

<b>2.8 REFERENCE NO - 17/501926/REM</b>			
<b>APPLICATION PROPOSAL</b> Reserved matters for the Access and landscaping following Outline application for a 50 bed care home with ancillary accommodation, over 3 floors (the top floor within the roof) and with a basement kitchen and staff rooms (16/504551).			
<b>ADDRESS</b> Little Oyster Residential Home, Seaside Avenue, Minster-on-sea, Kent, ME12 2NJ			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposed access and landscaping details are acceptable, and no objections have been raised by the statutory consultees.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Batten <b>AGENT</b> Prime Folio
<b>DECISION DUE DATE</b> 13/07/17	<b>PUBLICITY EXPIRY DATE</b> 19/05/17		
<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>
Planning history for this site is convoluted, and set out in detail at 1.03 of the main report.			

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site comprises a rectangular piece of land of approximately 0.29ha, which is currently used as a car park and grassed area in connection with the Little Oyster Care Home. It rises from west to south east (to a maximum of 18.75 metres AOD at the south-east corner) and occupies a very prominent position in the sea front area. A public car park lies immediately beyond the boundary to the north of the application site.
- 1.02 The existing Little Oyster care home is long established and is located at the corner of Seaside Avenue and The Leas. To the south sit dwellings in Southsea Avenue. These properties occupy an elevated position above the application site (decreasing to about 2m towards Seaside Avenue), and some currently have views across the site to the sea beyond.
- 1.03 It will be helpful for Members to be aware of the planning history in detail:
  - SW/02/0770: Outline planning permission was refused in January 2003 for a three storey building containing room-suites for the disabled. An appeal was subsequently dismissed in August 2003. In dismissing the appeal, the Inspector identified two main issues: the impact on the ‘suburban’ character and appearance of the locality; and the effects of the proposal on the living conditions of adjoining occupiers.

With regard to the impact on the visual amenities of the locality the Inspector stated that the proposed building would be a significantly larger structure in terms of height and mass than other buildings in the area and as such it would represent an incongruously large feature, which would be incompatible with the character of the area.

The Inspector concluded that while the outlook from the properties in Southsea Avenue would be materially changed by the proposed development, there was nothing about the situation that would be created that suggested that these private views should be protected in the public interest. He did accept, however, that the building would be intrusive and overbearing when viewed from adjoining dwellings to the south west.

- SW/03/0063: Outline planning permission granted on 3rd April 2003 for a care home following a careful assessment of the proposal in the light of the Inspector's appeal decision at the committee meeting of 27th March 2003. The building would have been in the same position and of the same footprint, but built on two storeys rather than three.
- SW/03/1221: Reserved matters approval granted in March 2004 for the two-storey building referred to above. It can be seen from the drawing attached as an appendix, that the height had been reduced from that dismissed at appeal, and the vertical emphasis of the earlier design replaced by a more horizontal roof form.
- SW/05/707: Permission refused for a new vehicular access in July 2005.
- SW/07/0123: This application, recommended for permission at the meeting of 24th May 2007, was for the erection of a (partly) three-storey building comprising 31 self contained sheltered flats, with a footprint of approximately 55m wide and 17.5m deep. At the meeting, however, it was resolved to refuse the application for the following reason:

*"The proposed three storey development due to its height, size and scale would appear as an incongruous and over-bearing structure harmful to the visual amenities of the surrounding area, including the adjoining Minster Cliffs, detrimental to the living conditions of the surrounding residential properties and would result in the loss of amenity space contrary to Policies G1, H14 and R21 of the Swale Borough Local Plan and Policy E1 of the Swale Borough Local Plan First Review Re-Deposit Draft."*

The building proposed was similar to that approved in 2003, but bowed slightly around a central gable. However, very significantly, it would be partly three-storey, with dormers in the roof slope facing the estuary.

A subsequent appeal was allowed, with the Inspector commenting that the site was capable of accommodating a building of the scale and massing proposed (i.e. three-storey); that the proposed building would not differ significantly from that previously approved at the site; and that there would be no serious harm to local residential amenity.

