

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 1 February 2018

Time: 7.00 pm

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

#### Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Roger Clark, Richard Darby, James Hall, Nicholas Hampshire, Harrison, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan

Quorum = 6

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Pages

#### 1. Fire Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 4 January 2018 (Minute Nos. 420 - 428) as a correct record.

4. 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.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**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 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**

5. Deferred Items

1 - 22

To consider the following application:

**REFERENCE NO - 17/505562/FULL** - Demolition of existing shed and construction of annex to dwelling house as amended by drawing no's. NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017 - Gladstone House, 60 Newton Road, Faversham, Kent, ME13 8DZ.

Members of the public are advised to confirm with Planning Services prior

to the meeting that the applications will be considered at this meeting.

Requests to speak on these items must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 31 January 2018.

6. Report of the Head of Planning Services

23 - 58

To consider the attached report (Parts 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](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 31 January 2018.

**Issued on Tuesday, 23 January 2018**

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](http://www.swale.gov.uk)

Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**1 FEBRUARY 2018**

#### Standard Index to Contents

**DEFERRED ITEMS** Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

**PART 1** Reports to be considered in public session not included elsewhere on this Agenda

**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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 1 FEBRUARY 2018

- Minutes of last Planning Committee Meeting
- Deferred Items
- Minutes of any Working Party Meetings

### DEFERRED ITEMS

Def Item 1 Pg 1 – 22	17/505562/FULL	FAVERSHAM	Gladstone House 60 Newton Road
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### PART 2

2.1 Pg 23 – 28	17/506378/FULL	MINSTER	29 Seathorpe Avenue
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2.2 Pg 29 – 36	17/505865/FULL	SELLING	Land at Sondes Arms
-------------------	----------------	---------	---------------------

### PART 3

3.1 Pg 37 – 42	17/506506/FULL	MINSTER	47 Princes Avenue
-------------------	----------------	---------	-------------------

### PART 5 - INDEX

Pg 43 – 44

5.1 Pg 45 – 46	17/502840/FULL	QUEENBOROUGH	28 High Street
-------------------	----------------	--------------	----------------

5.2 Pg 47 – 49	16/505002/FULL	BLUE TOWN	70 High Street
-------------------	----------------	-----------	----------------

5.3 Pg 50 – 52	17/500531/FULL	SHEERNESS	31A St Georges Avenue
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5.4 Pg 53 – 55	17/500946/FULL	NEWINGTON	land rear of 148 High Street
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5.5 Pg 56 – 58	17/502466/PNQCLA	DUNKIRK	Agricultural Barn, Foresters Farm, London Road
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**PLANNING COMMITTEE – 1 FEBRUARY 2018****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>Def Item 1      REFERENCE NO - 17/505562/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing shed and construction of annex to dwelling house as amended by drawing no's. NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017			
<b>ADDRESS</b> Gladstone House 60 Newton Road Faversham Kent ME13 8DZ			
<b>RECOMMENDATION – Grant subject to conditions</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
Proposed development would preserve or enhance the character of the conservation area, and would not give rise to unacceptable harm to residential amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Deferred following Planning Committee Meeting of 4 January 2018 (Originally reported to Planning Committee Meeting of 7 December 2017 as recommendation was contrary to Town Council view)			
<b>WARD</b> Abbey		<b>PARISH/TOWN COUNCIL</b> Faversham Town	<b>APPLICANT</b> Mrs Mary Mackay <b>AGENT</b> Wyndham Jordan Architects
<b>DECISION DUE DATE</b> 29/12/17		<b>PUBLICITY EXPIRY DATE</b> 08/12/17	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/507024/FULL	Demolition of existing shed and construction of new two storey 2 bedroom dwelling house.	Refused	18.11.16

**1.0 INTRODUCTION**

- 1.01 Members will recall that this application was reported to Planning Committee on 7<sup>th</sup> December 2017. After some discussion in which Members raised a number of concerns about the proposal, it was agreed to arrange a site meeting. Following the site meeting on 19<sup>th</sup> December 2017 the application was reported back to the planning committee on 4<sup>th</sup> January 2018. The original committee report and the relevant minutes of the most recent meeting are appended (Appendix A).
- 1.02 A verbal update was presented to Members at the January meeting which reported that two additional letters of objection had been received raising concerns about the proposal creating a domino effect, worsening parking issues and the potential harm to the residential amenities of the adjoining neighbouring property. It was also reported

that the County's Archaeological Officer advised that no precautionary measures are necessary.

