



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 11 December 2014

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Barnicott (Chairman), Sylvia Bennett, Andy Booth, Mick Constable, Derek Conway, Adrian Crowther, Mark Ellen, June Garrad, Sue Gent, Mike Henderson, Lesley Ingham, Peter Marchington, Bryan Mulhern (Vice-Chairman), Prescott, Ben Stokes, Ghlin Whelan and Tony Winckless.

Quorum = 6

	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 20 November 2014 (Minute Nos. 354 - 358) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.	
(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.	
Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.	

Part B reports for the Planning Committee to decide

4. Planning Working Group

To approve the Minutes of the Meeting held on 1 December 2014 (Minute Nos. to follow).

2.4 14/500338 – 165 Minster Road, Minster-on-Sea, Isle of Sheppey, Kent, ME12 3LH

5. Deferred Items

1 - 40

To consider the following applications:

1. SW/14/0479 - Greystone, Bannister Hill, Borden
2. 14/500561 - Former HBC Engineering Site Power Station Road, Minster

Members of the public are advised to confirm with Planning Services prior to the meeting that these applications will be considered at this meeting.

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 10 December 2014.

6. Report of the Head of Planning

41 - 99

To consider the attached report (Sections 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 10 December 2014.

Part B Reports for the Planning Committee to decide

7. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3 and 6 of Part 1 of Schedule 12A of the Act:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
6. Information which reveals that the authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.

8. Report of the Head of Planning

100 -
101

To consider the attached reports (Section 6).

Issued on Wednesday, 3 December 2014

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

Corporate Services Director, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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PLANNING COMMITTEE – 11 DECEMBER 2014

DEFERRED ITEMS

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 SW/14/0479		
APPLICATION PROPOSAL		
Outline planning permission for demolition of existing attached garage & erection of replacement detached garage, bin store, 2 x two storey 4 bedroom detached dwellings, with attached garages, accessed via extension of existing driveway as clarified by email dated 3 June 2014 clarifying the eaves height of the proposed houses, and by drawing received 28 July 2014 showing a wider driveway and sight lines.		
ADDRESS Greystone, Bannister Hill, Borden, Sittingbourne, Kent, ME9 8HU		
RECOMMENDATION – APPROVE		
SUBJECT TO: Receipt of satisfactorily amended drawings		
REASON FOR REFERRAL TO COMMITTEE		
Contrary Representations from Parish Council Contrary Representations from residents Deferred from Committee Meeting of 26 June 2014		
WARD Borden	PARISH/TOWN COUNCIL Borden	APPLICANT Messrs HG & TP Hutchinson AGENT Mr Roland Day
DECISION DUE DATE 6 June 2014		

1.0 INTRODUCTION

1.01 Members will recall that at the June 2014 meeting of this Committee, they requested that this item be deferred pending clarification of the possibility or otherwise of ensuring satisfactory access to this site. Specifically, the width of the access and available sightlines were at issue. Members will recall that the main impediment to achieving these sightlines was whether or not the applicant legally exercised control of the land necessary for these visibility splays.

2.0 UPDATE

2.01 After the meeting the agent met with Kent Highway Services to discuss the access issues. One of these related to the reservation (possibly via legal covenant) of a visibility splay across adjoining land stemming from the original development of the property. The agent has since submitted a new drawing showing an increase in the width of the first ten metres of the driveway to 4.8

metres, as requested by Kent Highway Services. This drawing also shows a visibility splay to the left hand side of the driveway of 2m x 20m, and a visibility splay to the right of 2m x 11m all within land controlled by the applicant.

- 2.02 The agent has also now provided a copy of the original planning permission for the properties and a letter dated 21 April 1976 (and accompanying plan) from the County Surveyor referring to the need to maintain visibility around the corner across the frontages. This, to my mind, does not carry any weight and Kent Highway Services have requested that a suitable sight line is shown across the adjoining land with relevant notices served on the owner.
- 2.03 This being the case, I consider that the matter can now be determined in principle subject to the necessary sightlines being shown, the appropriate notice being served on the land-owner, and any representations arising from that service being properly considered.

3.0 CONCLUSION

- 3.01 I therefore recommend that outline planning permission is granted subject to the conditions below, to receipt of a drawing showing satisfactory sightlines and appropriate notice being served on the relevant land-owner, and any representations arising therefrom being considered; if necessary by Members.

4.0 RECOMMENDATION – GRANT Subject to the conditions below.

Conditions

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

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

- 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.

Grounds: 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.

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

- 4 As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Grounds: In the interests of highway safety.

- 5 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 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity.

- 6 No development shall take place until a tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme. The approved protection plan and method statement shall be implemented throughout construction works.

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

- 7 Prior to the commencement of development hereby approved, details shall be 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.

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

- 8 Details in the form of cross-sectional drawings through the site, with details of the existing and proposed site and floor levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the differing levels of the site and to protect the amenity of the proposed development and adjoining occupants.

- 9 The areas shown on drawing 3566/p03 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) Order 1995 (as amended) (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 these reserved spaces.

Grounds: 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.

- 10 Prior to the occupation of any dwelling hereby permitted the driveway to the properties shall be constructed at no less than 4.8m wide for the from 10m from the public highway, and this specification shall be maintained at all times thereafter.

Grounds: Development without provision of adequate access is likely to be detrimental to highway safety and amenity.

- 11 Prior to the occupation of any dwelling hereby permitted sightlines of 2m x 20 to the north-west and 2m 30m to the south east (as measured from the centreline of the access) shall be provided clear of any obstruction over 0.6m above carriageway level. Thereafter these sightlines shall be maintained clear of any such obstruction at all times.

Grounds: In the interests of highway safety.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was approved following an email from the agent confirming the indicative eaves height of the buildings and amendments to access details..

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.

2.5	SW/14/0479	(Case 01963)	<u>Borden</u>
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Location: Greystone, Bannister Hill, Borden, Sittingbourne, Kent, ME9 8HU

Proposal: Outline planning permission for demolition of existing attached garage & erection of replacement detached garage, bin store, 2 x two storey 4 bedroom detached dwellings, with attached garages, accessed via extension of existing driveway

Applicant/Agent: Messers HG & TP Hutchinson C/O Mr R Day, GDM Architects, The Masters House, College Road, Maidstone, Kent, ME15 6YQ

Application Valid: 11 April 2014 and as clarified by email received 3rd June 2014 clarifying the eaves heights of the proposed houses

8 Week Target: 06 June 2014

Subject to: The views of Kent highway Services and the County Archaeological Officer

Conditions/Grounds

1 Details relating to the appearance of the proposed buildings and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

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.

Grounds: 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.

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

4 As an initial operation on site, adequate precautions shall be taken during the

progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Grounds: In the interests of highway safety.

5 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 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity.

6 No development shall take place until a tree protection plan and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme. The approved protection plan and method statement shall be implemented throughout construction works.

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

7 Prior to the commencement of development hereby approved, details shall be 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.

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

8 Details in the form of cross-sectional drawings through the site, with details of the existing and proposed site and floor levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the differing levels of the site and to protect the amenity of the proposed development and adjoining occupants.

9 Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

10 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.

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

11 Upon completion of the approved landscaping scheme, 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, and within whatever planting season is agreed.

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

12 The areas shown on drawing 3566/p03 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) Order 1995 (as amended) (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 these reserved spaces.

Grounds: 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.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was approved following an email from the agent confirming the indicative eaves height of the buildings.

Description of Proposals

This application seeks outline planning permission for the demolition of the existing attached garage, the erection of a replacement detached garage, bin store, 2 no. two storey four bedroom detached dwellings with attached garages and the extension of the existing driveway at Greystone, Bannister Hill, Borden. This application seeks consideration of matters relating only to access, layout and scale whilst matters relating to appearance and landscaping are reserved for future consideration.

The drawings show the removal of the existing garage to the side of the existing dwelling; a new garage in the front garden but towards the western end of the driveway, and two new detached houses on the north-western side of the plot.

The houses would have their own attached garages and gardens. Access would be from the original access from Bannister Hill, going past the existing house.

The proposal is accompanied by a Design & Access Statement, which notes the design issues proposed and the policy context for the site.

Relevant Site History and Description

There is no relevant site history. However, pertinent to the present proposal is an application at the adjacent property 'Glazedale' which the application site wraps around; this was an outline application for a single new house, which was recently approved by Members under planning reference SW/13/0002.

The site falls immediately adjacent to the Borden – Harman's Corner conservation area and the entire site is within the built up area boundary of Borden, as shown on the proposals map of the Swale Borough Local Plan 2008.

The local area is characterised by relatively large properties set within spacious gardens, but with some small terraced cottages immediately opposite the site. The ground is quite undulating, sweeping down to the bottom of Bannister Hill and the proposed houses would be at the higher but secluded rear part of the site.

The host property Greystone is a large detached house set well back from the road behind large conifers. Its garage faces the road and is to be removed to facilitate access to the extensive rear garden. This will create a large gap through which access to the rear can be gained, and the house is orientated top face this access, without undue harm to its amenities. This scheme will not therefore create the normally unacceptable tandem style of development that can occur for development of some garden spaces.

Views of Consultees

Borden Parish Council recommends refusal, noting that:

- *"Access to Bannister Road, is a dangerous narrow piece of highway with parking on both sides*

- *The cumulative impact on the highway due to the recently agreed development on the same site.*
- *Would prefer to see bungalows (this development backs on to bungalows in Coppins Lane); these would be more appropriate for the area and this is an identified local housing need*
- *Would request a condition to maintain the existing trees/tree screen for the privacy of the residents in Coppins Lane."*

The Head of Service Delivery has no objection to the proposal, subject to imposition of the above condition regarding hours of work.

I await the views of Kent Highway Services and the County Archaeological Officer and will report these to the meeting.

Other Representations

Ten letters and emails of objection have been received from local residents; three come from one address, and two from a second address. The issues raised therein may be summarised as follows:

- Very much 'backland' development
- Proximity of new house to Glazedale is not acceptable
- Layout and density not compatible with surrounding area
- Clearly visible from all habitable rooms in Glazedale except one bedroom and the study
- Considerable loss of sunlight to Glazedale
- Ground level to the garden of Glazedale falls away by three metres, exaggerating height and loss of sunlight
- Massive impact on our privacy due to site levels , the houses would look directly into our house and garden
- Two storey houses would be seen from nearby rear facing windows
- Overdevelopment of a small space
- Detrimental impact on the value of our house
- Removal of conifers will remove any privacy
- Will create a housing density that will significantly change the character of the area
- Car provision is impractical as four bedroom houses would all have at least two cars, insufficient room is provided
- Houses would be too close together
- Road access is close to a corner. Sightlines on Bannister Hill are severely restricted and traffic has to go on the wrong side of the road due to parked cars
- Increased traffic will create highway issues
- Removal of large trees
- Could be seen from rear windows of our property
- Line of trees likely to be removed by new occupants
- Loss of unprotected mature trees bordering the site, some have already suffered storm damage
- Trebling the traffic entering and exiting will increase the probability of accidents

- New garage would detract from the road view
- Bin store at end of drive is neither practical or in-keeping

Development Plan Policies

The NPPF was released in March 2012 with immediate effect, however, paragraph 214 states “that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”

The 12 month period noted above has now expired and a review of the consistency between the saved policies contained within the Swale Borough Local Plan 2008 and the NPPF has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All saved policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The Development Plan principally comprises the saved policies of the Swale Borough Local Plan 2008, although the NPPF is relevant as it contains national policy previously contained in PPGs and PPSs.

Policy E1 of the Swale Borough Local Plan 2008 examines general planning considerations relating to design, amenity, parking and access, amongst others. Further to this, policy E19 states that all development should be of a high standard of design and appropriate to its setting.

Policy SH1 indicates that within minor settlements including Borden development will be limited to infill or redevelopment proposals within the defined built-up areas unless for an exceptional community need.

Policy H2 of the Local Plan encourages provision of new residential properties within the defined built up area boundaries of the Borough.

Policy E15 of the Local Plan suggests that all development within a conservation area must be shown to either preserve or enhance the character and appearance of the area. It should be noted that only the front of the site is within the conservation area.

Policy T3 of the Local Plan aims to ensure that appropriate levels of parking are provided on all new developments.

Paragraphs 12 & 14 of the National Planning Policy Framework (NPPF) state a presumption in favour of development if the proposal is sustainable and in accordance with Local Plan policies. Paragraphs 47 to 55 encourage a wide choice of homes and to significantly boost the supply of housing

Discussion

This site forms part of a very large plot and is within the built up area, and the principle of development is therefore acceptable, subject to matters of detail. The site for the houses themselves is outside the conservation area and there is adequate

room for the houses, garages, parking and gardens proposed. I do not believe that the development would have any adverse effect on either visual or residential amenity.

I note the objections raised by the Parish Council and local residents, and would respond as follows:

- The site is mainly outside the boundary of the conservation area and, if the design is sensitive to the locality, there will be no adverse visual impact;
- I do not believe that this proposal adversely affects the density of development in the area, which is currently very mixed;
- I do share some of the objector's concerns with regard to sight lines, but must rely on the expert advice from the Kent Highway Services Officer, which I hope to report to the meeting
- No precedent is created: every planning application is tested on its own merits
- Only two small fruit trees would be removed if the application is approved. New trees are also proposed and shown on the drawings
- House prices are not a planning issue
- The parking provision proposed is in accordance with Kent Vehicle Parking Standards
- The proposed replacement garage is set some distance back from the highway, and is unlikely to adversely affect the streetscene
- The distances between windows to all surrounding properties far exceed acceptable parameters
- There is no 'right to sunlight' in planning legislation, and the distance between the existing and proposed properties should keep any loss of light to a minimum
- The proposal is for houses, not bungalows, and the Council has to judge the application before us
- Any trees outside of the conservation area can only be protected via a Tree Preservation Order; but the substantial trees at the front of the site are shown as remaining in situ on the submitted drawings, and I have recommended a condition to safeguard them from the works

In short, the proposal is acceptable on policy grounds and it would not have an unacceptably adverse impact on the setting of the adjacent conservation area, or on residential amenity.

The development of rear gardens very commonly presents difficulties for the amenities of the existing property, in so-called tandem developments. Here, the passage of vehicles travelling to the new house(s) create amenity problems for the host property, and is unacceptable. Here however, the situation is unusually favourable. The access to the rear will be wide and passing the front of the house (rather than the rear) so limiting the impact and leaving the house with large undisturbed private garden. These factors set this scheme apart from many garden developments.

Recommendation

The proposed outline development is within the built up area boundary and the proposal therefore accords with local and national planning policy. In my view, and

subject to the conditions above, this can be achieved without significant harm to the character and appearance of the conservation area, or to residential amenity.

Taking the above into account and subject to the receipt of the views of Kent Highway Services and the County Archaeological Officer ,I therefore recommend that outline planning permission is granted.

List of Background papers

1. Application papers and correspondence relating to SW/14/0479.
2. Application papers and correspondence relating to SW/13/0002.

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DEF ITEM 2 14/500561/OUT**APPLICATION PROPOSAL**

Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services.

ADDRESS Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent ME12 3AB

RECOMMENDATION APPROVAL**SUMMARY OF REASONS FOR RECOMMENDATION**

The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site identified by the SHLAA for residential development, and in a sustainable location, without giving rise to any serious amenity concerns. As such the proposal is considered to be in accordance with adopted local and national policies.

REASON FOR REFERRAL TO COMMITTEE

Local objections.

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster	APPLICANT TBH (Sheerness) Ltd AGENT
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DECISION DUE DATE 02/10/14	PUBLICITY EXPIRY DATE 02/10/14	OFFICER SITE VISIT DATE Various
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RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/11/0915	Redevelopment of site to provide retail supermarket (Class A1) and petrol filling station.	Refused.	2012

Planning permission was refused due to the cumulative negative impact of retail development on both this site and at Neats Court upon the viability, vitality and primary retail function of Sheerness town centre. The application is explored in greater detail below.

1.0 BACKGROUND

1.01 Members will recall this application from the last meeting (the report to that meeting is appended). It seeks outline planning permission, with all matters except access reserved, for the erection of up to 142 dwellings (a mixture of

one-bed flats and two or three-bed houses) on 3.8ha of land, including provision of vehicular and pedestrian access, open space, site drainage and services. A singular vehicle access is proposed from Power Station Road along with a new section of pedestrian pavement and a crossing linking to the southern side of the road. All drawings, other than that showing the position of the access, are indicative at this stage.

1.02 The application was called in to enable officers to collate further information in regards to concerns Members raised in respect of the highway implications of the proposed development, and the likely consequences of a refusal on such grounds. The minute of the last committee is appended.

1.03 The specific concerns raised by Members, as I understand them, relate to:

- The number of vehicle movements arising from development of the site for residential use;
- The impact of such vehicle movements on the mini-roundabout at the Power Station Road / Halfway Road junction and the Halfway Road / Minster Road traffic lights;
- The difference in number and timing of movements between the proposed residential use and the permitted B2 (industrial) use of the site; and
- The cumulative highways impact from development of this site and other nearby housing sites (either approved, or likely to be forthcoming in future due to Local Plan allocations).

2.0 DISCUSSION

Policy context

2.01 Members may initially care to note that 'Bearing Fruits 2031: The Swale Borough Council Local Plan Part 1: Publication Version' was agreed by Swale's Full Council on 26th November 2014. The resolution was that "*Council agree the Swale Borough Local Plan; and supporting Sustainability Appraisal and Habitats Regulation Assessment be approved for publication and subsequently submission to the Planning Inspectorate.*"

2.02 The entire application site lies within the built up area boundary as defined by the adopted Swale Borough Local Plan 2008 (SBLP) and also emerging Local Plan entitled "Bearing Fruits 2031" (BF).

2.03 In this regard policy H2 of the adopted Local Plan states:

"Permission for new residential development will be granted for sites:

- 1. shown as allocated for such on the Proposals Map, including the Area Action Plans;*
- 2. within the defined built-up areas, as shown on the Proposals Map, in accordance with the other policies of the Local Plan.*

All proposals for new residential development, including renewals and reserved matters applications, will be expected to make the most efficient use of land and

provide a range of house types and sizes appropriate to the location and nature of the site and reflecting the identified need in the locality.”

- 2.04 The application site (as well as a number of other sites within the local area, which are discussed below) is also allocated for residential development under BF. Policy A13 allocates the land within the list of “smaller allocations as extensions to settlements,” and states that *“these sites have been identified as being suitable to provide additional residential development at the edge of existing settlements.”* The policy specifically identifies 2.5ha to the south of the current application site – not including the land on which the former factory building stood – for development of up to 87 dwellings (allocation ref. SW/169).
- 2.05 The allocation for 87 units arises from the fact that when the site was put forward by the (then) owner under the Council’s Strategic Housing Land Allocation Assessment (SHLAA) call for sites the land was occupied by a number of buildings which constrained the area available for development. The inclusion of the remainder (northern part) of the site and demolition of the existing buildings has opened the site up to numbers over and above the allocated 87 (but this occurred after publication of the most recent draft of BF).
- 2.06 The principle of residential development upon the site is thus firmly established, and I would strongly recommend that Members do not seek to refuse residential development on this site in principle. Such a refusal would be very difficult to defend at appeal.

Other allocated sites and current applications

- 2.07 Members should also be very aware of other local housing allocations put forward in BF, and existing permissions:
- 1) **Plover Road / Thistle Hill / Scocles Road** – long-standing existing permissions for large-scale residential development and partly built-out;
 - 2) **Halfway Houses Primary School** – allocated for a minimum of 60 dwellings on 1.5 hectares under policy A13.13;
 - 3) **Preston Screens, Minster Road** – allocated for a minimum of 24 dwellings on 0.6 hectares under policy A13.12; and
 - 4) **Minster Academy, off Admiral’s Walk** – allocated for a minimum of 20 dwellings on 1.2 hectares by policy A14.5.

There is also a current application, reference 14/502847, for the erection of 14 dwellings on the Old Dairy site, which lies close to the HBC site, with access proposed from Halfway Road.

- 2.08 Kent County Highways have raised no objections to the principle of developments being brought forward through the emerging Local Plan and related transport modelling involved.
- 2.09 Each of these allocations, if brought forward, will have an impact upon local roads insofar as they are likely to put additional vehicles onto local roads and this would be carefully considered by KHS in conjunction with this authority.

Refusal of the current application on grounds relating to the capacity / functionality of local roads casts doubt over the ability of the other allocations as noted above to be delivered, as Members will need to adopt a consistent approach to determination of the corresponding planning applications in terms of assessing highways impacts or capacity / functionality of existing junctions. Such a decision would be taken without KCC Highways support and any evidence required to support such a decision at appeal.

