

2.2 REFERENCE NO - 17/502405/FULL			
APPLICATION PROPOSAL Erection of a new dwelling with associated works in rear garden area fronting Woodcourt Close.			
ADDRESS 5 Park Avenue Sittingbourne Kent ME10 1QX			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The application site lies within the built up area boundary where the principle of development is accepted and would not in my view give rise to unacceptable harm to residential, visual or highway amenities.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Samuel			
WARD Woodstock	PARISH/TOWN COUNCIL	APPLICANT Mrs Joan Arthurs AGENT Sevenscroft Ltd	
DECISION DUE DATE 05/07/17	PUBLICITY EXPIRY DATE 21/07/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None Relevant			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises a detached two storey dwelling which fronts onto Park Avenue with private amenity space to the rear extending to some 33m in depth and 12m in width. The rear garden abuts Woodcourt Close and a single storey garage is situated in the rear most part of the private amenity space. Two Silver Birch trees lie just outside of the application site on Woodcourt Close.
- 1.02 The surrounding area is predominately residential in nature comprised largely of detached and semi detached properties. The dwellings in Park Avenue are by and large situated on larger plots than those within Woodcourt Close.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a two storey detached dwelling to be located in the rear private amenity space of No.5 Park Avenue. The property would front onto Woodcourt Close.
- 2.02 The proposed dwelling would be L shaped, measuring 8.25m in depth and ranging between 4.5m and 5.7m in width. The eaves height would be 5m and the pitched roof ridge height 7.4m.
- 2.03 Although a small part of the private amenity space would be located to the rear of the dwelling, the majority of the garden would be adjacent to the property. The main part

of the garden measures 12.4m in depth and ranges between 11.2m and 12.4m in width (due to the staggered side elevation of the proposed property).

- 2.04 The existing garage will be demolished and in its place two tandem parking spaces will be provided for the proposed dwelling. As a result of this two tandem parking spaces will also be provided adjacent to the proposed property for the existing dwelling with a new vehicular access onto Woodcourt Close. The resultant garden space for the existing dwelling would be 9.5m in depth and 12m in width. A bin and bike store in the private amenity space of both dwellings is proposed.

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 - Bearing Fruits 2031: The Swale Borough Local Plan 2017

- 4.02 Policy ST1 is a general policy aimed to achieve sustainable development throughout the Borough. The most relevant criteria are:

4. Accord with the Local Plan settlement strategy; and
7. Deliver a wide choice of high quality homes by:

- a. meeting the full, objectively assessed need for housing in the housing market area;
- b. providing housing opportunity, choice and independence with types of housing for local needs; and
- c. keeping vitality within rural communities with identified housing needs, proportionate to their character, scale and role.

ST3 sets out the Swale settlement strategy, and identifies preferred locations for residential development. Para.1 of the policy states that *"The main Borough urban centre of Sittingbourne will provide the primary urban focus for growth"*.

Policy CP2 states that new development will be located to minimise the need to travel for employment and services, and to facilitate sustainable transport choices.

CP3 aims to provide a wide choice of high-quality homes across the Borough. It aims to steer development to the built up areas and allocated sites in accordance with policy ST3.

CP4 states that all development proposals will be of a high quality design that is appropriate to its surroundings and amongst other requirements will enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening sense of place.

DM7 states that the Council will continue to apply extant Kent County Council vehicle parking standards to new development proposals.

DM14 is a general policy and sets out a number of criteria all developments are expected to accord with.

5.0 LOCAL REPRESENTATIONS

5.01 Five letters of objection have been received from the occupiers of neighbouring properties. The objections raise the following summarised points:

- The entrance to Woodcourt Close has a spacious appearance which would be reduced by this proposal;
- The proposal would not reflect or respect the rhythm of the built environment in this part of Sittingbourne;
- Does not respond positively by reflecting the positive characteristics and features of the site and locality;
- Fails to protect and enhance the environment and would lead to a loss of trees / plants;
- Fails to enrich the qualities of the existing environment by reinforcing local distinctiveness and strengthening the sense of place;
- The proposed dwelling would be overbearing in terms of its relationship to existing dwellings;
- Concerns that the existing trees could cause damage to the proposed property;
- The application site includes a tree which is not reflected on the application form;
- The application should be refused for a lack of information in relation to trees;
- The proposed dwelling located close to the Silver Birch trees would have an impact upon these trees;
- The development would appear cramped and awkward;
- The dwelling would be constructed beyond the building line of No.5 Park Avenue and No.2 Woodcourt Close;
- The proposed amenity space would be overlooked by the rear first windows of No.2 Woodcourt Close;
- The tandem parking arrangement proposed is far from ideal and additional parking spaces would give rise to noise and fumes;
- The proposal would give rise to unacceptable levels of overlooking and a loss of privacy;
- The proposal would lead to a loss of light;
- Location of bin storage would give rise to smells;
- The development will give rise to flooding elsewhere due to increased run off.