- 1.03 After voting not to approve the application, and further debate regarding possible reasons for refusal, Members resolved that the application be deferred to allow officers to address all of the following issues in liaison with the Ward Members:

- Overbearing affect on neighbouring properties resulting from the bulk and height of the building
- Loss of openness in conservation area
- Use of the annexe as a dwelling
- Loss of parking
- Building should be used as a garage
- Would set a precedent for future development

## 2.0 THIS REPORT

- 2.01 This report addresses the above issues and considers the implications of appeal decisions at 2 Ruins Barn Road, Tunstall (Appendix B) and 19 South Road, Faversham (Appendix C). This report has been circulated to Ward members in draft and they have both responded. Councillor Bryan Mulhern had no comments to make on the report. Councillor Anita Walker opposes the application although she has noted that the existing outbuilding has never been used as a garage, but as a garden shed; although she considers that a garage might help with local parking problems and increase the value of the property.

## 3.0 DISCUSSION

- 3.01 I will address each of the Members concerns listed above in this section and will then go on to consider possible reasons for refusing this application.

### Overbearing

- 3.02 The existing flat roofed shed is 2.1 metres high. The proposed new building will be 2.4 metres to the eaves and 4.4 metres to the ridge. The previously refused application (16/507024/FULL) proposed a two storey house with a ridge height of 6.5m in exactly the same location. The case officer for that application stated *"The height of the proposed building results in an imposing feature/intervention into the public mews space to the north-west and the domestic garden space to the south-east"*. It is clear to me that the scale of the two storey building previously refused would have been excessive but in this case, a reduction in the scale of the proposed building, and the revised proposals address this concern, reducing the height of the building by 2.1 metres to provide an annexe as opposed to a dwelling.
- 3.03 The annex now proposed will be single storey building measuring 6.7m x 4.5m with a shallow pitched roof to a maximum height of 4.4m located at the far end of the plot. The properties along this terrace all have traditional long narrow gardens. Given the separation distance of approximately 15 metres between the annexe and the rear elevation of neighbouring properties, I do not consider that the building will be close to neighbouring rear windows of houses in Newton Road, nor is it particularly close to the private amenity space immediately to the rear of these neighbouring properties. Whilst the new building is of a slightly larger footprint than the existing garage, I do not consider that it will result in an imposing or domineering feature in the domestic garden space. I draw Members attention to the appeal decision at Appendix B to this

report relating to 2 Ruins Barn Road (application 14/503907/FULL) where an appeal was allowed for a large double garage to the rear of the property. In that case the pitched roof garage building with storage space above measured 8.0m long by 5.3m wide with an overall height of 4.0m. The Inspector acknowledged that the development did not give rise to additional harm to the neighbouring occupiers. In paragraph 13 the Inspector noted that there is no right to a view in law and, in paragraph 14, in relation to neighbours' outlook and the question of the building being overbearing, he said;

*"Its combined height, size and proximity are not of a level to give rise to an oppressive form of development for neighbouring residents whether from windows or gardens."*

At paragraph 15, he continued;

*"Moreover, the separation distance between the garage and neighbouring houses suffices to avoid any material adverse effect on sunlight to rooms. For the same reason and with other intervening structures and planting, the level of any increased shading of gardens would not be significant."*

At paragraph 16, he concluded that;

*"Thus, I find no adverse effect on the living conditions of neighbouring occupiers in terms of outlook or impact on sunlight for demonstrable harm to arise in conflict with LP Policy E1."*

To my mind these conclusions are applicable to the similar relationship between the proposed annex and properties in Newton Road, and this would make any refusal of planning permission on this ground very difficult to defend on appeal.