- 2.10 Members will need to consider that this situation would have serious implications for the Council's five-year housing supply in years to come. If the sites allocated by the agreed draft of BF are blocked on highways grounds, the Council will have a further shortfall and be under considerable pressure to approve residential development in potentially unsuitable locations (such as greenfield sites, potentially).

Highways context

- 2.11 Members must ensure they take into account the previous application for the site, reference SW/11/0915, which proposed redevelopment of the site to provide a 9,700sqm Sainsburys store and a petrol filling station. 554 parking spaces were to be provided as part of that development. Local opposition to the current application refers to that scheme being refused on highways grounds – this is not the case.
- 2.12 That application was presented to Members at Planning Committee on the 8th December 2011, where Members voted to approve it subject to the signing of a S106 agreement to secure financial contributions towards various local services. However, before the S106 was finalised there was a national policy change that required the submission of a Cumulative Retail Impact Assessment (CRIA) prior to determination. This was carried out by the Council and the application subsequently refused on the grounds of impact upon the primary retail function of Sheerness.
- 2.13 Traffic issues were not raised within the reason for refusal for that application – which proposed no works to the Power Station Road / Halfway Road junction other than widening to accommodate HGV movements. That development, according to the traffic data submitted with the application, would have been likely to generate approximately 1596 vehicle movements on average per weekday, and approximately 1097 on Saturdays.
- 2.14 The TRICS database (Trip Rate Information Computer System) shows that the existing authorised B2 (industrial) use of the site would be likely to generate an average of 323 movements per day on weekdays. If the use of the site was changed to B1 (light industrial or offices) under permitted development rights the traffic flows could be as high as 698 each weekday.
- 2.15 The application before Members, according to TRICS, is likely to generate an average of 155 movements each weekday. Members will be aware that the application included 255 vehicle parking spaces in accordance with current parking guidance, but it is unlikely that all of these spaces will be occupied by

vehicles (not all households have more than one vehicle), and it is also highly improbable that all vehicles will enter and leave the development at the same time.

- 2.16 The agent for the scheme has submitted a letter in response to the concerns raised by Members, in which he states:

“What we would like Planning Committee members to be aware of is that the Transport Assessment, and Kent Highways conclusions from that assessment, are based on a re-development for 160 dwellings not the 142 dwellings for which the outline planning permission is currently sought. The Transport Assessment is consequently a robust basis for assessing all traffic impacts of the proposed re-development that has no given rise to any objection from the highway authority.”

- 2.17 Against the context of the existing lawful use of the site and the previous proposals for a Sainsburys supermarket – to which Members raised no objections on highways grounds – the current application will not have a significant impact upon the local highway network. This is reflected in the fact that Kent Highway Services raised no objection (subject to conditions) to the scheme. Member attention is drawn to 7.05 and 7.06 of the report to last committee and to 9.11 to 9.17 of the same, where highways issues are discussed.

- 2.18 Therefore, if Members choose to refuse this proposal on the grounds of highway impact, I do not believe there is any evidence to support such a position and extremely difficult to defend at appeal, and leave the Council potentially open to a significant costs claim.

- 2.19 I have asked Kent Highway Services colleagues to provide information on whether or not County has a long-term improvement plan for the local network, and will update Members on this at the meeting.

Drainage issues

- 2.20 Members also discussed these issues at the last meeting, and although the officers present addressed the matters I would emphasise that neither Southern Water nor the Environment Agency object to this application (see paragraphs 7.03, 7.07 and the discussion at 9.33 and 9.34 of the original committee report). Members will also note condition (8) of that report, which deals with both foul and surface water drainage.

- 2.21 Southern Water Services advise, however, that *“additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development”* And therefore should not contribute to any current sewerage/flooding issues within the area. Members should also note that as well as providing details to comply with condition (8), the developer will need to provide additional sewerage infrastructure sufficient to satisfy Southern Water Services pursuant to Section 98 of the Water Industry Act 1991.

3.0 CONCLUSION

- 3.01 The application site represents a windfall housing site on an allocated site within the defined built up area and close to shops and services within both Minster and Sheerness, and also at the Neats Court development. Development of the land for residential purposes is therefore acceptable as a matter of principle.
- 3.02 The submitted Transport Assessment and the comments of Kent Highway Services make it clear that there are no reasonable or justifiable highway grounds on which to object to this proposal. Furthermore the site history shows that not only is the existing historic lawful use likely to generate more vehicle movements (if reinstated) than the current proposal, but also that Members resolved to approve redevelopment of the site to provide a supermarket with significantly higher vehicle movements than the current proposal. This is likely to be challenged at any appeal – which I believe the applicant is likely to pursue – and I do not believe that the Council would be able to defend its position.
- 3.03 With this in mind I consider that the original recommendation to approve this application was correct and justified by the evidence presented in the submission and by comments from Kent Highway Services.
- 3.04 I therefore urge Members to approve this application.

Case Officer: Ross McCardle

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 A

2.2 14/500561/OUT			
APPLICATION PROPOSAL			
Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services.			
ADDRESS Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent ME12 3AB			
RECOMMENDATION Grant subject to conditions and the further views of Kent Highway Services, Housing Services, and the signing of a S106 agreement.			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
The development would amount to the provision of new residential dwellings within the defined built up area boundary, on a site identified by the SHLAA for residential development, and in a sustainable location, without giving rise to any serious amenity concerns. As such the proposal is considered to be in accordance with adopted local and national policies.			
REASON FOR REFERRAL TO COMMITTEE			
Local objections.			
WARD Minster Cliffs	PARISH/TOWN Minster	COUNCIL	APPLICANT TBH (Sheerness) Ltd AGENT
DECISION DUE DATE 02/10/14	PUBLICITY EXPIRY DATE 02/10/14	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/80/861	Erection of three storey office accommodation.	Approved	1980
SW/85/393	Two-storey extension to the existing factory	Approved	1985
SW/86/438	Outline planning permission for light industrial (Class III).	Approved	1986
SW/89/1356	Outline planning permission for a factory and warehousing	Approved	1989
SW/97/240	Extension to the existing factory and provision of new site entrance and service yard	Approved	1997
SW/01/0359	Change of use of Unit 6 (1st floor) from manufacturing to kitchen/restaurant and conference facilities.	Approved	2001
SW/03/1321	Change of use to education unit for fostering agency.	Approved	2003
SW/11/0915	Redevelopment of site to provide retail supermarket (Class A1) and petrol filling station.	Refused	2012
Planning permission was refused due to the cumulative negative impact of retail development on both this site and at Neats Court upon the viability, vitality and primary retail function of Sheerness town centre. The application is explored in greater detail below.			
SW/11/1624	Outline planning permission for development of up to 46 dwellings on 1.4ha of the site.	Approved	2012
DN/13/0132	Demolition of buildings on site.	No objection raised	2014

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises the former HBC Engineering site located on the north side of Power Station Road, at Halfway, approximately 2.5km south-east of Sheerness town centre and 3.5km west of Minster High Street. HBC Engineering closed approximately five years ago and the site has been vacant and derelict since. The site was cleared earlier this year further to the demolition notice referenced above, and is now level and devoid of any structures.
- 1.02 The site extends to approximately 9.4 acres / 3.9 ha, and is bound by metal fencing and gates on all sides.
- 1.03 The site is bounded to the north by open countryside; to the east by Sheerness Golf Club; and equestrian stables to the north-east accessed via Drove Road.
- 1.04 To the south, across Power Station Road, lies a modern residential development accessed via William Rigby Drive (roughly opposite the central site entrance). This residential development includes a children's' play area and green open space enclosed by a low wooden fence on the western side of William Rigby Drive, immediately opposite the application site.
- 1.05 To the west of the site there are a number of light industrial / retail warehouses, including a retail warehouse ("Chainstore Discount Warehouse") which is constructed from a mixture of metal cladding and brick. The units are accessed from a dedicated private access further to the west along Power Station Road. A planning application for residential development of this site was received by the Council in 2011 (reference SW/11/0366), but the application was withdrawn prior to determination. A subsequent outline application (ref. SW/11/1624) with all matters except access reserved for erection of up to 46 dwellings on approximately 1.4ha of the site was approved by the Council in 2012.
- 1.06 The application site is accessed from Power Station Road which itself is accessed from is the A250 Halfway Road; that road providing a direct access into Sheerness town centre (the southern continuation of the High Street). Several bus routes run along Halfway Road connecting the site with Leysdown, Eastchurch, Minster, Sheerness, Queenborough and Rushenden.
- 1.07 The site lies within the urban area and, as stated, is a former industrial site. To the north lies Minster Marshes, an allocated regional and local site for biodiversity.
- 1.08 The site's current lawful use (Class B2 industrial) and all previous history relates to its use by HBC Engineering, which occupied the site until the business unfortunately went bankrupt five years ago. Though not entirely relevant to this proposal; the planning history for the application is listed below (and also above):
- SW/80/861: Grant of permission for three storey office accommodation.
 - SW/85/393: Grant of permission for two-storey extension to the existing factory.
 - SW/86/438: Grant of outline planning permission for light industrial (Class III).
 - SW/89/1356: Grant of outline planning permission for a factory and warehousing.

- SW/97/240: Approval for an extension to the existing factory and provision of new site entrance and service yard.
 - SW/01/0359: Planning permission for change of use of Unit 6 (1st floor) from manufacturing to kitchen/restaurant and conference facilities.
 - SW/03/1321: Planning permission for change of use to education unit for fostering agency.
- 1.09 More recently, and perhaps more relevant to the current application is SW/11/0915, which in 2011 sought planning permission for the development of a retail food store (use class A1) and a petrol filling station. I understand that the store was intended to become a Sainsbury's supermarket.
- 1.10 That application was presented to Members at planning committee on the 8th December 2011, where Members voted to approve the application subject to the signing of a S106 agreement to secure financial contributions towards local services (including bus services, pedestrian and cycle route connections, and improvements to Sheerness High Street).
- 1.11 However, before the S106 was finalised there was a national policy change, with Planning Policy Statement 4 being replaced by the National Planning Policy Framework (NPPF). The NPPF required the submission of a Cumulative Retail Impact Assessment (CRIA) prior to determination, which was carried out by the Council after the applicant refused to do so. Furthermore the Neats Court retail scheme (ref. SW/11/0627) was also granted permission before the S106 was agreed.
- 1.12 The result of these two factors, in short, was that the CRIA identified that the cumulative impact of grant of permission on this site and at Neats Court would be seriously harmful to the viability and vitality of the existing retail function of Sheerness town centre.
- 1.13 As a result the recommendation was changed to a refusal, and the application was reported back to Members at the meeting on 20th December 2012. Members agreed the recommendation and that scheme (for retail development of the site) was ultimately refused planning permission. It is important to note that this scheme was not refused on highway / traffic generation grounds; the substantial development having been found to be acceptable in this regard, with only modest changes required to the highway network in the vicinity.
- 1.14 As Members may also be aware, residential development of this site was considered at the pre-application stage (in April 2014) by the Design Panel. At that time the proposal was for 147 dwellings and a 5400 sq ft retail store.

2.0 PROPOSAL

- 2.01 The current application seeks outline planning permission, with all matters except access reserved for future consideration, for residential redevelopment of the site for no more than 142 dwellings, including provision of vehicular and pedestrian access, open space, site drainage and services.
- 2.02 The submitted drawings – which are indicative only – show 142 dwellings in a mix of two and three storey, with 2, 3, or 4 bedrooms, spread across the site. 225 parking spaces are also shown indicatively.
- 2.03 A single vehicle access from Power Station Road would be located at the western end of the site frontage, in the same position as the existing access. From this point a

roughly circular internal estate road would run through the development, with a number of small spur roads leading to parking areas.

- 2.04 The proposed indicative layout shows houses are set away from the northern boundary of the site to allow room for landscaping and to provide a buffer between the proposed development and the open countryside to the north. Four separate areas of public open space / amenity land would run approximately SW – NE through the site, broken up by the estate roads.
- 2.05 A 5m wide access strip would be retained along part of the western boundary between the proposed dwellings and the adjacent existing warehouse / light industrial buildings.
- 2.06 Members should note, however, that the current drawings are indicative as the scheme is for outline permission. Only the position of the vehicle access from Power Station Road is set out for definite at this stage, and approval is sought for it.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	3.8 ha		
No. of Residential Units	0	142	+142
No. of Affordable Units	0		
No. of parking spaces	0	225	+225

4.0 PLANNING CONSTRAINTS

- 4.01 The entire site lies within the defined built up area, the boundary of which approximately follows the site edge. Also running along the site boundary is the line of the Important Local Countryside Gap, which encompasses all of the land to the north and east of the site, between Halfway / Minster and Sheerness.
- 4.02 The northern part of the site lies within Flood Zone 3 and a smaller area to the south lies within Flood Zone 2. The FRA includes a map showing these areas.
- 4.03 To the north of the site (minimum 75m) is an area of designated biodiversity habitat.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF)
- 5.02 The NPPF was adopted on 27th March 2012 and is a material consideration in determining planning applications. It offers general advice in respect to proposed development, rather than the more detailed and often site-specific guidance of the Local Plan (discussed below).
- 5.03 Local Plan policies must be assessed against the advice of the NPPF, and those with a “limited degree” of conflict can be considered to comply and thus remain a material consideration in the determination of planning applications.
- 5.02 Paragraph 46 of the NPPF requires Local Planning Authorities (LPA) to have an up-to-date five year housing supply, i.e. sufficient housing to cover demand for the next five years. Swale does not have a five-year housing supply, and thus policy H2

(noted below) is not considered to comply with the provisions of the NPPF in as much as it aims to prevent residential development outside of the built up area other than in specific circumstances.

- 5.03 However that does not have a huge bearing on the determination of applications for housing development within the built up area, such as the current application, as development within the defined built up area boundary is acceptable in principle subject to the considerations of other policies (that do comply with the NPPF).
- 5.04 Paragraph 51 states that LPAs should “*normally approve planning applications for change to residential use...from commercial buildings (currently in B use classes) where there is an identified need for additional housing in that area.*” This is further explored below, but the lack of a five-year housing supply within the Borough is a clear indication to my mind that there is a housing need.
- 5.05 Furthermore: one of the key guiding principles throughout the NPPF is that of achieving sustainable development, noted at paragraphs 6 to 10, 14, 15 and 52, amongst others. One of the ways it encourages this to be achieved is through the use of previously-developed land (para. 111), such as the current application site.

National Planning Practice Guidance (NPPG)

- 5.06 The NPPG also provides general guidance in relation to development. It encourages the provision of housing within sustainable areas, subject to consideration of issues such as local and residential amenity, highways, contamination, noise, urban design / architecture, and ecology, amongst others.

Swale Borough Local Plan 2008

- 5.07 The Local Plan policies listed below are considered to be in compliance with the NPPF, except for H2 in as much as the Council does not have a five-year housing supply.
- 5.08 Policy E1 seeks to ensure that all development proposals respond to the characteristics of the site’s location, protect and enhance the natural and built environments, and cause no demonstrable harm to residential amenity, amongst others. Further to this policy E19 seeks to achieve high quality design on all new developments, while T3 and T4 require the provision of appropriate number of parking spaces and secure cycle storage, respectively.
- 5.09 Policy H2 supports the provision of new residential development within the defined built up area boundaries and encourages providing a variety of house types and sizes to make efficient use of land, and deliver a range of housing options.
- 5.10 Policy E11 seeks to protect biodiversity and ecology within the Borough.
- 5.11 Policy U1 seeks to ensure that all new developments are provided with the necessary service and utility connections, or that suitable financial contributions are paid towards their provision.
- 5.12 Policy U3 aims to ensure that all new development makes use of sustainable design, build and construction techniques in the interests of minimising and accounting for climate change.

The emerging Local Plan; “Bearing Fruits 2031”

- 5.13 Policy A9 of Bearing Fruits includes part of the site as a housing allocation within a list of 15 other similar allocations across the Borough. It specifically identifies 2.5ha to the south of the current application site – not including the land on which the former factory building stood – for development of up to 87 dwellings (allocation ref. SW/169).
- 5.14 The allocation for 87 units arises from the fact that when the site was put forward by the (then) owner under the Council’s Strategic Housing Land Allocation Assessment (SHLAA) call for sites the land was occupied by a number of buildings which constrained the area available for development. The inclusion of the remainder (northern part) of the site and demolition of the existing buildings has opened the site up to numbers over and above the allocated 87. Furthermore the additional dwellings can be considered a windfall contribution to the Council’s 5 year housing supply.
- 5.15 Policy A9 also requires residential development of the site to include on-site pitch provision for gypsy and travellers. However, as discussed at paragraphs 9.23 to 9.32 below, the financial viability of the site is such that there is unfortunately no potential for such an inclusion. Whilst regrettable I do not believe that this would give sufficient justification for a reason for refusal.

6.0 LOCAL REPRESENTATIONS

- 6.01 Minster Parish Council raise no objection, but commented that *“it would like to see solutions provided to address the (i) impact on traffic congestion locally and (ii) the lack of infrastructure at the next more detailed stage of the planning process. The Parish Council feels that the 7% increase in traffic flow predicted is wholly unacceptable and has serious concerns about the detrimental effect on public amenities.”*
- 6.02 Members may wish to note that the site does not sit within Minster Parish, however.
- 6.03 An objection has been received on behalf of Gordon Henderson MP, commenting:

“Whilst Mr Henderson MP defers to the Localism role of Borough councillors to determine planning applications he wishes members to consider his following objections to this application given the wider impact on the community.

1. *This site is currently allocated for employment use in the Adopted Local Plan 2008 and currently there is a greater need for jobs on Sheppey than there is for more housing given the approvals already made.*
2. *A decision to allocate this site for residential use in advance of the emerging LDF "Draft Submission", its subsequent "Inquiry in Public" and future Adoption by the Sec of State DCLG, possibly in 2016, is premature and would pre-judge such land use allocation.*
3. *The surrounding road infrastructure within Halfway and Sheerness are inadequate to take further imposition of increased traffic in this location.*
4. *The local services and amenities are also inadequate to absorb this extra development on top of those already approved.*
5. *Whilst part of the site may be deemed to be in a Flood Zone 2 alert area the submitted FRA clearly identifies the north east of the site to be at 1.8m AOD which would firmly place it in a Flood Zone 3* zone where EA would normally place a 'holding objection' due to its flood warning status and 'risk to life'.*
6. *The development proposes 137 dwellings of mixed 2 to 4 bedroom dwellings on 3.9Ha implying a density near 40 per Ha considerably greater than surrounding developments. Car spaces are only provided at ratio of 1.5 spaces per dwelling which will be totally inadequate to meet the needs of residents,*

their families and visitors adding to the congestion in roads. For all the above material planning objection reasons Mr Henderson MP would seek refusal to this Outline Planning Application.”

6.04 Whilst the issues raised in representations are discussed in detail below I would draw to Member’s attention that the site is **not** allocated for employment use by the adopted Local Plan, and lies within the built up area, where residential development is acceptable in principle.

6.05 32 letters of objection have been received (not all from residents immediately neighbouring the application site). These raise concerns on the following summarised grounds:

- The applicant’s public exhibition was inadequate;
- Unable to see the application and supporting documents online;
- The online comments system times out after several minutes, so people can’t complete their responses;
- Consultation letters not sent to enough local residents;
- Insufficient parking provision within the development;
- Traffic problems arising from the number of vehicles entering / leaving the site at peak hours;
- There should be a roundabout at the junction of Power Station Road and Halfway Road;
- The Sainsburys application was refused on traffic grounds [Members will note that this was not the case: see paragraphs 1.09 to 1.13 above]; will this development provide highway improvements?
- Drainage and sewerage systems are inadequate;
- Site is prone to flooding;
- The site may be contaminated;
- Proposed external materials not appropriate;
- Site should be used for a cinema / sports complex / community facility;
- *“Sites such as this need to be prioritised as potential employment space,”*
- Such development will turn the Island into a dormitory community for London;
- *“With so little employment on the Island, it is unlikely to be housing existing residents;”*
- Lack of infrastructure on the Island, including education, health, transport, police presence, leisure and communications;
- Lack of primary and secondary school places;
- The island is more overpopulated than the UK average, so more houses are needed, but there is not enough infrastructure or employment to provide for an increasing population;
- Planners ignore local concerns because they don’t live on the Island;
- Overlooking of existing properties from the new development; and
- *“Nearly 800 people have signed an online petition;”* [NB: after clarifying with the respondent it is noted that this petition refers to no more house building on the Island in general, and is not specific to this application. Officers have also examined a Facebook petition (run by the same group) but this too is not specific to the current application.]

