attracted a relatively large amount of objection, predominately in relation to the new access into Oak Lane, however KCC Highways & Transportation are of the view that the development is acceptable in terms of its impact upon highway safety and amenity. As a result I recommend that planning permission is granted.

**11.0 RECOMMENDATION – GRANT** Subject to the following conditions:

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 16.30.105 (received 21<sup>st</sup> September 2016); 16.30.106A (received 11<sup>th</sup> January 2017); 16.30.102AB (received 13<sup>th</sup> January 2017); 16.30.103AB (received 13<sup>th</sup> January 2017) and 16.30.104B (received 16<sup>th</sup> January 2017).

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

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

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

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

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

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



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appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

Reason: In the interests of the visual amenities of the area.

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

Reason: In the interests of the visual amenities of the area.

- 8) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 9) The commencement of the development shall not take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

- 11) The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning

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(General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- 12) The access details as shown on drawing 16.30.104B (received 16<sup>th</sup> January 2017) shall be completed prior to the first occupation of the dwellings hereby approved.

Reason: In the interest of highway safety and convenience.

- 13) The 1.8m wide footpath as shown on drawing 16.30.104B (received 16<sup>th</sup> January 2017) shall be completed prior to the first occupation of the dwellings hereby approved.

Reason: In the interest of highway safety and convenience.

#### Habitats Regulations Assessment

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

The application site is located approximately 2km south west of the Medway Estuary and Marshes Special Protection Area and Ramsar site 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. 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.

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- 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 as this is for three dwellings, 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.



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In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

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.