- 3.04 I am, however, mindful that at the rear of the property lies an off-shoot of Solomon's Lane and the dwellings converted from the church hall of the Preston Street church. One converted dwelling in particular, known as Wesley House, forms the rearmost part of that conversion and fronts onto the off-shoot of Solomon's Lane; facing towards the rear gardens of Newton Road, where it features a number of windows. This dwelling sits across the limited width of Solomon's Lane and substantially closer to the end of the application site than houses in Newton Road do. However, the proposed annex is not opposite the windows in Wesley House as this faces the rear garden of 62 Newton Road. The proposed annex will sit diagonally across Solomon's Lane and to the north of Wesley House; not directly in front of its windows. Whilst the annex may cast a shadow in the direction of Wesley House at dawn at certain times of year, I do not believe that its height or bulk will result in continuous or permanent harm to the amenity of that property sufficient to justify refusal of planning permission.

3.05 Loss of openness in conservation area

Solomon's Lane is a narrow well used pedestrian route running between buildings and high walls leading to the town centre. The surrounding properties are residential with some having been converted from public buildings to residential use. The sizes and openness of the long gardens at this end of Newton Road make an important contribution to the spacious character of the area, and I draw Members attention to Appendix C to this report which is an appeal decision at 19 South Road (application 15/509814/FULL) when an appeal was dismissed for a two storey dwelling in the long rear garden of that property which adjoin a similar lane, Cross Lane, and which was also located within the conservation area. The Inspector in that case concluded that the proposed development would be harmful to the character and appearance of the

surrounding area. In dismissing that appeal, the Inspector commented in paragraph 4 that;

*“The proposal would create a substantial building with first storey and pitched roof visible over the Cross Lane boundary high wall. Although Cross Lane is narrow with high walls either side, this would not restrict views of the proposed dwelling as a result of its height and closeness to the pathway.”*

3.06 The Inspector then went on in paragraph 5 to conclude that;

*“...a dwelling of this height is not in context with the immediate environment” and that “...the resulting dwelling would not, to my mind, be perceived akin to an ancillary building in the way that the outbuilding to the rear of Nos 29 and 31 South Road appear with a relatively small part of its pitched roof visible over the boundary walls. The proposed development would be out of keeping with the landscaped gardens that form the character and appearance of this part of Cross Lane.”*

3.07 It is evident from this decision that it may be reasonable to oppose the erection of a two storey dwelling in an open garden location in this conservation area as an intrusive form of development. This is precisely what has previously been refused on the current application site. However, I consider the current case to be significantly different. The development now being considered here is for a single storey outbuilding which is considered to be appropriate to its location in respect of scale, height, and design. In this case the garden in question does not lie immediately adjacent to the busiest part of Solomon’s Lane and the visual impact will simply be that of a single storey building which one might expect to find in a rear garden, with only a small part of its roof visible; much as the Inspector found appropriate at 29 and 31 South Road

3.08 Accordingly, taking note of this appeal decision, I do not find a comparison sufficient to justify refusal of planning permission, but rather an acknowledgement that such single storey structures are to be expected in such situations.

#### Use of an annexe as a dwelling

3.09 A building containing a bedroom, shower room and lounge, accessible from the rear garden to the host building will constitute annex accommodation. It will be significantly smaller in footprint than the main house and not capable of independent occupation by virtue of lack of facilities for example, a kitchen. I consider that the use of this building for an annexe is acceptable and recommend imposing condition (3) below which restricts the use of the building to purposes ancillary and or/incidental to the use of the dwelling. As such, I do not see how this can raise new issues of impact on the amenities of neighbours or the area as a whole. Nor do I do find grounds to refuse planning permission on grounds that the building may at some future date be used as a separate dwelling. That would require its own planning permission and could be subject to enforcement action if it started without such permission.

#### 3.10 Loss of parking

The existing building is currently used as a shed for storage. Whilst the timber double doors indicate that it may have previously been used as a garage Councillor Walker is clear that this has not been the case. Members will note from the site meeting that the area immediately to the rear of this building is narrow and would be particularly tight when manoeuvring a vehicle. As a result, the proposal would not displace parking to

Newton Road as the property does not currently have any off-road parking spaces. I do not see any potential reason to refuse planning permission here.