7.0 CONSULTATIONS

7.01 Kent County Council Regeneration Projects team have assessed the scheme and request a total of £544,279.10 in contributions towards local services, broken down as follows:

- Primary education: £515,000
- Community learning: £5169.21
- Libraries: £15,754.26
- Social care: £8355.63

This equates to roughly £4000 per dwelling.

- 7.02 On top of these figures will be the Council's standard charge for wheelie bins, and a 5% monitoring fee. This is discussed in detail below.
- 7.03 The Environment Agency has no objection subject to conditions regarding drainage details and development in accordance with the submitted Flood Risk Assessment.
- 7.04 Kent County Council Biodiversity Officer has no objection subject to:
- submission of a Habitat Suitability Index (HSI) survey in respect of Great Crested Newts (GCN), and potentially further conditions subject to the results of the HSI;
 - A condition requiring a reptile habitat management plan;
 - A condition preventing clearance of buildings or foliage during bird nesting season unless otherwise agreed with a competent and qualified ecologist; and
 - Minimal external lighting being erected around the periphery of the site to prevent disturbance to commuting or foraging bats.

I have requested the HSI from the applicant, and will update Members at the meeting.

- 7.05 Kent Highway Services initially requested additional information to offset predicted residential traffic movements against those generated by the previous industrial use of the site. Following receipt of further information from the applicant's highways consultant, KHS comment:

"While there would be a change in nature to the flows, with residential use weighted towards departures during the AM peak as opposed to arrivals, and vice versa during the PM peak, the net additional traffic of only 7 extra vehicles approaching the Halfway signalised junction from the site during the AM peak hour would be offset by a reduction of 76 coming the opposite way. Similarly, although an additional 14 would be expected to travel north through this junction during the PM peak, there would be a reduction of 64 in the opposite direction.

It is clear from the above that potential impact of the development is not material, and is likely to have a lesser impact on the highway network than the current lawful use of the site. It would not be appropriate therefore to raise objection to the proposal based on the capacity of the highway network to absorb the traffic generated by the development."

- 7.06 KHS thus raise no objection subject to standard conditions, as noted below, and a further condition requiring provision of a pedestrian footway along a section of the northern side of Power Station Road, linking the proposed site with the existing footway to the west – a distance of approximately 85m.
- 7.07 Southern Water has no objection subject to the standard informative and drainage conditions noted below.

- 7.08 The Lower Medway Internal Drainage Board has no objection, but notes that the site borders the adopted Scrapsgate Drain and therefore requests an informative to notify the applicant of local byelaws. They also recommend the conditions noted below in respect of SUDS and site drainage details.
- 7.09 The Head of Service delivery has reviewed the submitted contamination study, and has no objection subject to the standard conditions noted below in respect of working hours, dust suppression, and carrying out works in accordance with the contamination study unless further contamination is found on site during construction.
- 7.10 The Council's engineers have no objection, but recommend that double yellow lines be installed on the access junction to prevent parked vehicles blocking access or obstructing sight lines.
- 7.11 The Council's Climate Change Officer has no objection at this stage subject to a condition requiring the proposed houses to achieve Code for Sustainable Homes Level 3. She does, however, express disappointment that no provision for renewable energy has been made within the proposal.
- 7.12 The Council's Greenspaces officer has requested a total of £39,503 from any S106 contributions secured as part of the development to be put towards maintenance of amenity grass, rough grass and trees, shrub planting within the site, and provision of paths and bins.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is accompanied by site location plans, block plans, an indicative layout drawing, and supporting documentation including:
- Design & Access Statement;
 - Supporting Cover Statement;
 - Statement of Community Involvement;
 - Sustainability & Energy Assessment;
 - Extended Phase 1 Habitat Survey;
 - Transport Assessment & Travel Plan;
 - Flood Risk Assessment;
 - Landscape And Visual Impact Assessment; and
 - Geo-environmental Ground Investigation (contamination survey).
- 8.02 As the application is for outline permission, with only details of access provided at this stage, no elevations of the proposed buildings have been submitted at this stage. Their scale and design, along with other outstanding matters, will be considered under further reserved matters applications if outline permission is granted.
- 8.03 The application is also accompanied by a financial viability statement. The document is commercially sensitive and thus confidential – it is discussed in general terms below.

9.0 APPRAISAL

Principle of Development

- 9.01 The application site lies within the defined built up area and, as such, the principle of development is acceptable in accordance with local and national policies regarding sustainable development and provision of new housing.

- 9.02 Contrary to the comments of the local MP, as noted at 6.04 above, the site is not allocated for employment use in either the adopted or the emerging Local Plans. The site is unallocated and there is therefore no in-principle objection to residential use of the site, subject to normal amenity considerations as discussed in the following paragraphs.
- 9.03 As noted at section 5 above the Council currently cannot demonstrate that it has a five-year supply of available housing. Furthermore (and as discussed above at paragraph 5.13), part of the site is allocated for housing in the emerging Local Plan, "Bearing Fruits 2031," and substantial weight can be afforded to this allocation. The Council is therefore under immediate pressure to provide new housing in sustainable and deliverable locations, and this site is considered to be a preferred option in terms of policy. I would therefore argue that this site, which comprises previously-developed land within the identified built up area boundary and close to both Minster and Sheerness (and with good public transport connections to them), is a wholly sustainable location for residential development and therefore acceptable in principle for use for housing.
- 9.04 The site does lie partly within Flood Zone 3 but, as above, the Environment Agency has no objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment, which is addressed by condition below. I therefore consider there is no reason to refuse planning permission in principle or on flood risk grounds.

Visual Impact

- 9.05 The site was recently cleared and all buildings demolished but, as Members will be aware, the derelict engineering works was considered by many to be blight on the local landscape for a number of years.
- 9.06 Members should be reminded that the current application does not seek to address matters of design, and this will be carefully considered at a later date under further reserved matters applications. It is therefore very difficult to provide Members with any definitive guidance as to the appearance of the proposed estate at this point in time, as no building designs have yet been put forward.
- 9.07 The submitted Design & Access Statement does, however, make reference to design principles set out within the adopted Kent Design Guide and suggests that the proposed dwellings would make use of common local materials such as tile hanging, timber boarding and render. Careful appraisal of the building designs (possibly including an appraisal by the Design Panel operated by Design South East) at reserved matters stage, as well as use of materials conditions to ensure finishing materials are of a high standard will ensure the structures have a high quality appearance and sit comfortably in the surrounding landscape.
- 9.08 The proposed indicative layout, which shows 142 dwellings spread comfortably across the site with room retained for soft landscaping and public open space. Given the site area of 3.9 hectares this equates to a density of 36 dwellings per hectare, which is broadly in line with current guidance. A robust planting and landscaping scheme will help to soften the visual impact of the development, particularly in views from the countryside to the north and the existing dwellings to the south. The indicative position of the houses fronting Power Station Road also leaves room for planting and landscaping and, in any case is not for agreement here.

Residential Amenity

- 9.09 The southern application site boundary sits a minimum of 21m from the garden boundaries of existing dwellings on William Rigby Drive and Buddle Drive. The proposed houses, as shown on the indicative layout, will be positioned in from the boundaries of the site to allow room for boundary landscaping. This distance is sufficient in my opinion to ensure that development of the site would not give rise to any serious overlooking, overshadowing or loss of privacy for existing residents.
- 9.10 The indicative layout shows that 142 dwellings could be accommodated on the application site with sufficient space for rear gardens and public open space to be provided. I am therefore of the opinion that a good level of residential amenity can be achieved for future residents of the site.

Highways

- 9.11 Several objections from local residents refer to highways issues likely to arise from the proposed development, with particular reference to the potential impact on the junction of Power Station Road and Halfway Road.
- 9.12 The applicant has submitted a robust transport assessment which has been examined by Kent Highway Services. Their comments are reproduced at 7.04 above and it is clear that there is no justifiable reason to refuse this application on highways grounds as it results in a net reduction in overall vehicle movements over the existing lawful use of the site.
- 9.13 I appreciate that this is a contentious issue and it may be difficult for local residents to accept KHS's findings that there will be a net reduction in traffic flows as a result of this development, but one has to remember that the authorised use of the site is for Class B2 industrial and that predicted residential traffic flows therefore must be weighed against traffic levels should the lawful use recommence.
- 9.14 It should also be noted that the nature of traffic will change and the removal of a large number of HGVs from Power Station Road and the local highway network generally will be, in my opinion, a benefit to local residents in terms of noise and disturbance.
- 9.15 I would also note that, contrary to comments from local residents (as noted at 6.05 above) the previous application for development of a Sainsburys store on the site was not refused on highway grounds. The highways impact of that proposal was considered to be acceptable; the scheme was refused because of the anticipated retail impact of the development when considered together with that of the Neats Court development upon the vitality and viability of Sheerness town centre.
- 9.16 The amended indicative layout (received 28 October 2014) shows an increase from 137 dwellings to a maximum of 142. I await KHS's further comments in respect to this slight increase and will update Members at the meeting, but do not anticipate any serious issues.
- 9.17 The applicant has confirmed that the footway requested by KHS (which would extend across the site frontage westwards to a pedestrian crossing point, also to be provided as part of this development, linking the northern site of the road with the southern side) can be provided, and an amended drawing has been received in this regard. I await KHS's further comments and will update Members at the meeting.

Landscaping / Sustainable Urban Drainage

- 9.18 As noted above the indicative layout leaves sufficient space for inclusion of 10% public open space and a robust landscaping scheme. I have recommended standard conditions to ensure that a landscaping scheme is submitted, carried out, subsequently maintained, and encourages biodiversity within the development.
- 9.19 The indicative layout shows a pond in the north-eastern corner of the site, adjacent to the boundary. This will form part of the Sustainable Urban Drainage System (SUDS) for the site and also provide an area of potential biodiversity enhancement / additional habitat land. Details will be controlled using condition (8) as set out below. I consider this to be a positive element of the scheme, particularly when weighed against the current condition of the site, being as it is almost entirely covered by concrete hardstanding.
- 9.20 Officers have made it clear to the applicant that the current layout, whilst acceptable for the purposes of an outline application, may require some significant amendment at the reserved matters stage. This is because whilst it shows adequate space for all of the necessary landscaping and amenities, the public open space could be better organised to provide a more central and useful area. This has no bearing on my recommendation, but I consider it necessary to have put a marker down at this stage for the benefit of future discussions.

Ecology

- 9.21 The application includes an Extended Phase 1 Habitat Survey, the conclusion of which is that the site is of low ecological value due to the large area of concrete hard standing and limited vegetation / tree cover. A single grass snake was found on the site, and land to the north (outside of the application site boundary) was concluded to have “suboptimal potential” as habitat for Great Crested Newts (GCN). No bats or water voles were recorded on the site.
- 9.22 The Survey was reviewed by the Kent County Council Biodiversity Officer, who initially requested that further information was provided on a number of points. The applicant submitted further information and KCC now have no objection subject to a number of conditions (as listed below) with respect to:
- Carrying out a Habitat Suitability Index survey and Great Crested Newt survey at the appropriate time of year;
 - Submission of a reptile mitigation strategy, and provision of an off-site receptor site if necessary;
 - A water vole survey;
 - Removal of vegetation outside of bird nesting season or after a site assessment by a competent ecologist; and
 - Submission of lighting details to avoid disturbance to commuting or foraging bats.

Affordable housing, viability and S106

- 9.23 The application is accompanied by a comprehensive viability assessment (VA) that, for business confidentiality reasons, can't be reproduced here in its entirety. It has however been independently scrutinised by CBRE, the Council's financial advisors in such matters, who agree with the conclusions of the report and as such I do not believe the Council has any reasonable or justifiable basis to challenge its conclusions.

9.24 Kent County Council has requested financial contributions of £544,279.10 (roughly £4000 per dwelling), and the Council's standard requirement for affordable housing is 30% of the total number of dwellings: in this instance equating to 43 units. The Council's Housing team would normally expect these to be provided at a mix of 70% affordable rent and 30% shared ownership.

9.25 The VA makes it clear that such contributions and affordable housing provision would make the scheme entirely unviable. Requiring the requested / policy-compliant figures as part of a S106 would prevent the development coming forward (depriving the local community of the various benefits that would stem from it) and I do not believe we should be pushing the applicant to alter the scheme in this regard.

9.26 CBRE's appraisal of the VA comments:

"The CBRE indicative appraisal shows that a policy compliant scheme, with 30% affordable housing, generates a profit level [that] falls short of the level [typically 20%] required by a private developer to proceed with a speculative residential scheme.

Based on the sensitivity analysis undertaken even at 0% affordable housing the scheme does not deliver a profit level commensurate with market requirements."

9.27 The applicant is, however, acutely aware of the local need for affordable housing and funding for KCC to provide social services – in particular new local schools. With this in mind they have offered to provide some affordable housing and a commuted sum that falls within the viability scope of the development, but does not meet with what KCC or SBC Housing would expect / have requested. Their offer includes either:

- a) A commuted sum of £2000 per dwelling + 7 two-bed flats (4 affordable rent and 3 shared ownership) + 2 two-bed houses (both shared ownership); or
- b) A commuted sum of £2000 per dwelling + 11 two-bed flats (4 affordable rent and 7 shared ownership).

The indicative scheme includes a block of flats on the western side and it is envisaged that, under option B, the whole block could be managed by a social housing provider. From discussions with the Council's Housing Team I understand that this is the preferred option in terms of workability.

9.28 CBRE's assessment of the VA makes it clear that both options eat into the projected profit margins, which are already below what would normally be expected for a developer to take on a site. I consider the proposals to be generous in the circumstances, particularly when it can be demonstrated that nil provision and nil commuted sum would be justified in this instance.

9.29 Either of the above options would contribute towards the Council's affordable housing need provision, and can be considered a windfall as part of the wider windfall housing gain from residential development of this site (which contributes significantly towards the Council's 5 year supply quota). I have, however, asked the Council's Housing Team to comment on their preferred option and will advise Members further at the meeting.

9.30 It must be noted however that the £2000 per dwelling commuted sum incorporates all payments normally expected as part of a large development, including KCC's requested sum (amounting to approx. £4000 per dwelling) and SBC's required

contribution towards provision of wheelie bins, maintenance of public open space within the development, and a S106 monitoring fee.

- 9.31 I await further comments from my colleagues in the relevant departments as to the precise figures involved (and will update Members at the meeting), but I suggest that the sums required by SBC be secured before the remainder of the contributions are passed on to KCC. Without securing funds for wheelie bins and maintenance of public open space the development would be poorly served and would result in a poor standard of amenity for residents and surrounding neighbours.
- 9.32 I therefore request that Members delegate authority to officers to secure SBC's required contributions, as a matter of priority, through S106 negotiations.

Foul and surface water drainage

- 9.33 As noted at 9.19 above the indicative site layout includes space for the provision of a Sustainable Urban Drainage System (SUDS) by way of a pond situated close to the north-eastern site boundary. This will help to attenuate surface water run-off into the adopted Scrapsgate drain which sits to the north of the site – condition (8) below requires run-off into the drain to be no more than 7 litres/sec/ha, in accordance with the LMIDB's advice.
- 9.34 Southern Water are able to provide foul drainage for the development, and have no objections to the application subject to the informative, noted below, advising the developer that they will need to enter into a formal agreement with Southern Water.

10.0 CONCLUSION

- 10.01 The application site represents a windfall housing site within the defined built up area and close to shops and services within both Minster and Sheerness, and also at the Neats Court development. Development of the land for residential purposes is therefore acceptable as a matter of principle.
- 10.02 I believe that the site can comfortably accommodate up to 142 dwellings, as proposed (equating to a density of 36 dwellings per hectare), as well as all necessary and required amenities, facilities and services. I also consider that residential use of the site, if broadly in compliance with the submitted indicative layout plan, would be unlikely to give rise to any serious amenity concerns for neighbouring residents to such a degree that would justify a reason for refusal.
- 10.03 The submitted details and consultee responses indicate that development of the site, subject to the conditions noted below, would not seriously prejudice local wildlife.
- 10.04 Taking the above into account, and subject to the further responses of Kent Highway Services and the Council's Housing team, I recommend that Members resolve to grant outline planning permission and delegate authority to officers to secure financial and affordable contributions through a Section 106 legal agreement.

11.0 RECOMMENDATION – GRANT Subject to further views of Kent Highway Services and Housing Services, and the signing of a suitably-worded S106 agreement, and the following conditions:

CONDITIONS to include

(1) Details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

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

(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.

Grounds: 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.

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

(4) The development hereby approved shall be carried out in accordance with the following approved drawings and documents:

Indicative drawings: location Plan 3684 PL 001 received 16 June 2014, Alternative Site Layout Revision D September 2014 received 3 November 2014; and Planning Application Supporting Statement, Design and Access Statement, Transport Assessment and Travel Plan, Flood Risk Assessment, Sustainability and Energy Assessment, Statement of Community Involvement, Extended Phase 1 Habitat Survey, Landscape and visual Impact Assessment and Geo-environmental Ground Investigation Update Report received 16 June 2014, and Addendum to Planning Statement October 2014 received 3 November 2014.

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

Pursuant to Reserved Matters

(5) Details pursuant to Condition (1) shall incorporate the principles described in the Design Code set out in paragraphs 2.3 to 2.10 of the Addendum to Planning Statement October 2014 received on 3 November 2014, particularly with regard to building heights and sustainable design and construction.

Grounds: to ensure the implementation of the development accords with design principles established at this outline planning stage.

(6) Details pursuant to Condition (1) shall show the external boundary treatments to be used on the boundaries of the site. Development shall be carried out in accordance with those approved details and thereafter retained.

Grounds: In the interests of visual amenity.

(7) Details pursuant to Condition (1) shall demonstrate:

- i. how the proposal will incorporate measures to encourage and promote biodiversity and wildlife on the site; and
- ii. shall incorporate within the soft landscaping on the western boundary of the site habitat for reptiles, including a connecting corridor to the public open space to the north and hibernacula within that public open space.

Development shall be carried out in accordance with those approved details and shall thereafter be retained and maintained in perpetuity.

Grounds: In the interests of promoting wildlife and biodiversity.

(8) The areas shown indicatively on the submitted drawings as open water shall be incorporated into a Sustainable Urban Drainage System (SUDS) pond and shall be reserved for that purpose only. The pond shall form part of a comprehensive Sustainable Urban Drainage System, also incorporating open ditches, for the whole site. Details pursuant to Condition (1) shall include details of how foul and surface water will be drained from the site and how it is to be installed including details of the location of the sewage pipe. Details shall also demonstrate that for the surface water run-off generated by the development during all rain falls will not exceed 7 litres per second per hectare. No permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Grounds: To ensure that these areas are made available, and in the interests of local amenity.

(9) A contaminated land assessment (and associated remediation strategy if relevant) shall be submitted to and approved in writing by the Local Planning Authority, comprising:

- a. A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- b. An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c. A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a remediation strategy which shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Grounds: To ensure any contaminated land is adequately dealt with.

(10) Details pursuant to Condition (1) shall show the public street-lighting columns within the development, including details of design, placement and light output. The development shall be carried out in accordance with the approved details and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Grounds: In the interests of public amenity and safety, and to prevent serious disturbance to commuting or foraging bats.

(11) Details pursuant to Condition (1) shall show adequate land reserved for parking or garaging in accordance with the adopted Kent Parking Standards and, upon approval of the details the parking area shall be provided, surfaced and drained before any building is

occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to those reserved vehicle parking areas.

Grounds: As development without adequate parking facilities would be likely to prejudice highway safety and amenity.

Pre-Commencement/Pre-construction /Pre Occupation

(12) Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment shall be carried out in full (or in phases agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Grounds: To ensure any contaminated land is adequately dealt with.

(13) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Grounds: To ensure any contaminated land is adequately dealt with.

(14) No development shall take place until a Great Crested Newt survey, Habitat Suitability Index survey, a reptile survey and a water vole survey have been carried out in relation to the site, and all four surveys have been approved in writing by the Local Planning Authority. If Great Crested Newts or reptiles are found to be using the site, or the site is found to have potential to be used as habitat, a strategy detailing measures for their protection from harm during site construction activities, including details of an off-site receptor site (if deemed necessary), shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Grounds: To minimise harm to protected species or their habitat, in accordance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Species and Habitats Regulations 2010.

(15) No development shall take place until a programme for the suppression of dust during the demolition of existing building foundations and former site access roads 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.

Grounds: In the interests of residential amenity.

(16) No development shall take place until details of on-site parking, during the construction phase, for site personnel / operatives / visitors, and construction vehicles loading, offloading or turning areas on the site, has been submitted to and approved by the Local Planning Authority

and thereafter such facilities shall be provided prior to the commencement of the development and retained throughout the construction of the development.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

(17) During the construction phase of the development, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway, and in particular wheel-washing facilities shall be installed close to the site access and retained in-situ throughout the construction phase.