- SW/07/0784: Grant of outline consent for two-storey care home with 40 bedrooms, ancillary rooms and 25 car parking spaces.

- SW/10/1271: Approval for extension of time to commence development of the scheme approved under application SW/07/0784.
- SW/10/1363: Renewal of permission ref. SW/07/0123.
- SW/13/0599: Grant of outline consent for erection of a 50 bed care home with ancillary accommodation over 3 floors (top floor within roof), and with a basement kitchen and staff rooms.
- 16/504551/OUT: Outline permission granted for a 50 bed care home with ancillary accommodation, over 3 floors (the top floor within the roof) and with a basement kitchen and staff rooms, with Appearance, layout and scale to be considered at this stage and all other matters reserved for future consideration

## **2.0 PROPOSAL**

- 2.01 The application seeks reserved matters consent in relation to the site access and proposed landscaping. Members should note that as a result of the outline planning permission in 2016 (Ref :16/504551/OUT) these are the only outstanding reserved matters now to be considered. ( A copy of the relevant 2016 outline planning permission is attached to this report.)
- 2.02 Access is proposed via the existing site access along the western boundary, off Seaside Avenue. Vehicles would follow the existing vehicle route through the site (i.e. between the home and the adjacent pub, and along the southern boundary) to a car parking / turning area adjacent to the southern boundary.
- 2.03 Vehicle parking is shown as being along the southern side of the access road and continuing along the southern site boundary, and infilling the gaps around the building footprint. 40 spaces will be provided in total, with adequate room for turning of HGVs and service vehicles within the site.
- 2.04 The submitted landscaping scheme shows an area of planting to the north of the access road, adjacent to the existing care home, and then a band of landscaping circling the proposed new building. This would include intentionally unmanaged “natural habitat” areas along the southern and eastern boundaries, a grassed lawn area to the north of the new building, and new tree and shrub planting throughout the site.
- 2.05 Proposed tree and shrub species include: Ash, Maple, Sycamore, Rosemary, Ivy, Lavender, Clematis, Cherry Laurel, and roses.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 Policy considerations are generally quite limited in considering a reserved matters application, as the principle of development has been agreed by the grant of outline consent. In that respect the following are of weight in particular regard to the matters of access and landscaping being considered under this application.

National

- 4.02 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) provide general advice, and don't contain much that could be specifically attributed towards dealing with access and landscaping.
- 4.03 However, para. 32 of the NPPF states that "*decisions should take account of whether safe and suitable access to the site can be achieved for all people,*" and para.35 states that "*developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies, give priority to pedestrian and cycle movements, create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*" and 2 consider the needs of people with disabilities by all modes of transport" (amongst others).
- 4.04 Para. 109 of the NPPF states that the planning system should "*contribute to and enhance natural and local environment by protecting and enhancing valued landscapes...recognising the wider benefits of ecosystem services...and providing net gains in biodiversity where possible.*" Para. 118 continues on to note that developments should "incorporate biodiversity."

Local

- 4.05 The following policies of the adopted Swale Borough Local Plan 2017 are relevant: ST1 (sustainable development), CP4 (requiring good design), CP6 (community facilities), DM7 (vehicle parking), DM14 (general development criteria), and DM29 (woodlands, trees, and hedges).
- 4.06 DM7 states that, until a Swale-specific SPD is adopted, the Kent Vehicle Parking Standards will be applied.
- 4.07 DM29 requires that developments take "all reasonable opportunities" to provide new tree and hedge planting "*at a sufficient scale to maintain and enhance the character of the locality and provide for an attractive living and working environment.*"

**5.0 LOCAL REPRESENTATIONS**

- 5.01 Four letters of objection have been received from local residents, raising the following summarised issues:
- Had not been informed of previous appeal for the development;
  - Overlooking and loss of privacy from the new building;
  - Impact on property values;
  - Inadequate garden space for future residents;
  - Drainage and sewage inadequate to cope with new building;
  - Additional traffic and impact on highway safety and amenity;
  - Access is too narrow, and inadequate to allow vehicles to pass;
  - Site should have a separate entrance and exit;
  - No separation of pedestrians and vehicles; and
  - Noise and disturbance from vehicles and headlights.