6.0 CONSULTATIONS

6.01 **Cllr George Samuel** stated *"I can confirm that I would like this application to be reported to Planning Committee please."*

6.02 The Council's **Environmental Protection Team** raise no objection subject to conditions relating to suppression of dust and construction hours.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 17/502405/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area boundary of Sittingbourne where the adopted Local Plan prioritises development to take place. The site is located in an existing residential area and as a result I am firmly of the view that the principle of development in this location is accepted.

Visual Amenity

- 8.02 I note the concern that has been raised by neighbouring occupiers in terms of the impact of this proposal on the streetscene and how the dwelling would relate to the existing form of development.
- 8.03 Park Avenue is in my view characterised by properties on large plots which in the main benefit from generous rear gardens. However, I consider the density of the layout in Woodcourt Close to be higher than Park Avenue with a number of the properties located upon smaller plots. The proposed property would address Woodcourt Close and although visible from a limited part of Park Avenue, due to the pattern of development in Woodcourt Close I do not believe that the property by virtue of its siting would give rise to such significant harm to the streetscene as to warrant a reason for refusal.

Residential Amenity

- 8.04 Due to the built up nature of the surrounding area, careful attention will need to be paid to the proposed property's relationship with existing dwellings. I also note the local concern that has been raised in relation to this.
- 8.05 The property would be located 21.8m from the main two storey rear elevation of No.2 Woodcourt Close and 18.2m away from the conservatory at ground floor level on the rear of this property. I note on the side elevation of the proposed dwelling facing this property there is a window at first floor level serving a bedroom. Due to the distances as set out above I am of the view that it is a finely balanced argument as to whether this would cause an unacceptable level of overlooking towards the conservatory, however, I note that this bedroom is also served by a window on the front elevation. As such I have recommended a condition which requires this side facing window to be obscure glazed and fixed shut. As a result of this, due to the distance between the properties and that there will be no potential for overlooking from the first floor towards No.2 Woodcourt Close I consider that the proposal is acceptable in this regard. In terms of the view from the first floor windows of No.2 towards the application site, I give significant weight to the views that are already available into this part of what is currently the rear private amenity space of the existing property at No.5 Park Avenue. As such, when this is combined with the distances as set out above I do not believe that the level of overlooking from No.2 Woodcourt Close would give rise to unacceptable additional harm.
- 8.06 In relation to No.3 Park Avenue, the proposed dwelling would be 11.2m away from this property at its very closest point. However, I give significant weight to the siting of the proposed dwelling and that it is at an angle to this existing property and 2.6m away from the common boundary. On the basis that the Council would usually expect a minimum rear to flank distance of 11m and that the proposed property is not set directly to the rear of No.3 Park Avenue I am of the view that the scheme would not give rise to unacceptable loss of light to the rear windows of this property. There

will be some impact upon the private amenity space of No.3 Park Avenue, however, I give very significant weight to the size of this neighbouring garden, measuring approximately 29m in depth and 16.5m in width. As a result I do not believe that the proposal would be unacceptably overbearing in this regard. I also note that the rear window on the first floor of the proposed property is annotated as being obscure glazed and fixed shut below 1.7m and would serve a bathroom. Therefore I do not believe that the proposal would give rise to unacceptable levels of overlooking or a significant loss of privacy for the occupants of No.3 Park Avenue. I have included an approved drawings condition so that the obscuring of this window will be controlled.

- 8.07 I also note the objection from the occupants of No.9 Park Avenue on the grounds of a loss of privacy. Views towards the rear of this property would be available from the first floor windows of the proposed dwelling. However, the first floor of No.9 only has one window and the available views would be at an angle and 19.4m away from this opening. There would be some sideways views available into the garden of this property at a distance of approximately 20m from the part of the garden immediately to the rear of this property (the area of private amenity space most likely to be utilised in my opinion). In addition I also note the large tree close to the boundary with No.9 which would obscure views to some extent. On this basis I do not believe that the proposal would give rise to unacceptable harm to the amenities of this neighbouring property.
- 8.08 The flank elevation of the proposed property would be 14.4m away from the main two storey rear elevation of the existing property at No.5 Park Avenue and 12.4m away from the rear elevation of the single storey element. As set out above the Council would usually expect a minimum rear to flank distance of 11m and therefore the proposal achieves this. The main part of the private amenity space that would be provided for the proposed dwelling would be 12.4m x 11.2m - 12.4m. I consider this to be adequate for the dwelling as proposed. Although the resultant amenity space of No.5 Park Avenue would be reduced to 9.5m in depth (the Council would usually expect 10m), I give weight to both the width of the garden being 12m and the uniform shape meaning that in my view it would still be adequate for the existing property at No.5 Park Avenue. As a result I believe that the impact upon the amenities of No.5 would not be seriously harmed.
- 8.09 Although the above assessment deals with the impact of the proposed dwelling upon residential amenities, there would be the possibility that under permitted development rights the dwelling, if approved and constructed, could then be extended and / or altered without requiring any further planning permission. Due to the layout of the proposed and surrounding properties the result of this could be that harm to the amenity of neighbouring occupiers could arise. To prevent this from occurring, I have recommended a condition removing permitted development under Class A (enlargement, improvement or other alteration to the dwelling); Class B (extensions to the roof); Class C (any other alterations to the roof); and Class E (outbuildings). As such I take the view that the removal of these permitted development rights would allow the Council to control any additional development outside of the scope of this current application.