Grounds: To ensure the construction of the development hereby approved does not prejudice conditions of highway safety and amenity.

(18) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

(19) Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- A. Footways and/or footpaths shall be completed, with the exception of the wearing course;
- B. Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 1. highway drainage, including off-site works,
 2. junction visibility splays,
 3. street lighting, street nameplates and highway structures if any.

Grounds: To ensure that the roads are constructed and laid out in an appropriate manner.

Other Conditions

(20) 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.

Grounds: In the interests of residential amenity.

(21) No development shall be carried out other than in complete accordance with the submitted Flood Risk Assessment, received 17 June 2014.

Grounds: To ensure the development is designed to reduce the risk of flooding.

(22) Removal or clearance of vegetation or buildings (if existing) from the site shall only be carried out outside of bird breeding season (March to August, inclusive) unless the site has first been examined by a competent and qualified ecologist details of the works submitted to

and approved in writing by the Local Planning Authority. If any breeding birds are present on the site all works must cease on that part of the site until all the young have fledged.

Grounds: To minimize harm or disturbance to nesting birds, and in accordance with the Wildlife and Countryside Act 1981.

(23) The development shall be carried out to achieve Level 3 of the Code for Sustainable Homes (November 2010) for all housing to be provided, as specified by paragraph 2.10 of the Addendum to Planning Statement received 3 November 2014. A post-construction certificate shall be submitted within six months of practical completion demonstrating the development has been carried out in accordance with this condition.

Grounds: In the interest of promoting energy efficiency and sustainable development, and in accordance with the submitted details.

(24) The Local Planning Authority shall be given notice seven days prior to the commencement of the development hereby approved, and within a period ending 52 weeks from the date of such notice the off-site highway improvement works consisting of the provision of a continuous pedestrian footway between the proposed site access road and the existing length of pedestrian footway on the north side of Power Station Road shall be constructed and made available for use by the general public.

Grounds: Because no such length of pedestrian footway is currently provided and in the interests of the safety and convenience of pedestrians living in or visiting the proposed residential development on the application site.

INFORMATIVE

(1) The applicant / developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel: 0330 3030119) or www.southernwater.co.uk.

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 further information was requested and the application subsequently considered to be acceptable.

Case Officer: Ross McCardle

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.

enhance or protect the conservation area or the curtilage of the listed buildings. This was seconded by Councillor Bryan Mulhern and upon being put to the vote the motion was agreed.

Resolved: That application 14/501373 be refused on the grounds that there was no guarantee that the noise issues would be addressed and the building did not preserve, enhance or protect the conservation area or the curtilage of the listed buildings.

2.2	14/500561/OUT
APPLICATION PROPOSAL	
Outline Planning permission (all matters except access reserved) - Residential redevelopment with provision of associated vehicular and pedestrian access, open space, drainage and services.	
ADDRESS Former HBC Engineering Site Power Station Road Halfway Minster-on-sea Kent ME12 3AB	
APPLICANT TBH (Sheerness) Ltd	
AGENT	

The Senior Planner reported that an amended drawing had been received from the Applicant which showed a footpath extending to the western boundary of the site frontage, which would connect to the existing footpath on the other side of the road. The amendment addressed the issue of the highway not being wide enough for a footpath on the northern side of the road. Kent County Council (KCC) Highways raised no objection to the amended footpath proposal, subject to usual conditions. The Senior Planner advised that condition (24) in the report would need to be amended to reflect the altered design.

The Senior Planner reported that the additional six dwellings to the 136 originally proposed had received no objection from KCC Highways as they expected around three additional vehicle movements, and as such this would have little impact on traffic figures. She further advised that the submitted transport assessment was based on 160 dwellings and the traffic impact was still considered to be less than the lawful employment use of the site. The Senior Planner confirmed that the site was within the Minster Parish Council boundary; the report had stated that it was not.

The Senior Planner drew Members' attention to the viability assessment on pages 49 and 50 of the report. She explained that the development could not support the full Section 106 agreement, and the scheme was only viable if the affordable housing figures were reduced, and that option (b) was the preferred option, with KCC requesting at least two of the four affordable units to be wheelchair accessible.

The Senior Planner advised that the development would provide £284,000 in total, £2,000 per dwelling, and Swale Borough Council would retain the full amount required for wheeled bins, open space management and monitoring fee. She explained that the profit level was 15% which was a low profit value. As the contribution received by KCC was significantly lower, they had requested some discretion as to how they spent their share.

The Senior Planner outlined the work undertaken on Great Crested Newts which was in draft form, with further survey work due to take place in Spring 2015. Condition (14) needed to be amended as there were no water voles on site, but a condition was needed for precautionary measures to protect water voles before and during work on the site. Delegation was sought to amend condition (14) as appropriate, and add additional conditions as recommended by KCC ecology. An additional condition was also required to ensure mitigation measures were put in place in line with the submitted habitat survey.

The Chairman moved the officer recommendation for approval which was seconded.

Members made the following comments: concerned with the increase in traffic movement problems and flooding; disappointed with the level of affordable housing proposed, which was contrary to the 30% that SBC had agreed to provide on developments; balance between keeping land that was once industrial as land available for job provision, or using it for housing which was also needed; impact on nearby junction; demonstrable harm to residents; there were other developments planned which would compound the traffic problems; and the infrastructure needed to be improved.

In response to a question, the Senior Planner referred to the proposals map and advised that the land was not allocated for employment or housing. She further advised that on the emerging Local Plan, 87 houses were allocated on the southern part of the site.

Councillor Mike Henderson moved a motion for a site visit. This was seconded by Councillor Tony Winckless.

In response, the Senior Planner advised that the mitigation measures set out in the submitted flood risk assessment for the site were accepted by the Environment Agency and that appropriate sustainable urban drainage was proposed for the site. The KCC Highways Officer advised that the application site had been assessed and traffic movements had been projected as being less than the previous commercial use and the typical extant B2 use of the site.

On being put to the vote the motion for a site visit was lost.

A Member doubted that that the nearby mini-roundabout and the road structure had the capacity to cope with the development.

Councillor Bryan Mulhern moved a motion to defer the application in order to seek further information on traffic movements and flooding issues. This was seconded by Councillor Tony Winckless.

The Head of Planning explained that traffic issues would be managed during the process of the development and reminded Members of KCC Highways comments and the need for housing in the Borough.

On being put to the vote the motion to defer was lost.

Councillor Mike Henderson moved a motion for an amendment: that approval of reserved matters be reduced from five years to four years. The Head of Planning stated that this was a standard time condition. The motion was not seconded.

The substantive motion to approve was put to the vote and the motion was lost.

At this point the Head of Planning used his delegated powers to 'call-in' the application.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application would be deferred to the next meeting of the Committee on 11 December 2014 when the Head of Planning would advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject for costs.

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

11 DECEMBER 2014

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008

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Part 3

3.1 STALISFIELD Hazelhope Barn Stalisfield Road 14/502473
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3.2 MINSTER 36 Sanspareil Avenue 14/503392
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Part 5

5.1 OSPRINGE Willow Farm Caravan Park, Hansletts Lane
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5.2 FAVERSHAM 8 Brogdale Road
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5.3 DARGATE Land adjacent to Acorns, Butlers Hill,
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5.4 FAVERSHAM 27, Hilton Close
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5.5 FAVERSHAM The Faversham Club, Gatefield Lane
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5.6 FAVERSHAM Site at 9 Ashford Road
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Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 14/503827/FULL		
APPLICATION PROPOSAL		
Change of use from agriculture to breeding, keeping, training and accommodating horses for leisure and recreation industry, including erection of stables (2 bays for breeding and 4 bays for DIY livery) and feed storage.		
ADDRESS Land To North Lower Road Minster-on-sea Kent ME12 3EZ		
RECOMMENDATION Grant subject to conditions as set out below, and the views of Kent Highways Services		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
REASON FOR REFERRAL TO COMMITTEE		
More than 5 objections		
WARD Queenborough & Halfway	PARISH/TOWN COUNCIL Minster-on-Sea Parish Council	APPLICANT Mr Stephen Attwood AGENT
DECISION DUE DATE 05/12/14	PUBLICITY EXPIRY DATE 05/12/14	OFFICER SITE VISIT DATE 4 November 2014
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): SW/14/0358 Application for planning permission for the change of use of land from agriculture to breeding, keeping, training and accommodation of horses, and the erection of a stable block and feed store (2 bays for breeding and 4 bays for DIY livery) on land to the north of Lower Road, Minster. Refused 30 June 2014		

1.0 DESCRIPTION OF SITE

1.1 The application site comprises of an irregularly shaped tract of agricultural land situated to the north of Lower Road, west of Barton Hill Drive / Parsonage Chase, and south of the residential streets southward of Queenborough Road.

- 1.2 The site is largely open, with mature and established hedgerows towards the centre of the site near to where the stables are proposed. The land slopes gently upwards towards the north. The land extends to approximately 46 hectares (113 acres) of agricultural land, largely consisting of open fields.
- 1.3 The site is located in open countryside, and an Important Local Countryside Gap, as defined by the proposal map of the Swale Borough Local Plan 2008 and there are a cluster of TPO trees and a Listed Building (Parsonage Farmhouse) near to, but not within the site. The application site is not designated in respect of its landscape character.
- 1.4 Land immediately to the east of this site (closer to Barton Hill Drive) was initially allocated as possible residential land under the draft Local Plan site allocation process. However, the site was removed from the final allocations, as members considered it to be an inappropriate site for housing development.

2.0 PROPOSAL

- 2.1 This application is identical to that which was refused planning permission by Members on 26 June 2014, save the location of the proposed stables is different. Despite officer recommendation to approve, Members refused planning application reference SW/14/0358 for the reasons outlined in 4.1 below.
- 2.2 The applicant seeks planning permission for the change of use of land from agriculture to breeding, keeping, training and accommodation of horses for leisure and recreation industry, and the erection of a stable block and feed store (2 bays for breeding and 4 bays for DIY livery) on land to the north of Lower Road, Minster.
- 2.3 The applicant seeks the change of use of the land from agriculture to the keeping of herd of 20 high quality mares, which will kept for breeding high quality foals for the leisure and recreational market. At foaling time they will be transferred back to Parsonage Farm where we have a livery, the mares will then have their foals at Parsonage Farm where they can be monitored closely. After a week or so the mares and their foals will be transferred back to Cowstead Land [the application site] where they will be kept and can develop their social and groundwork training. The mares and their progeny will be kept on the land at all times save for temporary transport to Bredgar for foaling.
- 2.4 The two structures proposed would each include three stables and a hay and supplementary feed store. Two stables will be needed in case of emergency and for the handling and training of foals connected to the breeding programme, the remaining four stables will be used for low cost livery. The stables will be positioned next to a sectioned area that will be used to train the foals and lightly exercise the mares. The stables will be stained black to merge into the surroundings.”

2.5 Members should note the following extract from the supporting from the supporting letter:

1. The amended proposal seeks to address the reason for refusal, particularly in respect of position and siting – the stables and exercise area have been relocated further away from the nearest dwellings
2. The area adjacent to the stables for the exercising of horses is not a ménage and no floodlighting is proposed.
3. Landscape and visual appraisal (LVIA) – A LVIA accompanies the submission, and the report concludes unequivocally that the low sensitivity of the landscape and the low magnitude of change results in a ‘negligible’ impact upon landscape character. The appraisal is based on the previously refused planning application – the current application is considered to be less harmful due to the re-positioning and re-siting.

2.6 The submitted location plan indicates the location of the proposed development.

3.0 RELEVANT PLANNING HISTORY

3.1 As noted above, an application for the change of use of land from agriculture to breeding, keeping, training and accommodation of horses for leisure and recreation industry, and the erection of a stable block and feed store (2 bays for breeding and 4 bays for DIY livery) on land to the north of Lower Road, Minster was refused permission by the Planning Committee at its meeting held on 26 June 2014 for the following reason:

‘The proposal, by virtue of its position and siting, would be harmful to the rural, agricultural character and visual amenity of the area in a manner contrary to policies E1, E6, E9 and E19 of the Swale Borough Local Plan 2008, and to the advice of paragraph 109 of the National Planning Policy Framework’.

3.2 Members may recall, however, that land immediately to the east of this site (closer to Barton Hill Drive) was initially allocated as possible residential land under the draft Local Plan site allocation process. The site was removed from the final allocations, however, after Members considered it to be an inappropriate site for further housing development.

3.3 In the report to the Planning Committee in respect of Application SW/14/0358, it was noted that the proposal complied with policy RC9 of the Swale Borough Local Plan, and that the scale and design of the stables were acceptable. Whilst technically the land would be taken out of agricultural use, the majority of the site will remain undeveloped and could be returned to agricultural production in the future with little difficulty. The Council’s agricultural consultant did not object to the proposal.

3.4 The report also confirmed that the proposal would not adversely affect the visual or residential amenity of the area, being some 440 metres from the nearest dwelling.

Summary information

<u>Site Area - existing</u>	<u>Site Area - proposed</u>	<u>(Change (+/-))</u>
46 hectares (113 acres)	46 hectares	None

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (The Framework)

4.1 The Framework was adopted in March 2012, and is considered relevant in terms of its commentary on development within the countryside, which it generally encourages provided that it does not give rise to serious harm to the countryside's character or amenity value.

4.2 **Paragraph 109** states that the planning system should contribute to and enhance the natural and local environment by:

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

4.3 **Paragraph 112** of the Framework states that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

Swale Borough Council Local Plan 2008

- 4.4 **Policy E1** of the adopted Swale Borough Local Plan 2008 seeks to ensure that all development proposals, amongst others, be well sited and of a scale, design and appearance that is appropriate to the location and cause no demonstrable harm to local amenity.
- 4.5 **E6** aims to protect the countryside from unnecessary development, and to ensure that all development taking place does not give rise to harm to the character or wider amenity value of the countryside.
- 4.6 **E19** of the Local Plan focuses on design, specifically, and comments that all development proposals should enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening the sense of place.
- 4.7 Policy **RC9** specifically examines proposals for the keeping of horses, and aims to ensure that all stable developments (and the keeping of horses in general) are of an appropriate scale and design, and do not give rise to serious impacts for highway safety, landscape character, biodiversity or local amenity.
- 4.8 The Council's adopted Supplementary Planning Guidance entitled "The Erection of Stables & Keeping of Horses" is also relevant, and provides guidelines for design and siting of stable buildings.

5.0 LOCAL REPRESENTATIONS

- 5.1 A total of 10 letters of objection have been received, the content of which is summarised below:

Objection	Officer comments
<p>This is a resubmission of an earlier application ref:- SW/14/0358 which was refused pp - It would have an impact on the visual amenity of the area". This point is important to both residents and visitors to the island. Although the applicant has made some amendments to both the siting of the stables and the landscaping of the buildings, this does not address the original objections.</p>	<p>The only difference is minor re-siting of the stables – it is virtually identical to the previously refused application. The other difference is the submission of LVIA which competently assesses the landscape impact of the proposal.</p>
<p>My understanding is that we are meant to be safeguarding food producing land from further developments. Each small change that is allowed to happen will have a far greater consequence in the long term to land that is currently used for arable farming. Land is currently productive and if approved would lead to the loss of valuable agricultural land at a time when increased food production is being encouraged in order</p>	<p>The Framework, at paragraph 112, requires local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land. Where</p>

to reduce reliance on imported food products.	significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
The traffic congestion on the Lower Road is getting progressively worse, with queues ongoing most of the day not just at peak travelling times. Add to this additional vehicles including horse boxes that will be turning to and from the proposed site and you begin to see that the traffic will be slowed even further	Kent Highways Services are awaited – members to be updated at the meeting
No evidence supplied to demonstrate that proposed use would be sustainable.	
No evidence supplied to demonstrate demand for the proposed use	
<p>CPRE Kent oppose –</p> <ul style="list-style-type: none"> • Increasingly worried at the pressure on the countryside of non-agricultural development and the gradual degradation of landscapes that these create. • It is a NPPF Core Planning Principle that authorities should “take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. Furthermore, Paragraph 109 states that “the planning system should contribute to and enhance the • natural and local environment by (inter alia) protecting and enhancing valued landscapes.” According to Swale’s Landscape Character Assessment, the site of this application lies in the “Central Sheppey Farmlands”. The Supplementary Planning Document “Swale Landscape Character and Biodiversity Appraisal” argued that the appropriate approach to this landscape area was one of “restore and create”, stating that its current condition was poor and its sensitivity moderate. It further stated that the “topography, large open fields and lack of mature woodland all helps in providing long views to the mainland and across the vast marshlands adjacent to the Swale Estuary.” Not only are the views from the area significant, but so too are the views from the mainland to the site in question, 	

<p>especially the views seen by those approaching Sheppey. Therefore, we agree with the views put forward for the refusal of planning application SW/14/0358 in June of this year when the Planning Officer stated that the development would be “harmful to the rural agricultural character and visual amenity of the area in a manner contrary to ... the advice of paragraph 109 of the NPPF”. Comparing the previous application (SW/14/0358) to the current one we can see nothing that would alter this opinion.</p> <ul style="list-style-type: none"> • given the pressure that Swale (and neighbouring authorities) is under to increase housing numbers, the parts of the NPPF that deal with environmental matters become more, rather than less, important. The pressure that housing will bring means that landscapes and environment will be under increasing stress and so environmental impacts will become greater in the coming years. With a diminishing rural area, it follows that losses, although they may be incremental in nature, become increasingly significant. While there is an argument that can be made for over-riding environmental and landscape considerations to grant permission for development in certain situations, it is our view that the keeping of horses on agricultural land does not have an over-riding employment or development significance. Therefore, it cannot claim to be more important than Swale’s duty to conserve its diminishing environmental resources. Thus, we disagree with the landscape assessment, especially in its implication that the impact would be small. It is small incremental changes that, eventually, lead to an irrecoverable loss of amenity. The fact that each individual change is small is not a sufficient condition to allow it to proceed. 	
<p>In the event of the venture failing, it could result in the land being developed for housing in the long term</p>	<p>Not a material planning consideration</p>

6.0 CONSULTATION RESPONSES

6.1 The following responses have been received from consulters:

Minster-on-Sea Parish Council

i. The proposal will have a detrimental impact on the visual amenity of the Isle of Sheppey. It will impinge on the sense of openness by being unduly prominent in a location that offers views across the landscape. In addition, the changed

appearance of the land relating to equestrian activities rather than arable farming could result in the accumulation of associated infrastructure. This goes against Policy E1 of the Swale Borough Council Local Plan 2008 which requires all development to respond positively by reflecting the positive characteristics and features of the locality and be well sited in an area that is appropriate to the location.

ii. Highway safety is a serious concern. This includes reservations about access and the impact of increased congestion onto the A250 Lower Road. This is at odds with Policy E1 which requires a development to meet the highest standards of accessibility and inclusion of all potential users regardless of disability, age or gender who can use them safely and easily. If permission is granted despite the serious reservations expressed in this objection, MPC has asked for a condition to be put in place to prevent right turns in and out of the site in the interests of highway safety.

iii. The proposal will result in the loss of productive agricultural land amounting to 7 hectares (approx. 17 acres) in an area where approx. 85 acres is already committed for the purpose of solar farming on the Isle of Sheppey. This will contribute to the impending food crisis forecasted by Defra on account of climate change because the farming community will be deprived of the ability to satisfy the food needs of both the current and future generations.

The Chairman, Cllr J. Stanford registered his dissent to this decision. He could see no grounds for objecting to the proposal.

Local Highway Authority

6.2 Kent Highways Services are awaited – members to be updated at the meeting

Environment Agency

6.3 No objection is raised

Southern Water

6.4 No observations received

KCC Archaeology

6.5 No observations received

Lower Medway Drainage Board

6.6 No observations received

Council's Agricultural consultant – No objection

7.7 *“This is effectively a resubmission of the earlier application (SW/14/0358) which was the subject of my letter dated 15 April 2014. It was*

*refused on the basis of the impact to the character and amenity of the area by virtue of the position and siting of the development.
position and siting, and the application is now accompanied by a landscape and visual appraisal.*

As previously advised, there appear to be no adverse agricultural issues that would weigh against the proposed development.....”.

7.0 BACKGROUND PAPERS

7.1 The application is supported by a Design and Access Statement, a covering letter and the following plans:

- Elevations of Proposed stables dated 5 September 2014
- Location and Layout Plan dated 11 September 2014

8.0 DISCUSSION

8.1 Planning permission is required as there is a ‘material change’ in the use of the land from agriculture to the keeping of horses for recreational purposes.