**6.0 CONSULTATIONS**

- 6.01 Minster Parish Council object, and raise the following summarised concerns:

- Overdevelopment of the site;
- Impact upon character and appearance of the area;
- Height and massing of the building is inappropriate;
- Refuse bins should be sited elsewhere;
- Highway safety and amenity;
- Inadequate parking provision' and
- "Why was outline planning permission granted without consideration being given to the important issue of access?"

6.02 Kent Highways & Transportation have no objection subject to the conditions attached to the outline permission (which remain extant and in force):

*"Having considered the proposals and the potential impact on the existing access to the site, I hereby raise no objection on behalf of the local highway authority. In relation to highway matters generally, I would remind the applicant of my colleague's previous conditions, as attached to application ref. SW/16/504551/OUT."*

6.03 The Environment Agency have no comments.

6.04 UK Power Networks have no objection.

6.05 Southern Gas Networks have no objection, but have advice for the developer in respect of safe digging practices within proximity of gas pipelines. A copy of their letter can be attached to the decision notice for the applicant's information.

6.06 KCC Sustainable Drainage Officer has no objection.

6.07 Southern Water have no objection.

6.08 Natural England have no objection.

6.09 Kent Police have no objection.

6.10 KCC Archaeologist has no objection.

## **7.0 BACKGROUND PAPERS AND PLANS**

7.01 The above-noted historic applications are relevant, particularly SW/07/0123 which establishes the principle of erecting a new care home building on the site, and 16/504551/OUT which granted outline planning consent for the current scheme.

## **8.0 APPRAISAL**

8.01 As set out at sections 1 and 7 above, it should first be noted that the principle of developing this site for the purposes of providing a care home has been firmly established by previous permissions granted in 2007 (at appeal) and 2016 (as an outline consent). In this respect, while I note all the objections from the Parish Council and residents, matters relating to the principle of development can not be considered here. The **only** matters for determination under this application are those relating to the means of access and landscaping.

### Access

- 8.02 In respect of means of access I note that Kent Highways & Transportation have no objection to the proposed layout, subject to conditions that have already been set out on the outline consent and which would still apply.. Whilst I note concerns from the Parish Council and local residents, without evidence to support their concerns I have no reason, or indeed justification, to go against the advice of KH&T as the highways authority and the Council's specialist transport consultant.
- 8.03 Additional pedestrian access could be secured from the seafront car park (perhaps by way of opening up a section of the fence). To my mind this would be a sensible option to both aid circulation and separate pedestrians from vehicles on the access road, but officers would secure this at layout stage (which, as noted above, has already been approved) and there is no basis to refuse this current application on this matter.

### Landscaping

- 8.04 I have no concerns in respect of the submitted landscaping scheme. It makes use of native species that would enhance local biodiversity (particularly over that provided by the current tarmac and grass), encourage wildlife, and which includes unmanaged areas that would provide new habitat along the fringes of the site.

### Other matters

- 8.05 As set out above there are limited issues that can be considered under the scope of this application: drainage, overlooking, amount of amenity space, etc. are not relevant here and can not amount to reasons for refusal. Impact on house prices is an understandable concern, but is not a planning consideration.

## **9.0 CONCLUSION**

- 9.01 The proposed access is considered to be acceptable by Kent Highways & Transportation, and I have no reason to dispute their assessment. The submitted landscaping scheme is appropriate and would enhance local biodiversity and the character and appearance of the site. Objections are noted but do not amount to reasons for refusal in my opinion.
- 9.02 Taking the above into account I recommend that these reserved matters should be agreed.

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

- 1) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs 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.

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

## **INFORMATIVE**

- 1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

### **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: [[manually delete as applicable]]

The application was acceptable as submitted and no further assistance was required.

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.