Building should be used as a garage

- 3.11 There are no conditions restricting the use of the building as a garage. Members will note from the site meeting that the current building is small and could potentially provide parking for one car. Vehicular access is from a narrow access path. As such, I do not consider that the building is particularly suitable as a garage and consider it a difficult site to access by car. To my mind this matter does not constitute a reason to refuse planning permission.

Would set a precedent for future development

- 3.12 The approval of this development will not set a precedent for further development to the rear of Newton Road. All applications are determined on their individual merits and such matters should not be used to refuse planning permission.

#### **4.0 CONCLUSION**

- 4.01 At the 4<sup>th</sup> January meeting, Members discussed various potential reasons for refusing the application. It was suggested by some Members that the proposal would result in demonstrable harm to the residential amenity of neighbours in terms of it being overbearing and causing loss of light. I do not consider loss of light to be relevant in this case therefore of the issues discussed above, possible other reasons could be its overbearing impact and loss of openness in a conservation area, but I have reported on these matters above.
- 4.02 Members should be clear that without adequate justification for refusing this development, an appeal would be likely to be allowed. I recognise that some Members may still be minded to refuse this application, and I suggest this should focus on the impact on the character and appearance of the Conservation Area, such as the following :

*“The proposed development by virtue of its scale, design and location would result in a building which would have an enclosing effect that would be harmful to the outlook and enjoyment of neighbouring properties, and the open nature of the site which lends itself to the character of the Faversham conservation area. The proposed development would therefore cause harm to amenity and fail to preserve or enhance the character or appearance of the Faversham conservation area at the location in question contrary to policies DM14, DM16 and DM33 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017.”*

- 4.03 However, I believe there that this reason may be difficult to defend on appeal and that there is a strong case to approve this application. I am therefore again recommending that planning permission should be granted subject to the following conditions.

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

##### **CONDITIONS**

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

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

- (2) The development hereby approved, including the specification of materials to be used in the construction of the annexe, shall be carried out in accordance with the following approved drawings:

NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017

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

- (3) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the use of the property known as "Gladstone House, 60 Newton Road" as a single dwellinghouse.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

### **The Council's approach to this application:**

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



**APPENDIX A**

Planning Committee Report – 7 December 2017

ITEM 2.5

<b>2.5 REFERENCE NO - 17/505562/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing shed and construction of annex to dwelling house as amended by drawing no's. NR1760.01A, NR1760.05A, NR1760.06A, and NR1760.07A received 16 November 2017			
<b>ADDRESS</b> Gladstone House 60 Newton Road Faversham Kent ME13 8DZ			
<b>RECOMMENDATION</b> – Approve <b>SUBJECT TO:</b> outstanding representations (closing date 8 December 2017)			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
Proposed development would preserve or enhance the character of the conservation area, and would not give rise to unacceptable harm to residential amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Town Council objection			
<b>WARD</b> Abbey	<b>PARISH/TOWN COUNCIL</b> Faversham Town	<b>APPLICANT</b> Mrs Mary Mackay <b>AGENT</b> Wyndham Jordan Architects	
<b>DECISION DUE DATE</b> 29/12/17	<b>PUBLICITY EXPIRY DATE</b> 08/12/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/507024/FULL	Demolition of existing shed and construction of new two storey 2 bedroom dwelling house.	Refused	18.11.16

**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is within the domestic garden of 60 Newton Road, Faversham which is a single dwellinghouse offering bed and breakfast accommodation for tourists. Currently located on the application area is a shed. The site lies within the designated Faversham conservation area and within the built up area of Faversham.
- 1.02 The proposed annexe would be located to the rear of 60 Newton Road where this face the rear of Preston Street church, at which point the former church hall has been converted in to small dwellings and flats. Newton Road at this end features predominately large residential properties with narrow long gardens, some with parking in the rear of those gardens.