8.2 The Court has held that the term in the statutory definition of agriculture referring to the breeding and keeping of livestock does not apply to the breeding and keeping of horses (except in connection with any farming use). If it is intended to use the field only as grazing land it will be regarded as for agricultural use and thus planning permission will not be required (even if the horses are recreational horses).

9.0 APPRAISAL

Principle of development

9.1 The erection of stables, keeping and breeding of horses essentially requires a rural location, and the Council’s Local plan policies support the provision of stables provided they are of a high quality design and do not harm local amenity, and encourage proposals that diversify the rural economy or provide new jobs in the countryside. It has been established that the scale, design and amenity implications of the proposed stables are acceptable.

9.2 The erection of stables does not change the nature of the site from green field to brownfield, and any future application for residential development on the site would need to be assessed against local and national policy. The adopted and emerging Local Plans designate the land as an Important Local Countryside Gap, which would discourage large-scale development such as new housing estates.

9.3 It is significant to note that the Council’s agricultural consultant has no objection to the proposals.

Highways/ access

- 9.4 It is likely that the change of use from agriculture to pasture will reduce the amount of heavy farm machinery accessing the site for harvest, spraying, ploughing, etc. This in turn will reduce the number of farm vehicles using Lower Road, with a consequent improvement to traffic flow, and in this regard the proposed development may represent a small, but positive enhancement to local traffic conditions.
- 9.5 An existing access and rough track leads to the proposed stables and there is no requirement for additional accesses or roads to be created. It may be necessary, however, for the applicant to lay down some form of hard-core to enable vehicle access during winter, but the extent and appearance of this can be controlled by the imposition of landscape conditions. The proposed car parking area will be directly adjacent to the stable buildings and would not be prominent in views from public receptors
- 9.6 However, the views of Kent Highways Services are awaited, and I shall update members at the meeting.

Landscape considerations

- 9.7 The applicant has submitted a Landscape and Visual appraisal with the current application, the purpose of which is to:
- Describe and assess existing baseline conditions with regard to key landscape components for an appropriately sized study area.
 - Assess the sensitivity of the existing landscape in terms of character and views, and establish its ability to accommodate change.
 - Describe the nature of the changes resulting from the proposed development, and assess and evaluate the magnitude of change upon landscape character and views.
 - Determine the 'degree of effect' of identified impacts with regard to scale, duration, permanence and value.
- 9.8 The methodology adopted follows the guidance contained in the Landscape Institute and Institute of Environmental Management and Assessment, *Third Edition, 2013 - Guidelines for Landscape and Visual Impact Assessment*.
- 9.9 In line with this latest and current guidance and considering that the proposed development does not constitute EIA development, the appraisal does not consider the 'significance' of any identified 'effect', and will only identify the 'nature' of potential 'effects' and the scale or 'degree' of the effect.
- 9.10 The assessment concludes that the magnitude of the proposed change is assessed to be 'low' and this is supported by the introduction in the latest GLVIA of the concept of 'susceptibility'.

- 9.11 It also suggests that development of this nature would not be uncharacteristic of the receiving landscape. Taking both assessments of local landscape character sensitivity into account, a degree of effect of 'negligible' is concluded.
- 9.12 In view of the above, I am firmly of the view that the landscape and visual implications of the proposed development would not justify refusal in this instance.

Loss of agricultural land

- 9.13 The development would result in the loss of Grade 3 agricultural land, which is not regarded as the best quality. Given that the application site is to be used primarily for the grazing of horses, it does not prejudice its use in the future for agricultural purposes. Members will also note that the Council's Agricultural Consultant raises no objection to the development.

10.0 CONCLUSION

- 10.1 Given the above analysis, it is considered that the proposed application is acceptable in planning terms. The fears of objectors that the site would be more susceptible to development is unfounded, as the application site would continue to be regarded as open countryside.
- 10.2 Furthermore, the proposal is not considered to be contrary to the provision of the Framework and the development plan, and only the best quality agricultural land (best and most versatile (BMV) is subject to the highest level of protection. Therefore, there is no requirement for demonstrable need or harm to be weighed in the planning balance.

11.0 SUMMARY AND RECOMMENDATION

- 11.1 The application seeks permission for change of use of 113 acres from agricultural land to grazing land for the keeping and breeding of horses, and for the erection of stables. The use is acceptable in planning terms as it does not adversely affect the character of the countryside or to local amenity.
- 11.2 The objections from local residents and the Minster-on-Sea Parish Council are noted, along with the Planning Committee's refusal of permission in June 2014 in respect of a very similar application proposed under SW/14/0358. However, I do not believe that this amounts to justifiable reasons to refuse the current application.
- 11.3 Taking the above into account, it is recommended that, subject to the views of Kent Highways Services, **planning permission should be granted subject to the following conditions:**

Conditions / Reasons

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.

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

2. No development shall take other than in complete accordance with drawings submitted with the application and received on 5 September 2014.

Grounds: For the avoidance of doubt.

3. Prior to the commencement of development, details in the form of samples of external finishing materials and British Standard details of the proposed colour to be used in the construction of the stables 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.

Grounds: In the interest of visual amenity.

4. 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 that contribute to local biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials (including details of any surfacing proposed to the vehicle access track), and an implementation programme.

Grounds: In the interests of visual amenity.

5. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway.

Grounds: In the interests of amenity and road safety.

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.

Grounds: 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.

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

8. The use of the site for the keeping of horses/ponies hereby permitted shall not exceed a density of one horse or pony per acre of available grazing land.

Grounds: To prevent over-grazing.

9. No burning of straw or manure shall take place on the site.

Grounds: In the interests of local amenity.

10. With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site.

Grounds: In the interests of visual amenity.

11. The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced, 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) Order 1995 (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.

Grounds: 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.

12. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- The proposed frequency of the use.
- A site plan showing the area to be lit relative to the surrounding area.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Grounds: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

13. Such lighting as may be approved shall be switched off outside the hours of 0800 to 2100, unless otherwise agreed in writing by the Local Planning Authority.

Grounds: To prevent light pollution during unreasonable hours of the day that would result in harm to residential amenity.

COUNCIL'S APPROACH TO THE APPLICATION

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was considered to be acceptable as submitted.

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 14/502473/FULL			
APPLICATION PROPOSAL			
Retrospective application for a temporary dwelling and land to support an equestrian enterprise			
ADDRESS Hazelhope Barn Stalisfield Road Stalisfield Kent ME13 0HY			
RECOMMENDATION REFUSE			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
This proposal for the creation of a temporary residential use presents insufficient arguments to demonstrate why planning permission should be granted at this isolated location within the defined rural area and Kent Downs Area of Outstanding Natural Beauty where development is normally restricted. Furthermore, unconvincing evidence has been provided to demonstrate that the business involved is, or could be operated on a sound financially basis sufficient to demonstrate an essential need for full time residential accommodation here. As such, the proposal would result in unacceptable harm to the character of the countryside by introducing an unnecessary and unjustified residential use and associated domestic curtilage to this rural area in a manner harmful to its rural character and natural beauty. The proposal does not represent sustainable development and is therefore contrary to policies E1, E6 & E9 of the Swale Borough Local Plan 2008 and the guidance as set out within the National Planning Policy Framework (NPPF)			
REASON FOR REFERRAL TO COMMITTEE			
Contrary to support from residents			
WARD East Downs Ward	PARISH/TOWN COUNCIL Stalisfield	APPLICANT Mr And Mrs Southern AGENT Bloomfields	
DECISION DUE DATE 19/09/14	PUBLICITY EXPIRY DATE 19/09/14	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/14/0176	Retrospective Application for a permanent dwelling to support an equestrian enterprise	REFUSED	14/04/14

Summarise Reasons: Creation of a permanent residential use which does not present sufficient arguments to demonstrate why it should be approved in this isolated sensitive location and would cause unacceptable harm to the character of the countryside.

MAIN REPORT

1.0 Description of Proposal

- 1.01 This is a second application at this site for the use of the approved holiday let accommodation in the barn for full residential use. Previous application SW/14/0176 was “A retrospective application for a permanent dwelling to support an equestrian enterprise” submitted following an enforcement investigation in relation to permanent residential use of restricted occupancy holiday accommodation in the roofspace of the stable building hereafter referred to as the barn. The application seeks to regularise the applicants’ current occupation of the holiday accommodation in the barn, but only on a temporary basis.
- 1.02 There is no proposed change to the external or internal appearance of the barn. It is proposed that the accommodation inside remains with an open plan living area, utility room, 2 bedrooms, one with ensuite and bathroom. No additional landscaping is proposed.
- 1.03 The case presented by the applicants argues that this application is for a temporary dwelling and the applicants’ agent states “*we have, for the Council’s sake, changed the form of the dwelling to a temporary one to allow the Council to consider the proposal having further regard to the old PPS7 Annex A recommendations. We do however reserve the position that Annex A of PPS 7 should not be followed*” I will return to the ambiguity of this position below.
- 1.04 The application is supported by a lengthy justification for the temporary unrestricted residential use due to the high value of the horses, the welfare of the horses and the operational requirements of the enterprise, security issues, and a full time labour requirement stated to be 2.9 full time workers and expected to rise to 3.5 people.
- 1.05 The arguments are supported by numerous individuals who know the applicants and understand their particular circumstances and the high quality/value of the horses they train.
- 1.06 The applicants argue that the functional requirements of the business summarised above are the only factors to be taken into account in the assessment of the “essential need” for them to live on the site in line, they argue, with para 55 of the NPPF which states that:

“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside;*

- 1.07 However, in applying for a temporary permission they comment that “*the forecasted accounts and shown capital, together with the applicants responsible and meticulous approach to breeding and costing show that the business has been seriously thought out and planned on a sound financial basis....the benefit of the temporary application is to demonstrate this point, with , if necessary, the subsequent submission of accounts.*”
- 1.08 In addition “Forecast Accounts for Hazelhope Barn” have been provided for 2014, 2015 and 2016.

2.0 Relevant Site History and Description

- 2.01 Hazelhope Barn is located in an isolated rural location 3 miles south of Eastling, south of Stalisfield Green on the east side of Stalisfield Road.
- 2.02 It is located close to the permanent house known as Hazelhope. The property is surrounded by open countryside and is located within the Kent Downs Area of Outstanding Natural Beauty close to the top of the scarp slope of the downs.
- 2.03 A public footpath runs across the site.
- 2.04 The history of the site remains the same in that the applicants state that although they built the barn in question whilst they owned and lived in the adjacent house known as “Hazelhope”, they later sold “Hazelhope” separately from the barn and purchased a new property in nearby Charing. They confirm that prior to moving into the barn full time they stayed in the barn in October 2010. This coincided with the “failure” of the holiday let business. Since 2012 and 2013 they state they have continually stayed at Hazelhope Barn and remain living there to date.
- 2.05 The applicants originally owned the house Hazelhope from 2000 and in 2002 planning permission SW/02/0346 approved the change of use for the keeping of horses and the erection of a stable building (the barn in question) on adjoining land under their control. The original design of the barn was not in keeping with design advice and guidance regarding new buildings within the highly protected AONB and, in agreement, the barn was redesigned to be acceptable and permission was subsequently granted. Condition 2 of that permission restricts use of the stables to private use. No approval for a stud farm or for breeding horses has been granted despite many comments made within the submission referring to the breeding business now running at the site. This building as approved provided stables on the ground floor and an office in the roof space.
- 2.06 Application SW/02/0967 subsequently approved an all-weather riding arena which was built in 2002.

- 2.07 Application SW/05/0643 then approved the conversion of the upstairs office space to holiday let accommodation to provide “quality self-catering accommodation for tourists”. A condition attached to the permission stated that *“the accommodation hereby permitted shall be used solely for the purpose of holiday accommodation and shall not be let or occupied by any person or group of persons for a continuous period of more than 4 weeks in any calendar year”* *“in recognition of the terms of the application and in order to prevent permanent residential use of the building which lacks any private amenity space”*
- 2.08 In August 2010 planning permission SW/10/0726 approved a small storage barn close to the main barn. This has been built.
- 2.09 In October 2010 the site was divided and the main house Hazelhope was sold separately whilst the stable/holiday let barn/building, all weather riding arena and smaller storage barn along with 8 acres (half the land) was retained by the applicants.

3.0 CONSULTATIONS

- 3.01 Stalisfield Parish Council has resolved to conditionally support the application, and stated that *“this application went some way to addressing concerns they expressed with regard to the previous application”*. The Parish Council comment that they consider *“there was sufficient justification to warrant a temporary change of use of the property to allow the owners to establish their business case as an equestrian centre needing accommodation. If after 3 years the owners can successfully demonstrate that the business can be profitable and sustainable, the Parish Council remains convinced that the conditions outlined below should be attached to the property to ensure that its future use remains as an equestrian enterprise.*
- 3.02 These conditions are *“That a Section 106 agreement be attached limiting the occupation of the dwelling to a person with day to day responsibility for the management or operation of the equestrian centre connected to the site.*
- 3.03 They further stipulate that *“The Parish Council would only support such a section 106 agreement subject to the following circumstances being met:*
- a) that the applicant has, or can, provide evidence to SBC that the current equestrian business has been profitable for at least one of the previous three years and has a clear prospect of remaining so .*
- b) that the applicant has, or can, provide evidence that an equestrian business can be supported on the 8 acres of land in the ownership of the applicant should they or future owners lose access to the adjoining land which they currently rent.*

In addition, Stalisfield Parish Council feels that this site in an AONB and in a predominately agricultural setting has now been fully developed and the Parish Council would not support any further development in support of the business, or otherwise.”

- 3.04 The Council's Rural Consultant refers to para 55 of the NPPF which states that "*local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as "the essential need for a rural worker to live permanently at or near their place of work in the countryside"*".
- 3.05 He comments that most decision makers and advisors accept that whilst Annex A of PPS7 (which has been formally cancelled) does not carry the same weight as previously it is still a useful tool in determining what amounts to "essential need", it being expressed in terms of both enterprise function and the existing (or prospective) financial soundness and sustainability of the enterprise concerned.
- 3.06 He considers that where a permanent dwelling is effectively reliant for its funding on outside capital or income, rather than being supportable from the proven profits of the business concerned, the danger is that neither the approved purpose of the dwelling, nor the occupancy condition on the dwelling (without which an isolated rural dwelling would not normally be permitted) would be sustainable.
- 3.07 He continues that he would agree that overall the horses involved here do generate a functional requirement, for the proper operation of the enterprise, for a responsible person to be resident on site at most times, day or night; and he acknowledges this requirement was originally met by the dwelling Hazelhope House, which the applicants owned up to 2010.
- 3.08 He concludes that nevertheless, the estimated future profits (as provided by the applicants) over the next three years, and which are calculated before any payment/ charge is deducted for labour, would not be sufficient properly to reward, or afford, the anticipated labour requirement of 2.9 to 3.5 full-time persons. Consequently he is not able to advise, as matters stand, that the enterprise has been demonstrated to be operating, or that it will be operating, on a sound and sustainable financial basis.
- 3.09 Following the submission of additional information from the applicants (including reference to a High Court ruling) he has commented that the applicants' agent has not challenged his observation that the applicants' own estimated future profits over the next three years would not be sufficient properly to reward, or afford, the anticipated labour requirement of 2.9 to 3.5 full-time persons.
- 3.10 He considers that it cannot represent an enterprise with sound and sustainable financial prospects. He also doubts that the judgement in the High Court Case to which the applicants' agent refers had set an immutable rule that financial viability cannot now be taken into account at all in temporary dwelling cases in determining the "essential need" to which the NPPF refers – particularly as the phrase used is "essential need", and not "essential functional need".
- 3.11 Finally he concludes that in any event, outside the confines of the NPPF, financial viability can still be an important "material consideration" to take into account in determining such applications. The judgement certainly does

not preclude potential economic viability as an additional material consideration.

4.0 LOCAL REPRESENTATIONS

4.01 In addition to the letters submitted with the application five comments were submitted with regard to this application. The comments are summarised below:

- Its imperative to have 24/7 supervision for the welfare of the horses and security
- This will reduce the amount of traffic running through the village
- Support the accommodation to be linked to the equestrian enterprise
- Support the application as it is being used for a high quality equestrian enterprise training and breeding dressage horses
- The dressage horse breeding business is an asset to the area
- The applicants presence at the property at all times of the day and night is essential to its success
- They are part of the community and engage fully in rural life
- The building is already there

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 National Planning Policy Framework (NPPF)

5.02 A review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

5.03 Swale Borough Local Plan 2008 policies SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside) E9 (Quality and Character of the Boroughs Landscape), H2 (Housing) and RC3 (Rural Housing) are relevant to this application.

5.04 NPPF

5.05 Paragraphs 28 and 55 of the NPPF are particularly relevant to this application.

5.06 Paragraph 28 supports a prosperous rural economy and the diversification of agricultural and other land-based rural businesses, as well as rural tourism.

5.07 Paragraph 55 relating to delivering a wide choice of high quality homes states *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid*

new isolated homes in the countryside unless there are special circumstances such as:

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *reflect the highest standards in architecture;*
 - *significantly enhance its immediate setting; and*
 - *be sensitive to the defining characteristics of the local area.”*

5.08 Paragraph 115 of the NPPF states that *“great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.”*

6.0 APPRAISAL

6.01 I consider the key issue in this case to be the principle of the conversion of this existing holiday let to a temporary unrestricted residential dwelling in terms of the local and national policy position and whether this would represent sustainable development; and if other factors indicate that any other decision should be reached.

6.02 National Policy

6.03 The NPPF, whilst clearly promoting the need to provide a wide choice of quality homes, does not allow this at all costs. The golden thread running through the document is the presumption in favour of sustainable development. Paragraph 55 emphasises that in rural areas the need for housing still needs to be considered alongside the need for development to be sustainable and goes further stating *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”*. It further states that isolated homes should be avoided unless there are special circumstances.

- 6.04 In this case, the proposed residential use would not be located within a village or in a cluster of other residential properties. It would be located on land adjacent to one isolated dwelling, Hazelhope. As such, it would be an isolated property generally in a remote area set apart from other housing and away from services and facilities. In addition, as the site is located along a narrow country lane without footpaths, this combined with the distance from services would result in the occupants likely having to rely on a car to access services.
- 6.05 However, the NPPF does suggest that isolated dwellings may be acceptable in special circumstances. One of the special circumstances listed is where there is *“the essential need for a rural worker to live permanently at or near their place of work in the countryside”*. I consider that to assess the “essential need” and until further advice is provided to contradict it, the accepted way remains to continue to refer to the principles set out in Annex A of PPS 7 and, that even though this has officially been cancelled it is a useful tool in determining what amounts to essential need.
- 6.06 **Essential Need**
- 6.07 This application refers to a temporary dwelling and the agent argues that the use of or reference to Annex A of PPS7 should be disregarded in its entirety and the only argument to be considered here is related to the exact wording of Para 55 of the NPPF as to whether the essential functional requirement of a worker to live at or near their place of work has been met.
- 6.08 He argues that whilst part of the NPPF Para 55 refers to a worker living “at or near” their place of work the case made by the applicants is that despite living only 3 miles and 10 minutes away from the site they still require a new dwelling on this site.
- 6.09 The business here now appears to be the training of high quality and high value (£500 to £30,000) dressage horses which they buy, train and sell on, keeping eight horses in the five stables of the barn (with additional other stables on the land) on 16 acres of land at the site (of which 8 acres they own). These occasionally produce foals, but some of the supporting letters talk of the site as a stud farm. This is not how the applicants describe the operation. It seems that initially the main use here is training of horses with the occasional foal. However information in the submission appears to show this is an expanding area of the business.
- 6.10 The applicants’ statement goes into great detail about the man hours involved in the management of the land and buildings, but my view remains that the mucking out of stables, having hooves picked, grooming of the horses, taking rugs on and off the horses, training of the dressage horses, catering for their special diets, poo picking, breaking of ice, and cleaning of the equipment which they focus on are all requirements that could be undertaken during the normal working day with the adequate number of staff employed and would not require permanent residence on the site.