Highways

- 8.10 The application proposes two parking spaces for both the existing and proposed dwelling which satisfies KCC requirements for properties of this size in this location. These parking bays each measure 5m in depth and 3m in width which is an adequate size. In my view the proposal would not give rise to any significant harm to highway safety or amenity.

Landscaping

- 8.11 There are two Silver Birch trees located within extremely close proximity of the application site which in my opinion have a positive impact upon the streetscene. The submitted drawings show that these trees are to be retained however as they are located close to the application site I have consulted the Council's Tree Consultant. As a result of this consultation two conditions have been recommended which I have included below. I believe that these conditions will ensure the protection of these trees.
- 8.12 The proposal would lead to the loss of some planting in the existing rear garden of No.5 Park Avenue. However, I take the view that as the site is not located in a designated area and the planting is not formally protected then the Council would not have any control over its removal. In any case, I do not consider that the planting in the rear garden to have such a positive impact upon visual amenities that its removal would be significantly harmful. Furthermore, I have also recommended that the standard landscaping conditions are imposed to ensure that an appropriate level of landscaping is incorporated into the development.

Other Matters

- 8.13 The majority of the concerns raised in the objection letters have been discussed by virtue of the above appraisal. Of those that remain I respond as follows. In terms of the disturbance from cars I consider that in a residential area such as this that it is a typical arrangement for cars to be parked close to common boundaries. As such I do not believe that this would give rise to significant harm to neighbouring amenities. In terms of the level of detail provided in the application, if relevant information had been missing then this would have been dealt with at the validation stage. Notwithstanding this I consider that the information provided is sufficient to be able to determine the application. In relation to the location of the bin stores, I take the view that this would not be particularly unusual in a context where other properties are located close by. As such I do not believe that this would warrant a reason for refusal. Finally, the site does not lie within either Flood Zone 2 or 3 and as such I do not believe that any significant weight can be given to the possibility of this development increasing flood risk in the local area to a seriously harmful extent.

9.0 CONCLUSION

- 9.01 Although the comments from neighbours are noted, I consider that the proposal would provide an additional dwelling within a sustainable location without giving rise to unacceptable harm to residential, visual or highway amenities. I recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings: 2017/31/02C (received 14th September 2017);

2017/31/03C (received 12th August 2017); 2017/31/04A (received 28th June 2017); and 2017/31/05A (received 28th June 2017).

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

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

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

- 4) The materials to be used in the construction of the external surfaces of the development hereby approved shall match those as annotated on drawing 2017/31/05A (received 28th June 2017).

Reason: In the interests of visual amenities.

- 5) 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.

- 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) The area shown on the submitted plan as vehicle parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order

revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

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

- 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) 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 District Planning Authority.

Reason: In the interests of residential amenity.

- 11) All trees to be retained, as indicated on the approved plans and particulars must be protected by barriers and or ground protection, as recommended in British Standard 5837: 2012 'Trees in relation to design, demolition & construction – Recommendations' before any equipment, machinery or materials are brought onto the site and before any demolition, construction or stripping of soil commences; and shall be maintained intact until all machinery, equipment and surplus materials have been removed from the site. No alterations or variations to the approved works or tree protection measures shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance of the development

- 12) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stem or roots other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. All tree works shall be carried out in accordance with British Standard 3998: 2010 'Tree Works - Recommendations'. If any retained tree is removed, uprooted or destroyed or dies, a replacement tree shall be planted and that tree shall be of such size and species, and shall be planted at such a time and in a position to be agreed with the Local Planning Authority, as may be specified in writing by the Local Planning Authority.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance of the development.

- 13) Prior to the occupation of the development hereby permitted the flank window serving the master bedroom (as annotated on drawing 2017/31/04A) shall be obscure glazed and fixed shut and shall remain as such in perpetuity.

Reason: In the interest of residential amenities.

- 14) Upon completion, no further development permitted by Classes A, B, C or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.

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

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4.8km north-east of The Swale Special Protection Area (SPA) and Ramsar site and 1.9km east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale

because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.

- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

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

In this instance:

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

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