APPENDIX 1



Mr Ernesto Batten  
 C/O Prime Folio  
 35 Albion Place  
 Maidstone  
 ME14 5DZ

9 December 2016

## PLANNING DECISION NOTICE

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<b>APPLICANT:</b>	<b>Mr Ernesto Batten</b>
<b>DEVELOPMENT TYPE:</b>	<b>Large Maj Dwellings</b>
<b>APPLICATION REFERENCE:</b>	<b>16/504551/OUT</b>
<b>PROPOSAL:</b>	<b>Outline application for a 50 bed care home with ancillary accommodation, over 3 floors (the top floor within the roof) and with a basement kitchen and staff rooms, with Appearance, layout and scale to be considered at this stage and all other matters reserved for future consideration</b>
<b>ADDRESS:</b>	<b>Little Oyster Residential Home Seaside Avenue Minster-On-Sea ME12 2NJ</b>

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The Council hereby **GRANTS** OUTLINE planning permission subject to the following Condition(s):

- (1) Details relating to the access and landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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**MKPS – Working in Partnership with:** Swale Borough Council  
**Please Note:** All planning related correspondence for SBC should be sent to:  
 Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ  
 Email: [planningsupport@midkent.gov.uk](mailto:planningsupport@midkent.gov.uk)  
 Access planning services online at: [www.swale.gov.uk](http://www.swale.gov.uk) or submit an application via  
[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

## APPENDIX 1

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (4) Prior to the commencement of development hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved 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.

- (5) The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard.

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

- (6) Prior to the commencement of development, details of the design and long term maintenance of the fenced off natural habitat area in the southern corner of the site as shown on plan 11-14-01 rev H shall be submitted to and approved in writing by the Local Planning Authority. The area shall be provided in accordance with the approved details prior to the first use of the development hereby permitted and shall be retained in perpetuity.

Reason: To secure ecological enhancements at the site.

- (7) Prior to the commencement of development details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and secure appropriate foul sewerage infrastructure to service the development.

- (8) Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall have been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed without increase to on site or off site flood risk.

**APPENDIX 1**

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (9) Prior to the first occupation of the development details of the implementation, maintenance and management of the sustainable drainage scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - (i) A timetable for its implementation, and
  - (ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- (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 0800 - 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.

- (11) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Reason: In the interests of highway safety and convenience.

- (13) The area shown on the submitted plan 11-14-01 rev H as vehicle parking space, turning space and loading/unloading 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 (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; such land and access thereto shall be provided prior to the first use of the development hereby permitted.

## APPENDIX 1

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

- (14) Prior to the first use of the development hereby permitted details shall have been submitted to and approved in writing by the Local Planning Authority of secure and covered cycle parking facilities. The agreed details shall be provided prior to the first use of the development and shall be retained in perpetuity.

Reason: To secure appropriate cycling facilities for staff and visitors to the development.

- (15) Wheel washing facilities shall be provided on the site in advance of the commencement of and for the duration of development.

Reason: To prevent mud and other debris on the highway that would be harmful to highway safety and convenience.

- (16) The development shall proceed in accordance with the following approved plan numbers: 11-14-01 rev H, 11-14-02 rev E, 11-14-03 rev E, 11-14-04 rev E and 11-14-05 rev B.

Reason: For the sake of clarity.

- (17) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- (18) The development hereby permitted shall be used for purposes falling within Use Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose.

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

### Informative(s):

- (1) Southern Water advises the developer to make contact to discuss a formal agreement regarding sewerage infrastructure and water supply on 0330 303 0119.

KCC SUDS Team wishes to make the applicant aware that any detailed design submitted in pursuance of the SUDS conditions should be based upon a rate of discharge that has been formally agreed in writing with Southern Water; any such agreement should form part of the submission to the LPA. It may be necessary to provide onsite attenuation to control the rate at which the site discharges to the receiving network. Where necessary, we would expect to see the calculations undertaken to determine the capacity of any proposed attenuation feature.

## APPENDIX 1

Please note you must comply with all the conditions attached to this permission. Otherwise the permission may not be valid and any development may be unauthorised.

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:

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



**James Freeman**  
**Head of Planning Services**  
**Swale Borough Council**

**IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**