- 6.11 Security considerations are not normally sufficient in their own right to justify a dwelling in the countryside. The consideration that the horses were only unable to be left unsupervised once the applicants had moved to Charing, but were left unsupervised overnight prior to this is somewhat confusing and not fully explained. Indeed the applicants have a property 3 miles (10 mins) away and, even bearing in mind the footpath across the site, I remain of the view that it is conceivable that with the correct security systems in place the site can be made secure without the need for a permanent residential dwelling.
- 6.12 I also consider that the close proximity of the permanently occupied property Hazelhope dwelling next door is likely to act as a deterrent in itself.
- 6.13 The possibility of the horses becoming ill is also cited in support of the application, but again I do consider the close proximity of the applicants to the site, and with modern technology, this can be adequately managed remotely.
- 6.14 The applicants argue that it is only these arguments, related to the “function” of the business that determine the “essential need” and that no other matters should be considered. However, it must be noted that the NPPF uses the phrases “essential need”, and not “essential functional need”.
- 6.15 I would argue that whilst there may be no legal requirement to establish the viability of the enterprise, an assessment of the economic viability of the proposed business is a crucial part of assessing the “essential need” of the business for a worker to establish the need for a new dwelling linked to that business.
- 6.16 In support of the applicants’ case they provide details of a High Court Case (Embleton PC V Northumberland CC) and highlight a part of the judgement in which they state the Judge did *“not accept that the NPPF requires that the proposal is economically viable”*.
- 6.17 Having considered this case, I note that this comment was in relation to submissions that as the enterprise was not economically viable there was no need for a rural worker to live at or near their place of work. Whilst I would argue that this is part of the judgement to be made as to whether there is an essential need for the applicants to live on site, as is being proposed here, the judge effectively held that the LPA had not been wrong in the way it assessed submitted financial data which it did take into account in reaching a decision.
- 6.18 The NPPF does not explicitly require that the proposal is economically viable, but simply requires a judgment of whether the proposed agricultural enterprise has an essential need for a worker to be there or near there. However in my estimation the essential need cannot be assessed in isolation as Para 55 is designed “to promote sustainable development in rural areas”. For a permanent new dwelling to be considered an exception to policy which restricts development in the countryside, a viable business, or likely to be viable business, needs to be in place to finance the jobs upon which the need for the dwelling has been based.

- 6.19 In any event, I consider that outside the confines of the NPPF, the financial viability of the proposed business can still be an important “material consideration” to take into account in determining this application. I do not believe the judgement referred to by the applicants precludes potential economically viability being an important material consideration.
- 6.20 I consider that the argument presented by the applicants that they do not consider the economic viability of the enterprise should play a part in the decision process largely contradicts the notion of applying for a temporary permission, which is a tried and tested procedure to establish a trial period in which a potentially profitable enterprise can be allowed time to show its profitability, with a review at the end of the period of keeping actual accounts.
- 6.21 I have carefully considered whether the accommodation is required on site for the proper functioning of this enterprise. Whilst to a certain degree the horses do generate a requirement for a worker to be on site I remain unconvinced by this submission taking all the factors into consideration.
- 6.22 **Viability of the Business**
- 6.23 Whilst the applicants do not want an assessment of the viability of the business they have provided confidential Forecast Accounts for 2014, 2015 and 2016. Here, even the applicants’ forecasts do not show the potential for a viable enterprise and the dwelling is effectively reliant for its funding on outside capital or income, rather than being supportable from the proven profits of the business concerned. The danger here is that neither the approved purpose of the dwelling, nor the occupancy condition on the dwelling (without which an isolated rural dwelling would not normally be permitted) would be sustainable.
- 6.24 I note in the additional later information submitted by the agent that they do not challenge the fact that the applicants’ own estimated future profits over the next three years would not be sufficient properly to reward, or afford, the anticipated labour requirement of 2.9 to 3.5 full-time people.
- 6.25 Taken altogether that cannot represent, in my view, an enterprise with sound and sustainable financial prospects and as such, I do not consider that it would be appropriate to permit a trial period to see the applicants’ forecasts of lack of viability substantiated.
- 6.26 **The Previous Position**
- 6.27 The applicants have explained that Hazelhope House had to be sold for personal financial reasons in 2010, as described in more detail in the submissions, one of which being the poor returns from the holiday let. The applicants later decided to move into the retained holiday accommodation having considered it difficult to properly manage the developing equestrian enterprise from the dwelling they bought in nearby Charing.
- 6.28 The history of this site has shown the gradual increase in the facilities for the enterprise which were approved based on its close proximity to the house Hazelhope, and the ease by which the applicants could supervise the stables

and horses from Hazelhope. However towards the end of 2010 a number of events coordinated, including the submission and approval for the storage barn in August 2010, just 2 months before the selling of Hazelhope.

6.29 The applicants sold off the main house Hazelhope that provided the already established accommodation sufficient for them to live on the site and supervise the stables. The “failure” of the holiday business within Hazelhope Barn coincided with this sale of Hazelhope and whilst the applicants bought a property in Charing, just under 3 miles away in 2010 they very quickly began to use the barn for full time residential purposes.

6.30 This application comes as a direct consequence of the sale of the main residence, Hazelhope and the direct action of the applicants could be viewed as a coordinated set of circumstances to gain residential use of the barn. Even if not intentional, the sale of the house Hazelhope is fatal to the case now made, as to approve residential use of the barn now can only, I would argue, bring the planning system in to disrepute. In this respect Annex A of PPS7 is clear. It states that *“In cases where the local planning authority is particularly concerned about possible abuse, it should investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings, (my emphasis) or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.”*

6.31 **Other Matters**

6.32 I note the comments from the Parish Council supporting the three year temporary permission to enable the applicants to attempt to show the viability of the business and to use a Section 106 to tie the dwelling to the equestrian business. Despite this being what they are applying for the applicants’ agent has been very clear in rejecting use of using any economic viability assessment at the end of the three year period, and I conclude that irrespective of the outcome there would be no change in the argument made by the applicants or any significant change in the specific circumstances of this case. Furthermore, the applicants do not even predict a viable enterprise.

6.33 I also note the comments of support which on the whole refer to the dressage business and the “quality” of it. However, were the case to be accepted here there would be no guarantee that “dressage horse breeding” or “high quality equestrian training” would remain on the site.

6.34 I am also concerned that with the applicants residing on site this will continue the incremental development of the site. When planning permission was originally granted for the stable building and the ménage it was implicitly linked to the existing dwelling of Hazelhope. The creation of a separate unit has increased the impact of the site on the AONB. The creeping intensification of the use of this site is evident, the 4 mobile field shelters (2 double bay and 2 single bay), and the proposed increase in staff to 3.5 (from 1.7 in Feb 2014).

6.35 The submission further refers to an increase in stock, from 10 (an increase in 2 from Feb 2014) with an additional 3 foals next year onsite *“to look after and then*

potentially sell on. Depending on the gender of the stock, some may then be kept to breed from” opens the possibility of the requirement for further stables, and a further increase in the number of staff to be required. The resultant increase in traffic to and from the site, for deliveries, services and staff is likely to be noticeable.

- 6.36 Finally whilst the proposal would result in the reuse of an existing building, it would not result in an enhancement to the immediate setting. This proposal if allowed, and from which can be viewed now, would result in the full domestication of the site with the sort of facilities that are not normally necessary for a holiday let property such as washing lines, garden furniture etc and increased activity.
- 6.37 The separation of the site into two properties has already resulted in an expansion of development into the countryside which has had an impact on the protected AONB by way of hard surfacing and fencing and gating etc and its further erosion is of concern.
- 6.38 Having considered the arguments made in respect of an essential need for a temporary dwelling on the site I am not convinced that the case has been sufficiently made to justify making an exception to long established rural restraint policies for additional housing in the rural areas particularly given the highly sensitive nature of the site and its AONB status

7.0 **RECOMMENDATION** – REFUSE for the following reasons:

This proposal for temporary full time residential use of approved holiday accommodation presents insufficient arguments to demonstrate why planning permission should be granted at this isolated location within the defined rural area and Kent Downs Area of Outstanding Natural Beauty where development is normally restricted. Furthermore unconvincing evidence has been provided to demonstrate that the business involved is, or could be operated on a viable financial basis. As such, the proposal would result in unacceptable harm to the character of the countryside by introducing an unnecessary and unjustified residential use and associated domestic curtilage to this rural area in a manner harmful to its rural character and natural beauty. The proposal does not represent sustainable development and is therefore contrary to policies E1, E6 & E9 of the Swale Borough Local Plan 2008 and the guidance as set out within the National Planning Policy Framework.

Council’s approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case, the application was considered on its merits, with regard to previous appeal decisions and current policy and circumstances, and found to be unacceptable. The application was determined by the Council's Planning Committee where the applicants were given the opportunity to address the Committee

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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3.2 14/503392/FULL			
APPLICATION PROPOSAL			
Two storey side extension, to form living accommodation for an elderly relative as amended by drawings received 11 November 2014			
ADDRESS 36 Sanspareil Avenue Minster-on-sea Kent ME12 3LE			
RECOMMENDATION Refusal			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
Proposal is contrary to policies contained in the Council's Supplementary Planning Guidance, Designing an Extension – A Guide for Householders			
REASON FOR REFERRAL TO COMMITTEE			
Recommendation contrary to Parish Council views			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster	APPLICANT Mr Robert Shoebridge AGENT KCR Design	
DECISION DUE DATE 20/11/14	PUBLICITY EXPIRY DATE 20/11/14	OFFICER SITE VISIT DATE 7/11/2014	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/06/0262	Conversion of garage to study/wc.	Approved	24.04.2006

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 36 Sanspareil Avenue is a two storey, semi-detached dwelling.
- 1.02 Sanspareil Avenue is approximately 0.4km in length meeting Barton Hill Drive to the east and Parsonage Chase to the west.
- 1.03 The street has a variety of property styles with a large number of detached dwellings. The street also includes semi-detached properties and a limited number of terraces comprised of 3 bungalows.
- 1.04 To the front and side of the property is a paved driveway with private amenity space to the rear.
- 1.05 The adjacent property, known as 'Summerwinds' is a detached, chalet bungalow.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for a two storey side extension which will serve as accommodation for the applicant's elderly relative. The extension measures 2.8m in width and 8m in depth.
- 2.02 The front elevation of the extension is set back from the front elevation of the main dwelling by approximately 0.5m. The pitched roof design of the existing dwelling is proposed to be retained for the extension. The ridge height of the extension roof is set approximately 0.2m below the ridge height of the main dwelling house.
- 2.03 There are two windows in the side elevation which will serve a w.c. at ground floor level and a bathroom at first floor level. Drawing 01, Revision A is annotated as to indicate these windows as being obscure glazed.
- 2.04 A door is proposed on the front elevation with a window at ground floor and first floor level. On the rear elevation glazed doors are proposed at ground floor level and a window at first floor level.
- 2.05 The internal floor area of the extension will be made up of a lounge/diner, kitchen and w.c. at ground floor level and a bedroom and bathroom at first floor level.
- 2.06 On the originally submitted documents there was no internal connection between the existing property and the proposed extension. After discussions with the agent an internal connecting door between the lounge/diner of the existing dwelling and the lounge/diner of the proposed extension has been added.
- 2.07 The justification for the proposal provided by the agent is as follows:

"I would point out to you that this extension is to allow my client to care for his elderly father (a gentleman of some advanced years) thereby affording him a safe, secure and caring environment in which to live.

The extension is subordinate to the main dwelling.

It is 800mm from the boundary, if the neighbour built an extension that would have to be set back from the boundary, thereby keeping the sense of openness.

There is no side parking in use, just a concrete hard standing, all parking remains at the front of the property."

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Development Plan: E1, E19 and E24 of the Swale Borough Local Plan 2008.
Supplementary Planning Documents: Designing an Extension – A Guide for Householders

The Council's SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.

National Planning Policy Framework (NPPF)

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."

The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.

This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Policies E1, E19 and E24 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

5.0 LOCAL REPRESENTATIONS

5.01 None received, the deadline for comments expired on 20th October 2014.

6.0 CONSULTATIONS

6.01 Minster Parish Council supports the application for the following reason:
"The proposal compliments the neighbouring properties."

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 14/503392/FULL.

8.0 APPRAISAL

8.01 In my opinion there are three key issues to consider in the determination of this application which are:

- The impact that the proposal would have upon the character of the existing streetscene;
- The impact upon the available parking space within the curtilage of the property;
- The effect of the proposal on neighbouring amenities

Impact on the streetscene

- 8.02 Paragraph 5.0 of the SPG states that *“Where a two storey side extension to a house is proposed in an area of mainly detached or semi-detached housing, the Council is anxious to see that the area should not become “terraced” in character, losing the sense of openness. Residents of such a street have a right to expect that the character should be retained. Houses should not be physically or visually linked, especially at first floor level as the space between buildings is important in preserving the areas character and sense of openness. A gap of 2m between a first floor extension and the side boundary is normally required.”*
- 8.03 The flank wall of the proposed extension is set in by 0.8m from the common boundary with the adjacent property, ‘Summerwinds.’ The adjacent property is a detached chalet bungalow, which is set in from the common boundary by approximately 2.5m.
- 8.04 Detached bungalows are the predominant style of property in Sanspareil Avenue but the street is also comprised of semi-detached bungalows, semi-detached two storey dwellings, chalet bungalows and small terraces of three bungalows. Although the property type is mixed, in overall terms the streetscene is characterised by its openness, especially at first floor level. Whilst the adjacent dwelling is a chalet bungalow, it has a high ridgeline, almost approaching that of the dwelling on the application site. In my view, the space between the two properties is important and contributes markedly to the character of the area. As such, in this case I am of the opinion that there is a requirement for a distance of 2m from the flank wall of the extension to the common boundary, as set out in the above policy in order to resist a terracing effect from occurring.
- 8.05 The 0.8m distance as proposed falls some way short of this, and if permitted would seriously erode the sense of openness that currently exists, especially at first floor level which the above policy attaches the most significance to protecting. Therefore the proposal would cause significant and unacceptable harm to the established character of the streetscene. Furthermore, if the adjacent dwelling was to be extended to the side in a similar fashion then this would only serve to further exacerbate the loss of openness, to the detriment of visual amenities and contrary to the policy as set out above.

Impact upon Parking

- 8.06 In terms of car parking, paragraph 7.0 of the SPG states that *“Extensions or conversions of garages to extra accommodation, which reduce available*

parking space and increase parking on roads are not likely to be acceptable. Nor is the provision of all car parking in the front garden a suitable alternative.”

- 8.07 In this case there is a paved driveway in front of and also to the side of the existing dwelling, where the extension is proposed. Although I appreciate that the hardstanding is fairly substantial, by virtue of the proposed siting of the extension the occupiers would be left with no other option than to park in front of the property. As the existing driveway extends to the side of the property there is the potential to park cars in this location which is set back from the front of the property. The effect of this is that there is the possibility of partially screening vehicles from view, the prospect of which would be lost if the proposal was permitted in this location. Increased use of the area in front of the house for parking would increase the visual and physical impact of cars in the streetscene which would have a significantly detrimental impact upon the streetscene, contrary to the policy as set out above and to the relevant policies of the Local Plan.

Neighbouring Amenities

- 8.08 Although the proposal introduces two windows, one at ground floor and one at first floor into the flank elevation of the proposed extension, these are both annotated as obscure glazed as they serve a downstairs w.c. and an upstairs bathroom. As such, I do not envisage that the proposal would increase overlooking to the adjacent property to an unacceptable level.
- 8.09 The proposed extension will project no further than the existing property and will be broadly in line with the rear elevation of both the adjoining and the adjacent property. Therefore I do not consider that the proposal would give rise to any adverse impact impacts upon neighbouring amenities.

Agent's Justification for Proposal

- 8.10 Although I recognise that the extension would provide living accommodation for the applicant's elderly relative and have some sympathy with the circumstances, no evidence has been submitted demonstrating that other options (including provision of ground floor accommodation, or reducing the scale of the accommodation proposed) have been submitted, nor has any evidence been provided to demonstrate that the personal circumstances of the applicant and his family are truly exceptional. Personal circumstances are rarely sufficient to justify the grant of planning permission for an otherwise acceptable scheme. In this case, I do not consider that the applicant's personal circumstances are sufficient to outweigh the material planning harm I have identified above.

9.0 CONCLUSION

- 9.01 On the basis of the above assessment the proposal would have a significantly detrimental impact upon the streetscene due to the loss of a sense of openness and the requirement for the car parking to be located entirely to the frontage of the property. Although the applicant's circumstances and requirement for the

proposal have been taken into consideration I am of the view that this does not override the significant harm that the proposal would do to the streetscene. As such, I recommend that this planning permission be refused.

11.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The two storey side extension by virtue of its proximity to the party boundary would result in a deterioration of the sense of openness within the immediate area and would have a detrimental impact on the established character of the streetscene. The proposal would be contrary to the Council's adopted Supplementary Planning Guidance - Designing an Extension: A Guide for Householders and Policies E1, E19 and E24 of the Swale Borough Local Plan 2008.
- (2) The proposed extension would require all parking to be located in front of the property which would give rise to harm to the character and appearance of the streetscene, contrary to policies E1, E19 and E24 of the Swale Borough Local Plan 2008, and to paragraph 7.0 of the Council's adopted Supplementary Planning Guidance, entitled "Designing an Extension - A Guide for Householders".

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:

This application was not considered to comply with the provisions of the Development Plan and NPPF as submitted, and would have required substantial changes such that a new application would be required.

It is noted that the applicant/agent did not engage in any formal pre-application discussions.

The applicant is advised to seek pre-application advice on any resubmission.

Case Officer: Paul Gregory

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.

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

A disappointing and strange decision, seemingly based on the fact that the peculiar extension would not be too noticeable, especially to drivers negotiating a sharp double bend nearby.

- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

- **Item 5.4** – 27, Hilton Close, Faversham, ME13 8NN

Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

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Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

I



Appeal Decision

Hearing held on 23 September 2014

Site visit made on 23 September 2014

by Kenneth Stone Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 October 2014

Appeal Ref: APP/V2255/A/14/2216836

Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, Kent ME13 0RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Openshaw against the decision of Swale Borough Council.
 - The application Ref SW/13/1153, dated 30 August 2013, was refused by notice dated 7 November 2013.
 - The development proposed is described as a 'new owner/manager's house and workplace'.
-

Decision

1. The appeal is allowed and planning permission is granted for a new owner/manager's house and workplace at Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, Kent ME13 0RS in accordance with the terms of the application, Ref SW/13/1153, dated 30 August 2013, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. I held a hearing into the appeal proposals following a change in procedure required at the request of a previous Inspector. The appeal was originally commenced under the Written Representations procedure and appropriate notification was undertaken by the Council at that time. At the hearing I was provided with the Council's letter of notification of the hearing, however this only gave one week's notice of the hearing following an administrative oversight. The appellant commented at the hearing that although the timescales were tight they had managed to bring along third parties who supported the appeal and did not therefore believe they had suffered prejudice. Given the original notification undertaken when the appeal was proceeding under the Written Representations procedure had not resulted in representations and that the appellant and those supporting the proposals were in attendance I am satisfied that this has not resulted in prejudice to any party.
3. At the hearing a page of the Swale Borough Local Plan 2008 (LP) was submitted by the Council containing Policies B7 and B8, as the later policy had been referred to by the appellant and included a reference to the former in it. It was subsequently confirmed by the Council during the hearing that Policy B8 was previously deleted and was no longer a saved policy, it therefore no longer forms part of the statutory development plan and I have considered the appeal on this basis.

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Main Issues

4. The main issues in this appeal are
 - Whether there is an essential need for a rural worker to live permanently at or near Willow Farm Caravan Park; and
 - Whether the proposed development would conserve or enhance the natural beauty of the Kent Downs Area of Outstanding Natural Beauty

Reasons

5. Willow Farm Caravan Park (the Park) accommodates 24 static caravans including a chalet currently occupied by the appellant. Two of the caravans are occupied as primary residence and have been so for in excess of 27 years. The remainder are based on seasonal occupation which runs from 1st April to the end of October. The caravans are owned by the occupants and the pitches are rented from the operator. The site is located in the open countryside and is in the Kent Downs Area of Outstanding Natural Beauty (AONB).
6. The area has a rural character with large areas of open agricultural land enclosed by mature hedges and narrow country lanes affording open views across wide stretches. Adjacent to the Caravan Park are the large farm buildings of the original farm now occupied as an equestrian centre.

Need for rural worker

7. The Park has been an on-going business enterprise for many years and there is no dispute between the parties that it is not a financially viable enterprise. Similarly the Caravans on the Park are predominantly static and have been situated on the park for many years with only a small number of touring caravans being able to be accommodated at the site. On this basis it is a secure and permanent enterprise.
8. The appellant has lived on a chalet on the site for a number of years but the lawfulness of this occupation is disputed by the Council. The issue of the lawfulness of the existing occupation of the appellant on the Park is not a matter that is before me. However, it is evident from the appeal documents and representations that he has been there for a number of years and therefore his presence is a material consideration in the determination of this appeal.
9. The appellant has suggested that during the season his work load was more intense than out of season and would include general maintenance, ensuring bins were emptied, the cesspit was working, grass cutting, tree management and leaf picking. The duties would also include general security of the site which would include a final walk around at the end of the day to make sure everything was in order; this would be around 11:00pm. Out of season more disruptive maintenance would take place such as ditch digging/repairing, tree removal, significant repairs etc. I agree with the Council in that the nature of these works could be undertaken during the day and would not necessitate an on-site presence 24 hrs a day.
10. A number of the Caravan Owners from the site attended the hearing and gave evidence which highlighted the importance of an on-site presence in their decision to move their Caravan to the Park and their continued occupation and

retention of their caravan at the site. It was obvious that the perceived security and additional support that was provided by the owner/manager being resident on-site and accessible 24 hrs was an important factor in their decision to base their caravans at the park. It was contended that during the season this provided them with a sense of added security and comfort not least as many were of the older generation. The additional benefit of having a responsible party in charge of the Park available during an emergency situation was also mentioned in support. During the closed season they relied on the appellant's occupation of the site to protect their caravan's and to inform them of any issues. Although anecdotal there was evidence from their occupation on other sites where they had placed their caravans, where there was not a warden or manager on site, that break-ins or damage was more common. I have no reason to doubt the sincerity of the evidence and in association with the social and community spirit that was evident the appellant plays an important function in the success of the Park, not least because of his presence.

11. Whilst I was provided with a Police report, which made reference to an on-site presence being of assistance in terms of security this did not include that as one of its recommendations and it was from some time ago. I have therefore not placed significant weight on that report. The Council were concerned that the appellant had not sought to improve the security of the site through the implementation of some of the measures in that report. However, I have some sympathy with the appellant in that significant fencing and lighting could be obtrusive particularly given the sensitivity of the location in the AONB.
12. The appellant has introduced mounding and there is some fencing and tree planting on the boundaries such as to ensure it would be difficult to get an unauthorised vehicle onto the site other than through the main entrance. Other than this however there were limited attempts to secure the site. The introduction of CCTV cameras would only be effective if they were monitored and of sufficient quality and number. However given the tree coverage, location of the Caravans and the extent of the site it would be difficult to fully cover the site unless many of the trees and shrubbery were removed. On balance therefore given the sensitive location it seems to me that an on-site presence for a manager/owner provides a vital role in giving the necessary security and confidence to the Park's occupants. This provides an important positive contribution to the continued success of the Park.
13. An on-site presence is also recognised by the Council as being of a benefit in terms of management and security albeit they do not consider that this outweighs the protection of the countryside. The Council in the reason for refusal refer to the appellant living nearby however this appears to be based upon when the appellant resided at the original farm house and the Park was part of that one holding. It would appear that there has been an on-going manager/owner presence on the site including when the Park was part of the larger farm albeit that this changed in form and location when the sites were divided. The appellant does not live nearby but on the site and has submitted evidence of the limited availability of other premises nearby that could fulfil this function. Not only were there limited properties available but they were, according to the appellant, prohibitively expensive. The Council did not provide any evidence to dispute this point.
14. On balance therefore I conclude that there is an essential need for an owner/manager to live permanently on-site and that this could not be

accommodated in other premises nearby. As such, the proposal is consistent with paragraph 55 of the National Planning Policy Framework (the Framework) which seeks to promote sustainable development in rural areas and inter alia allows for isolated homes in the countryside where there are special circumstances including the essential need for a rural worker to live permanently at their place of work in the countryside, such as I have found in this case. Policies E6, RC2, RC3 and H2 of the LP which amongst other matters seek to protect the countryside for its own sake unless there is a proven need are consistent with the Framework insofar as they seek to protect the countryside unless special circumstances exist. However, those circumstances are more tightly drawn than the Framework especially with regard to agricultural workers rather than rural workers which would include a broader definition. I have therefore concluded that the proposals do not conflict with the intent of the policy insofar as they are consistent with the Framework.

Area of Outstanding Natural Beauty

15. The proposed dwelling would be discreetly located in one corner of the site well screened from outside the site. The size of the unit proposed is a small two bed detached house and the Council have confirmed that they do not object to the size or scale of the unit. The property is designed to accommodate an office and has views across the caravan park to the main entrance and car park as well as across the remainder of the site. It is located adjacent to an existing store building and in this regard creates a small group of buildings for the management and maintenance of the site.
16. The building has the bedrooms in the roof void and is a chalet bungalow of modest proportions with a low eaves level and long raking roof slopes. The materials for the walls and roofs, weatherboarding and clay tiles are consistent with the local vernacular and are evident in other buildings in the area. As such the building in terms of size, scale, design and siting would be appropriate and in keeping with the countryside location. Given the tree screen surrounding the site there would only be very limited views of the building from longer views. Closer in the building would be seen in the context of the existing caravan park, chalet and existing store building and would not appear excessively large or obtrusive in the surrounding landscape. It would not therefore detract from the wide views of the open agricultural land enclosed by mature hedges and narrow country lanes within which the site presently sits.
17. For the reasons given above I therefore conclude that the proposed development would conserve the natural beauty of the Kent Downs Area of Outstanding Natural Beauty. Consequently it would not conflict with policies E6 and E9 of the LP which seek to protect the quality, character and amenity value of the open countryside and the wider landscape including the Kent Downs Area Of Outstanding Natural Beauty. This is consistent with the Core planning principles in the Framework in particular bullet points 5 and 7 and paragraph 115 which give great weight to conserving the scenic beauty of Areas of Outstanding Natural Beauty, recognise the beauty of the countryside and the importance of conserving the natural environment.

Conclusions and conditions

18. For the reasons given above I conclude that the appeal should be allowed.

19. I have considered the suggested conditions provided by the Council in the context of the advice in the Planning Practice Guidance (PPG) and the wording of the suggested models of acceptable conditions in appendix A to Circular 11/95 'The use of conditions in planning permissions' which remains extant. I have imposed, with some alterations and amendments, the suggested conditions in the light of that advice as detailed below.
20. I have added condition 2 specifying the approved plans which is required for the avoidance of doubt and in the interests of proper planning as advised at paragraph 21a-022 of the PPG. Condition 3 is required in the interests of wildlife and biodiversity in the rural area. Conditions 4, 5 and 6 are required in the interests of the character and appearance of the area. It was suggested by the appellant that these conditions could be amalgamated however I am persuaded by the approach adopted by the Council in seeking to contain the conditions in terms of their function and applicability to the programme for the implementation of the development.
21. I am also persuaded that it is necessary to remove permitted development rights restricting external alterations and extensions as suggested by the Council as otherwise the property may be altered not to be commensurate with the rural operation. The PPG at paragraph 21a-017 advises such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances. I am satisfied however it would be required in this instance to safeguard the open and rural character of the area and restrict the size of a dwelling which has been allowed only because in its present form it fulfils an essential need for a rural worker at this site which would be exceptional circumstances.
22. At the hearing the Council requested that an occupancy condition be added to the list of suggested conditions restricting the occupation to the purpose for which permission was sought. The appellant had previously in their grounds of appeal confirmed that they would be happy with such a restriction. Given the reasons for my conclusions I agree that such a restriction is necessary and I have added this as condition 8.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Helen Whitehead MRICS Price Whitehead Agent for the appellant

Mr Richard Openshaw Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Tracey-Ann Day Senior Planning Officer, Swale Borough Council

Gianni Simone Planning Officer, Swale Borough Council

INTERESTED PERSONS:

Rene Rampley Caravan Owner

Carol and Joseph Joy Caravan Owners

Brenda and Kenneth Parsfield Caravan Owners

Documents submitted at the Hearing

- 1 Notification letter of the Hearing submitted by the Council
- 2 Page 61 of the Swale Borough Local Plan 2008 containing Policies B7 & B8 submitted by the Council.

SCHEDULE OF CONDITIONS FOR APPEAL REF: APP/V2255/A/14/2216836

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Affinis Design Drawings 1302/2; 1302/31A; 1302/32 and 1302/44.
- 3) Prior to the commencement of development hereby approved, a report demonstrating how the proposal will incorporate measures to encourage and promote biodiversity and wildlife, including where required a programme for implementation of any such measures, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved details and shall thereafter be retained.
- 4) 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, plant sizes and numbers where appropriate; means of enclosure; hard surfacing materials and an implementation programme.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details under the terms of condition 4. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 6) If within a period of 5 years from the date of the planting of any tree or shrub that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, in the next available planting season, unless the local planning authority gives its written approval to any variation.
- 7) Notwithstanding the provisions of Classes A to E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling hereby approved shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling.
- 8) The occupation of the dwelling shall be limited to a person solely or mainly working, as the manager/owner of the Willow Farm Caravan Park, or a widow or widower of such a person, and to any resident dependants.

END

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

A disappointing and strange decision, seemingly based on the fact that the peculiar extension would not be too noticeable, especially to drivers negotiating a sharp double bend nearby.

- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

- **Item 5.4** – 27, Hilton Close, Faversham, ME13 8NN

Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

Appeal Decision

Site visit made on 19 September 2014

by G Powys Jones MSc FRTPi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 September 2014

Appeal Ref: APP/V2255/D/14/2223888
8 Brogdale Road, Faversham, Kent, ME13 8SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Atkinson against the decision of Swale Borough Council.
 - The application Ref 14/500682/FULL, dated 27 May 2014, was refused by notice dated 7 August 2014.
 - The development proposed is erection of a single storey side extension.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey side extension at 8 Brogdale Road, Faversham, Kent, ME13 8SX in accordance with the terms of the application Ref 14/500682/FULL, dated 27 May 2014, subject to the following conditions.
 - 1). *The development hereby permitted shall begin not later than three years from the date of this decision.*
 - 2). *The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 154/75; 154/76; 154/77; 154/100; 154/101 & 154/102 together with the OS location plan.*

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the host property and surrounding area.

Reasons

3. The appeal property is separated from the small terrace of four dwellings to the south by a gap consisting of its side garden. The Council has no objection in principle to the gap being filled, indeed, it has previously granted outline planning permission for a dwelling to be erected here. Neither has the Council an objection to the principle of what it would regard as an appropriately designed extension.
4. The Council's concerns centre on the unashamedly contemporary design of the proposed extension and the use of materials, which are in stark contrast to the proportions, materials and appearance of the host property and nearby dwellings. In this respect, apart from the bungalow sited next to the appeal site, the properties in this part of the road reflect the traditional appearance of Victorian and Edwardian dwellings. The Town Council and the Faversham Society support the Council's stance.

5. Along with the other dwellings either side, the appeal property sits in a relatively visually sheltered location at the edge of the settlement. Across the road fronting the playing fields is a row of luxuriant and mature trees providing effective screening from long range views. So tortuous is the road immediately to the south that approaching drivers and pedestrians see the appeal property only in short range views. Short range oblique views of the appeal property are obtained when approaching from the junction of Brogdale Road with the A2 to the north. The proposed extension would not be easily seen from this direction, in view of its slight set-back.
6. The proposed extension is designed with a mono-pitched roof, with its south facing wall being the highest, being almost as high as the host property's eaves. Given the height differentiation and angularity proposed in the front elevation, I do not share the Council's description of the extension as having a squat appearance.
7. However, because of the lie of the land, and the appeal property's sheltered location, I agree with the Council that the most noticeable elevation would be that facing south. Apart from some high level fenestration, and a door opening, the elevation would present a plain, largely featureless wall, mirroring to an extent the appearance of the property's extant northern elevation, which is comprised of a truncated gable with a flat roofed rear protrusion.
8. The proposed pattern of fenestration on the front elevation is in complete contrast to that in the front elevation of the existing dwelling, but is an integral and deliberate part of the design. This, together with its shape, would mean that the extension would present a wholly different face to that currently presented by the host property. Whilst I fully understand the basis for the Council's and others' concerns, the acceptability of a particular design in a particular context often, if not invariably, revolves around judgments involving personal tastes.
9. In this respect, the designer has responded thoughtfully to the brief provided by the appellant, both in terms of the function of the proposed spaces to be provided and the identified constraints. I consider the design approach to be bold, and whilst the extension would undoubtedly impart a visual mark, it would be within a restricted external visual context, for the reasons already explained. It would be wrong, however, to describe this scheme as poorly designed simply because of the modernistic approach adopted.
10. I do not consider the use of weatherboarding to be unacceptable in a modern development such as proposed; it is widely and successfully used in other far more prominent locations than this.
11. I find that the extension, if built, would undoubtedly alter the character and appearance of the host property but the contrasting design approach adopted would present an exciting and acceptable example of modern design not causing significant harm. The impact on the wider surrounding area would be minimal.
12. On balance, I conclude that the extent to which the host property would be affected is insufficient reason to refuse permission. Accordingly, there is no significant conflict with those provisions of policies E1 & E19 of the Swale Borough Local Plan requiring development to be of a scale, design and appearance appropriate to its location and context. Moreover, I consider that

the appellant's references to those aspects of the *National Planning Policy Framework* intended not to stifle imaginative or innovative design to be appropriate and relevant in this case, and they attract substantial weight.

13. Other than for that required by statute, the Council does not propose any further conditions. Having regard to the level of detail provided in the plans and supporting information, I do not consider that a further condition is necessary other than, for the avoidance of doubt and in the interests of proper planning, that the development shall be carried out in accordance with the approved plans.
14. The national *Planning Practice Guidance* has been published recently, but having regard to the facts in this case and the main issue identified at the outset, it has no material bearing on my conclusions.
15. Reference has been made to other development plan policies but those to which I have referred are considered the most relevant having regard to the particular circumstances of this case.
16. All other matters raised in the representations have been considered and taken into account, but no other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

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- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

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Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

I

ITEM 5.3



Appeal Decision

Site visit made on 16 October 2014

by **S M Holden** BSc MSc CEng MICE TPP MRTPI FCIHT

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 November 2014

Appeal Ref: APP/V2255/A/14/2223979

**Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, Kent
ME13 9HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Beryl Chipperton against the decision of Swale Borough Council.
 - The application Ref SW/14/0391, dated 26 March 2014, was refused by notice dated 10 June 2014.
 - The development proposed is a dwelling to replace former cottage and associated works.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal for a dwelling would be a sustainable form of development given its location in the countryside.

Reasons

3. The appeal site is outside the village of Dargate and is part of a larger site occupied by a substantial detached house, *Acorns*, which is surrounded by an extensive garden. Prior to 1975 two small bungalows occupied this larger site. Permission was then granted for a chalet bungalow and the conversion of the second bungalow to a double garage, Ref: SW/75/807. Other developments have subsequently taken place at *Acorns*, including erection of a detached garage block over which is a first floor studio that has permission for use as a holiday let.
 4. The appeal proposal concerns the building that was converted into a garage for *Acorns* in 1975 and whose lawful use remains that of a garage ancillary to the main dwelling. Its previous use as a dwelling is therefore not relevant to my determination of this appeal. The existing building is in a poor state of repair, but is not of any historical interest or architectural merit. It is proposed to demolish the garage and construct a chalet bungalow that would have a slightly larger footprint and would include a rear conservatory. The area to the rear would be enclosed to form a small garden. Access to the proposed dwelling would be shared with *Acorns*.
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5. The site lies in the countryside outside any defined settlement boundary and beyond the boundary of the Hernhill-Dargate Conservation Area. Saved Policy E6 of the Swale Borough Local Plan, adopted February 2008, seeks to protect and enhance the countryside and sets out a series of exceptional circumstances where development may be allowed. There was no evidence presented with the appeal to suggest that the proposal would meet any of these criteria, or any of those associated with the related policies referred to in Policy E6.
6. The National Planning Policy Framework (the Framework) sets out the Government's approach to the development of housing. Its overall aim is to significantly boost the supply of housing and it requires housing applications to be considered in the context of the presumption in favour of sustainable development. The appeal site is not within an area that has a national designation, such as an Area of Outstanding Natural Beauty. However, it is in an area of countryside that has been designated as one of High Landscape Value within the Local Plan. Advice about housing in rural areas is set out in Paragraph 55 of the Framework, which states that rural housing should be located where it will enhance or maintain the vitality of rural communities. It goes on to advise that local planning authorities should avoid new, isolated homes in the countryside unless there are special circumstances.
7. Dargate is a small village with no facilities or services, with the exception of a public house. The local filling station, just outside the village, has an associated small convenience store. However, most facilities that are required to meet the needs of residents are at either in Whitstable or Faversham, both of which are about five miles away, or in Canterbury, which requires a journey of more than six miles. Even though there is a local bus service, it seems likely to me that the car would be the most attractive and convenient way for local people to reach their preferred destinations.
8. I note that a range of social and sporting activities take place within the village, all of which contribute to the area's sense of identity. However, the area is characterised by scattered dwellings interspersed with paddocks and orchards. The overall impression is of a dispersed rural community with only limited local facilities. In this context, an additional dwelling on this isolated site could not make a significant contribution to the long-term vitality and sustainability of village activities or support the provision of other nearby services and facilities.
9. Paragraph 55 recognises that there may be special circumstances where the general presumption against new houses in the countryside can be set aside. However, no evidence was presented to demonstrate that the proposal would be required to house an essential rural worker, preserve a heritage asset or re-use a redundant building. Neither did the appellant contend that it would meet the four tests set out in relation to proposals of exceptional design quality. The special circumstances required to allow an exception to the policy of resisting new dwellings in the countryside have therefore not been met.
10. I note the appellant's comments in relation to the suitability or otherwise of re-using the building for commercial purposes. However, both the Framework and Local Plan policies are generally supportive of proposals that could benefit the rural economy. It did not appear that any attempt had been made to find a suitable alternative use for the building. This reinforces my view that its replacement with a dwelling would be contrary to local and national policy.

11. I appreciate that the appellant has lived in the area for some time and wishes to move to a smaller property. However that is not a justification for setting aside clear national and local policies to protect the countryside. Similarly, the support of the Parish Council, which appears to be based on the previous use of the garage as a dwelling, is an insufficient reason to make an exception to current planning policy.
12. I conclude that the proposed dwelling would be an unsustainable form of development, due to its location in the countryside and outside a defined village boundary. It would fail to comply with the Framework's objective of only allowing housing development in rural areas where it can be demonstrated that it would enhance the vitality of a rural community. It would also conflict with the aims and objectives of saved Policy E6 of the Local Plan, which seeks to restrict development in the countryside.
13. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

A disappointing and strange decision, seemingly based on the fact that the peculiar extension would not be too noticeable, especially to drivers negotiating a sharp double bend nearby.

- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

- **Item 5.4** – 27, Hilton Close, Faversham, ME13 8NN

Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

I

Appeal Decision

Site visit made on 30 June 2014

by K R Saward Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2014

Appeal Ref: APP/V2255/A/14/2216634
27 Hilton Close, Faversham, Kent ME13 8NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Roger Moore against the decision of Swale Borough Council.
 - The application Ref SW/13/1252, dated, 1 October 2013 was refused by notice dated 28 November 2013.
 - The development proposed is erection of a detached dwelling with associated parking on land adjacent to No 27 Hilton Close.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. To gain a full appreciation of the site, I undertook an unaccompanied visit of the site with the occupier's consent.

Main Issues

3. The main issues raised are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the proposed parking arrangements at No 27 Hilton Close on highway safety in Hilton Close.

Reasons

Character and appearance

4. Hilton Close forms part of a pleasant modern residential estate. The road is characterised mainly by modest detached houses on relatively small plots. No 27 is located beside a long row of link detached houses. All of these houses are built very close to the road with no footway. Their rear boundaries are adjacent to a cliff edge with a sheer drop created by excavations at the former lime works on which all the properties are built. Whereas the other properties in the row are of uniform appearance, No 27 notably differs in style and its 'L' shape form has its flank wall facing the road. The proposal is to sever part of the side garden from No 27, which is on a bend in the road, and to construct a three bedroom detached dwelling.

5. The proposal seeks to overcome the reasons for refusal for a previous proposal for a detached dwelling on the site which was dismissed on appeal in 2013¹. By orientating the proposed dwelling so that it is also side facing the road and in positioning it close to No 27, there would be less built-up frontage than the previous scheme. To some extent this would preserve the sense of openness and maintain most views of the mature trees on the cliff edge which make an important contribution to relieving the density of building in this part of the road. Whilst the amount of vegetation would be reduced, this would be mitigated by planting in front of the dwelling and within the appeal site.
6. However, this would not sufficiently overcome the impact of a wide hard surfaced parking area to the immediate frontage. This part of the site is particularly prominent due to the curve in the road. The dominant impression would be of the parking area rather than greenery which currently plays a significant role in enhancing the street scene. As such, the quality of the area would be diminished rather than maintained.
7. Furthermore, as the plot is small and constrained by its irregular shape, the size and scale of the proposed dwelling extending the majority of its depth, would give rise to a cramped appearance. Although there are other properties on small plots, those I noted on my site visit were not so prominently located. Where dwellings have been extended into their gardens the impact is not comparable to the construction of a wholly new dwelling.
8. Consequently, I find that these aspects of the proposed development would have an adverse effect on the character and appearance of the surrounding area contrary to Policies E1 and E19 of the Swale Borough Local Plan (LP), 2008. Amongst other things, these policies seek to achieve development that protects and enhances the built environment. It would also be contrary to Paragraph 58 of the National Planning Policy Framework (the Framework) insofar as it seeks development that adds to the overall quality of the area.
9. The differing design and use of tile hanging would add interest to the street scene without being obtrusive particularly in view of the wide range of building styles and materials in the area. It would also reflect the use of cladding on No 27 and elsewhere on the estate. The amount of cladding would be extensive, but I do not consider that this would detract from the street scene. Whilst the roof span would be wider than neighbouring properties, its visual impact would be mitigated by its orientation with the flank wall directly facing the road. In these respects I find the proposal acceptable and that no conflict with the aforementioned policies arises.

Parking arrangements

10. In addition to a single detached garage at No 27, there is currently space providing parking to either side of the garage. The area between No 27 and its garage would remain. This comfortably provides parking for one vehicle, but would not suffice to accommodate more than one car. The space between the garage and side garden would be lost leaving one car parking space and parking for one vehicle in the garage. LP Policy T3 requires appropriate vehicle parking arrangements in accordance with Kent County Council parking standards². The recommended standard of two spaces for a four bedroom

¹ Appeal Ref: APP/V2255/A/12/2181892

² Kent Design Guide Review: Interim Guidance Note 3, 2008 for Residential Parking

dwelling in addition to any garage would not be achieved. The figures are not expressed to be a maximum, but provide a guide.

11. However, without the recommended number of spaces there is potential for residents who, for convenience, would wish to park in proximity to No 27 where there is very limited availability for on-street parking due to the narrowness and bends in the road. This would restrict access and present inconvenience to other road users. It could also pose a highway safety risk if parked vehicles impede visibility near the children's play area opposite or if vehicles were to park outside No 27 near to the bend in the road.
12. Whilst the appellant has indicated a willingness to extend, alter or demolish the garage, this is not part of the proposal before me. As there is insufficient space for two parking spaces, I do not consider that the appellant's suggestion of a condition to require the provision of such spaces prior to the commencement of development would be reasonable.
13. Consequently, I cannot be satisfied that the proposed parking arrangements at No 27 would be acceptable and that no significant adverse effect would be caused to highway safety in Hilton Close. As such, the proposal would conflict with LP Policy T3.

Conclusion

14. Although I have found in favour of the appeal in relation to the design and materials of the proposed dwelling, this does not outweigh the harm that I have identified with regard to the prominent parking area, the cramped nature of the proposed development and the effect on highway safety.
15. For the reasons given above and, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

KR Seward

INSPECTOR

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

A disappointing and strange decision, seemingly based on the fact that the peculiar extension would not be too noticeable, especially to drivers negotiating a sharp double bend nearby.

- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

- **Item 5.4** – 27, Hilton Close, Faversham, ME13 8NN

Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

I

Appeal Decision

Site visit made on 27 May 2014

by **Clive Tokley MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 June 2014

Appeal Ref: APP/V2255/A/14/2212547

The Faversham Club, Gatefield Lane, Faversham, ME13 8NX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin Jordan against the decision of Swale Borough Council.
 - The application Ref SW/13/0425, dated 16 February 2013, was refused by notice dated 24 July 2013.
 - The development proposed is the replacement of timber windows with PVC heritage windows to the rear and side elevations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Faversham Conservation Area (CA).

Reasons

3. The CA is focussed on the historic commercial centre of Faversham and extends out to include the surrounding residential streets. The CA contains a wide range of buildings of different ages. My impression was that a very high proportion of the buildings in the vicinity of the Faversham Club have retained their timber windows.
 4. The Club lies just off the shopping area in the town centre and occupies a former chapel that was built in the 1830s. Whilst the building is not listed its handsome well-proportioned front elevation has an arresting appearance in the narrow pedestrian route that links the shops in Preston Street to Newton Road and the residential area beyond. As regards both its history and appearance it is a building of significance within the CA.
 5. The side and rear elevations of the building are not as striking as the front but for the most part they appear to remain as originally built. Whilst they are in need of maintenance and repair the windows in these elevations are important elements in defining the character of the building. Most of the windows on the "right hand" (east) side of the building have large-paned 2 over 2 vertical sliding sashes with slender timber glazing bars and frames. These windows are
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below shallow brick arches and have stone cills. Five windows of the same design and detailing are found on the upper floor of the west side of the building. This elevation also includes five narrower windows on the upper and ground floors and these share the design approach of the larger windows. The principal feature at ground floor level in the west elevation is a wide opening within which are four timber sash windows set within a timber frame with a full-width timber cill. These windows appear to have been a later addition to the building and, whilst they also have slim frames, the sashes and the window opening do not share the detailing of the original windows.

6. The application indicates that all of the windows in the east and west elevations would be replaced and that the proposed windows would be designed to replicate the existing vertical sash windows. A brochure has been submitted indicating typical window designs and I saw a sample of the "Heritage Rose" window at the site visit.
7. The brochure indicates that the proposed windows incorporate "ultra slim" sash and meeting stiles but these would be bulkier than the very slender timber stiles and rails of the existing windows. This would adversely affect the proportions of the larger windows and would have greater effect on the narrow windows where the frame occupies a proportionately greater area of the opening. The reflective quality and texture of uPVC differs from that of painted timber and I consider that the proposed windows would be distinguishable from the original timber windows.
8. There are no drawings showing how the proposed windows would sit within the window reveals and there is no indication of how the large opening in the west elevation would be treated. I therefore have limited information to enable me to consider the full effect of the proposal on the building and the CA. Nevertheless I consider that as regards the proportions of their structural elements and their surface texture and appearance the proposed windows would not reflect the original character of the building and would be harmful to the character and appearance of the CA.
9. The appellant draws attention to the use of non-timber windows nearby in the CA; however the examples referred to do not relate to the replacement of original windows. I have noted the examples of uPVC windows in the brochure submitted by the appellant and the references to the use of uPVC elsewhere. However none of these convince me that the windows as proposed here would be acceptable.
10. Although located in a quiet pedestrian route I consider that the appeal property makes an important contribution to the character and appearance of the CA. The flank walls may not be prominently in view but they are seen from public and semi-public areas and the side windows are an important element in the historic integrity of the building. The design and appearance of the windows in the appeal building reflects the prevailing character of the vertical sliding timber sash windows within the CA and I consider that their replacement as proposed would detract from the character and appearance of the CA. The proposal would therefore conflict with Policies E1, E15 and E19 of Swale Borough Local Plan 2008 which seek to ensure that proposals respond positively to the distinctive characteristics of their surroundings and preserve or

enhance the features that contribute to the special character and appearance of conservation areas.

11. In my view the harm caused to the CA by the proposal would be "less than substantial" as defined by the National Planning Policy Framework. I have noted the benefits of the uPVC windows as regards insulation but the thermal performance of the building could be improved without the harm arising from the proposal. The appellant also draws attention to the reduced maintenance requirements of the proposal as compared with timber windows but I consider that neither this nor the improved insulation would represent public benefits that would outweigh the harm to the CA.

Conclusions

12. I have concluded that the proposal would neither preserve nor enhance the character or appearance of the Faversham Conservation Area. I have not identified any benefits that would outweigh the harm arising from the proposal and therefore, taking account of all matters, I conclude that the appeal should not succeed.

Clive Tokley

INSPECTOR

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1** – Willow Farm Caravan Park, Hansletts Lane, Ospringe, Faversham, ME13 0RS

A decision based on security management needs arising from the appellant selling off the original dwelling which supervised the caravan park, and in which he had failed to implement or update the advice of the police. As such I consider this to be a poor decision relying too heavily on the appellant's out-of-date evidence, and one in which I consider the Council's concerns have not been given adequate weight.

- **Item 5.2** – 8 Brogdale Road, Faversham, ME13 8SX

A disappointing and strange decision, seemingly based on the fact that the peculiar extension would not be too noticeable, especially to drivers negotiating a sharp double bend nearby.

- **Item 5.3** – Land adjacent to Acorns, Butlers Hill, Dargate, Faversham, ME13 9HG

Full support for the Council's decision.

- **Item 5.4** – 27, Hilton Close, Faversham, ME13 8NN

Support for the Council's decision on streetscene issues, although the Inspector accepted the design as acceptable, which I did not.

- **Item 5.5** – The Faversham Club, Gatefield Lane, Faversham, ME13 8NX

Full support for the Council's decision.

- **Item 5.6** – Site at 9 Ashford Road, Faversham, ME13 8XJ

A very welcome decision which fully supports the Council's decision.

I

Appeal Decision

Site visit made on 1 July 2014

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 July 2014

Appeal Ref: APP/V2255/A/14/2213016

9 Ashford Road, Faversham, ME13 8XL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Troika Investment Co Ltd against the decision of Swale Borough Council.
 - The application Ref SW/13/0670, dated 24 May 2013, was refused by notice dated 22 November 2013.
 - The development proposed is 12 terraced, semi-detached and detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are whether the proposal would preserve or enhance the character or appearance of the Faversham Conservation Area and whether it would preserve the setting of the listed buildings.

Reasoning

3. The appeal site is outside the built-up area of Faversham but within the Conservation Area. The appeal site is located on the south side of London Road (A2) close to its junction with Ashford Road (A251). The site is about 0.5km from Faversham railway station. There are two listed buildings in the approximate centre of the northern part of the site. The appeal site was originally an orchard but there are few trees remaining and the land is mostly laid to grass. To the north of the appeal site, between it and the A2, there is a plot of open land¹ which was also formerly an orchard; it currently has a few sparsely planted fruit trees and what appeared to me to be a number of recently planted saplings in a variety of different species.
4. The proposed development would comprise seven detached, two semi-detached and three terraced houses of two or two and half storeys with accompanying open sided car ports and there would be additional parking spaces for visitors. There would be seven houses in the western part of the site and these would include the three terraced houses which would face Ashford Road; the remaining five houses would be located to the east of the listed cottages. The houses would have individual designs and they would be

¹ With an area of about 0.8 hectares (2 acres)

- built with traditional brick and tile exterior materials. The current vehicular access onto the A251 would be closed and all vehicular access would be from the existing access from the A2. There would be a 'Green' to the south of the listed cottages.
5. The appeal site and the surrounding area have a lengthy planning history. As long ago as the early 1990s Inspectors in two planning appeals² recognised the difference between the character and appearance of land to the north and south of the A2 and in the earlier decision the setting of the listed buildings was considered. Whilst I appreciate that there have been developments in the vicinity of the appeal site since that time and the proposals in those appeals were very different from the one in this appeal, the comments in respect of the differences between the two sides of the A2 seem to me to remain pertinent and the semi-rural open character of the land on the south side of the road remains. Also the statutory requirement contained in s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, that is, 'when considering whether to grant planning permission for development that affects a listed building or its setting [the decision maker] shall have special regard to the desirability of preserving its setting', remains in force.
 6. The Inspector in the earlier appeal described the setting of the listed cottages as '... apart from the access area to the west, they are more or less surrounded by the trees and grazing areas of the orchard. They have small cultivated garden areas but do not possess any of the more 'urban' characteristics of 'Mindon' and its garden to the north west ... The overall impression of their setting, in my opinion, is that the cottages are seen as typically rural dwellings, well removed physically and visually from the predominantly built-up urban area of Faversham to the north. The cottages possess a rustic charm and are in a setting that is more typical of the more open countryside parts of Kent than of the built up area ... the surrounding orchard contributes positively to their setting, despite its rather wild and unkempt state and the condition of the scattered fruit trees'³.
 7. Some years later, in 2004, the Council's Conservation Area Character Appraisal describes the listed buildings as follows: '... on the southern side of London Road close to the junction with Ashford Road two early C19 brick and weatherboarded cottages are still to be found set deep within a patch of old orchard at the end of an unmade track, so that their pegtiled roofs are viewed across the tops of old fruit trees. Just here, therefore, is a fragment of 'rural Kent' positioned right alongside the southern edge of the town. Despite the rather lacklustre appearance of the orchard (a collection of rather randomly spaced trees of varying sizes, varieties and vigour) the traditional Kentish character of the houses, the orchard setting and the position on the very edge of Faversham town are in combination such that this remains a rather special place'⁴.
 8. Then in 2007 the appeal site was considered by a Local Plan Inspector who said that, on the south side of the A2 a sense of openness and space prevailed in contrast with the character of the land to the north. Coupling that with the special planning considerations applicable to the Conservation Area he concluded that the land was 'so important visually in its function as a foil to the

² T/APP/V2255/A/90/173993/P7 and T/APP/V2255/A/92/206588/P8 - both appended to the Council's statement

³ Paragraph 23 and 24 of T/APP/V2255/A/90/173993/P7

⁴ Faversham conservation area character appraisal September 2004 paragraph 11.22

more heavily built up area of Faversham to the north of the A2 that, in conjunction with the predominantly open land adjacent to it, it should remain open and substantially undeveloped, as now⁵.

9. English Heritage, in its response to the current proposal note that the cottages are listed for the attractive use of Kentish vernacular forms and materials and their setting among fruit trees and also their functional relationship to the orchard which illustrates the fruit growing traditions of Faversham.
10. Whilst some aspects of the area around the site may have changed with recent developments, in particular the erection of the new laundry building and what appears to be the loss of some trees of the appeal site and the land to the north, it seems to me that the immediate setting of the listed cottages has not altered to any significant extent. They are still surrounded by open land in a countryside setting that is divorced from the urban nature of Faversham to the north of the A2.
11. The proposal would irrevocably alter this setting. Instead of orchard/open land there would be manicured gardens and domestic planting; there would be domestic paraphernalia around the dwellings; there would be significant amounts of hard surfaced areas for the driveways, parking and turning spaces; all of these elements would result in a sub-urban setting far removed from the current semi-rural one. There would be traffic immediately in front of the cottages, albeit on a narrowed section of the drive, and far from 'the area immediately to the south remaining intact in its direct relationship to those buildings' as suggested by the Appellant I consider that the driveway would cut the cottages off from the land to the south.
12. Although the proposed scheme would provide for some space around the cottages, the proposed dwellings would be considerably larger buildings than the cottages; there would also be twelve of them as well as the car ports and I consider that the total scheme would overwhelm the cottages and have an adverse impact on their setting.
13. The adjacent land to the north of the appeal site is within the control of the Appellant and it is included in the landscape masterplan⁶. The Appellant says it is, and always has been, their intention to retain and manage this area for the longer term⁷. There was a suggestion that the land could be retained as open land and safeguarded from future development by the Appellant entering into a s.106 obligation in this regard. The Parties questioned whether such an obligation was possible and, as no such obligation has been made, this is a matter outside the scope of this decision. There is therefore no guarantee that the land would remain open and I cannot speculate about the possibility or type of any future applications in respect of that land or what any decision would be. This land is, however, in my opinion an important element of the setting of the listed cottages.
14. The situation with regard to the Green is somewhat different because that areas of land would be within the appeal site and its retention as open land could be enforced by way of a planning condition. The driveway would,

⁵ Quoted on page 48 of the Report to the Planning Committee dated 29 August 2013

⁶ Drawing 2460/D002C

⁷ The Appellant's final comments

- however, cut the cottages off from this open land (as mentioned above) to the detriment of their setting.
15. The town of Faversham has developed to the north of the A2⁸ unlike other towns and villages along it which tend to have developed on both sides. This results in the land to the south of the A2 being predominantly open with some sporadic development. In the immediate vicinity of the appeal site there is 'Mindon' on the corner of the A2/A251 which is a substantial detached house and garden and opposite it and the site there is a Fire Station and a small number of associated houses. The laundry is to the south of the appeal site on the A251 and beyond that there is some ribbon residential development.
 16. The appeal site is outside the built-up area boundary but, in view of the location of the listed buildings and the orchard the conservation area extends across the A2 to include 'Mindon', the appeal site and the land to the north of the appeal site. S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering applications such as this.
 17. The appeal site has a semi-rural quality and, at the time of my visit, was relatively peaceful and tranquil. I appreciate that when it is fully operational there may be some noise emanating from the adjoining commercial laundry but I consider that the proposal, as well as having an adverse visual impact, would have an adverse aural impact because of the noise of day-to-day living resulting from the residents, visitors and vehicles.
 18. For reasons similar to those relating to the setting of the listed cottages I consider that the introduction of a small housing estate onto previously open land would result in the urbanisation of this part of the conservation area which would neither preserve nor enhance its character or appearance.
 19. I note the Appellant's opinion that the cottages would not be listed today because they have no special features of architectural or historic interest but I have to determine this appeal on the basis that, as matters of fact, they are listed and that the appeal site is within a conservation area. Paragraph 132 of the Framework⁹ advises that great weight should be given to a heritage asset's conservation and it has been established that considerable importance and weight should be attached to the desirability of preserving the setting of listed buildings and the character or appearance of a conservation area¹⁰.
 20. I also note that the orchard setting has been eroded over time by such things as the removal of trees and the sale of some land for the laundry site car park. But the fact that there has been some erosion of the size and quality of the orchard is not a reason to justify a grant of permission because if it was it could result in the owner of a heritage asset failing to maintain his property and land. I do not suggest at all that there has been any deliberate neglect or damage in this case but paragraph 130 of the Framework advises that where there has been such neglect or damage the deteriorated state of the heritage asset should not be taken into account in any decision. It therefore seems to me that by analogy the current condition of the orchard carries little weight.

⁸ Watling Street Roman Road

⁹ The National Planning Policy Framework

¹⁰ Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137

21. The Council does not have a five year supply of housing land and this means that housing supply policies in the local plan should not be considered up-to-date¹¹. None of the Local Plan policies referred to on the notice of refusal are specifically housing supply policies although one of the aims of saved policies SP1, FAV1 and SH1 is to promote land within urban areas for housing. The proposal would provide twelve dwellings which would make a small contribution to the supply of housing in the area; the properties would be well designed; the proposal would offer prospective purchasers a choice of a range of differently sized houses; the location is sustainable in that the railway station is about 0.5km away and the town centre is a short distance beyond that. Whilst the proposal would therefore provide a degree of public benefit I do not consider that this would outweigh the desirability of preserving the setting of the listed buildings and the character or appearance of the Faversham Conservation Area.
22. The notice of refusal cites a number of saved policies in the Swale Borough Local Plan¹² which seek in the main to restrict development to inside the built-up area boundaries; to restrict development in the countryside, that is land, falling outside the built-up area boundaries, to specific types of development, none of which is applicable in this case; to preserve the setting of listed buildings; and to preserve or enhance all features that contribute positively to a conservation area's special character or appearance. Whilst I accept that the proposal would comply with some elements of these policies, such as, being located so as to promote the provision of transport choices other than the car and providing safe vehicular access, I find that as a whole the proposal would not be in compliance with these policies. For the reasons given above, I therefore conclude that the proposal would not preserve or enhance the character or appearance of the Faversham Conservation Area and that it would not preserve the setting of the listed buildings.

Other matters

23. I consider that a number of other matters of concern to the Council in respect of the proposal, such as, the protection of the mature sycamore adjacent to the Ashford Road; noise mitigation measures arising from the close proximity of the laundry; a risk assessment for contamination; surface water drainage issues; and an archaeological survey could be overcome by the imposition of planning conditions.
24. The Appellant has provided a unilateral undertaking made pursuant to s.106 of the 1990 Act to pay infrastructure contributions towards such things as public open space, libraries and community learning. I understand that the terms of undertaking are acceptable to the Council. However, because the appeal is to be dismissed on the main issues I give no weight to the undertaking.
25. The Council is concerned that a grant of planning permission for this site would set a precedent for similar applications for sites south of the A2. I am aware that other sites have been proposed, and rejected, for housing development south of the A2 and it seems to me that this appeal site is likely to be different from any other site because of, for example, the listed buildings and its location within the conservation area. In any event, each application has to be determined on its own merits, which is the approach I have taken in my

¹¹ Paragraph 49 of the Framework

¹² Policies SP1, FAV1, SH1, E1, E6, E14 and E15

determination of the appeal, and even if I had allowed the appeal I do not consider that any precedent would have been set.

Conclusions

26. I have found that some public benefit would be gained from the proposal, however, this and other positive factors do not outweigh the considerable weight I attach to the desirability of preserving the setting of the listed buildings and the character or appearance of the Faversham Conservation Area. For the reasons given above, and taking all other matters into account, I conclude that the appeal should be dismissed.

Gloria McFarlane

Inspector

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Agenda Item 8

By virtue of paragraph(s) 1, 2, 3, 6 of Part 1 of Schedule 12A of the Local Government Act 1972.

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