**2.0 PROPOSAL**

- 2.01 This application as first submitted sought to demolish the existing shed and construct a new building with a rather steep pitched roof, to be used as an annexe to the dwelling. The proposal has since been modified to reduce the roof pitch/height and to remove the rooflights originally proposed within the front facing roofslope.



**APPENDIX A**

Planning Committee Report – 7 December 2017

ITEM 2.5

- 2.02 The existing shed has a corrugated cement flat roof and rendered front panel with timber double doors. The rear west elevation and north side elevation of the building are constructed using concrete blocks at low level with a glazed timber frame above. The boundary garden wall comprising of yellow stock bricks flanks the south side.
- 2.03 It is proposed to replace the shed with a larger building to be used as an annexe to the main house. It would have one bedroom with a shower room and a lounge. The annexe will be accessible from the rear garden to 60 Newton Road and also via a side gate. The principal entrance will be the side door providing access into the lounge. The annexe will provide additional accommodation for family members.
- 2.04 The new building is of a traditional style incorporating features that are present on other properties located within the conservation area. These include arched window heads and projecting plinth base courses.
- 2.05 Materials proposed are:
- Yellow stock brickwork with pale yellow brick arches
  - Slate roof
  - Timber fascias and soffits
  - Timber double glazed windows and doors
  - Gutters and downpipes to be cast iron
- 2.06 The proposed annexe as first submitted would have had a 45° pitched roof and two rooflights within the east facing roofslope. Amended drawings have been received after discussions with the agent regarding concerns about the steepness of the pitched roof on the character of the area and potential overlooking from the rooflights on neighbouring properties. The amended drawings have addressed my concerns over these issues. The roof pitch has been lowered to 35° and the rooflights have been removed.

**3.0 SUMMARY INFORMATION**

	Existing	Proposed	Change (+/-)
Car parking spaces (inc. disabled)	0	0	
Approximate Eaves Height (m)	2.1m	2.4m	+0.3m
Approximate Depth (m)	4.1m	4.48m	+0.38
Approximate Width (m)	4.5m	6.7m	+2.2
Net Floor Area	18.45	30	+11.55

**4.0 PLANNING CONSTRAINTS**

Potential Archaeological Importance

Conservation Area Faversham

**5.0 POLICY AND OTHER CONSIDERATIONS**

Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP8, DM7, DM14, DM16, and DM33

Supplementary Planning Documents: Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

**APPENDIX A**

Planning Committee Report – 7 December 2017

ITEM 2.5

**6.0 LOCAL REPRESENTATIONS**

6.01 Three letters of objection have been received from local residents. A summary of their comments is as follows:

- Parking provision problems in the local area
- Inappropriate development in the conservation area
- Precedent for unsuitable development would be set
- Loss of open aspects of the rear garden area
- Proposed high roofline (5.1m) will dominate the garden areas
- Covenants restricts the development of the back garden unless it is necessary for outhouses
- The proposal would overshadow and overlook neighbouring properties
- The development is not an annexe, it is a free-standing accommodation block at the end of the garden

6.02 Three local residents have responded to the amended drawings stating that their objections remain unchanged. A summary of their comments is as follows:

- the reduction in roof height remains over twice the height of the current party wall
- the amendments do not address objections raised by the Town Council and neighbours
- the existing shed is in fact a garage, therefore its removal will increase parking pressure
- the reduced height in comparison with that of the previous application does not make it any more acceptable
- this application is clearly intended to raise the profitability of the B&B at the expense of neighbours

6.03 The deadline for comments is 8 December 2017. This report is subject to the receipt of additional comments which will be reported at the meeting.

**7.0 CONSULTATIONS**

7.01 Faversham Town Council object for the following reasons:

- This is back land development
- Not appropriate in the Conservation Area
- No parking provision
- Loss of openness
- Loss of established rear gardens
- Would set a precedent

**8.0 BACKGROUND PAPERS AND PLANS**

8.01 Application papers and drawings referring to application reference 17/505562/FULL

**9.0 APPRAISAL**

9.01 The main issues to be considered in this application are the impact of the proposed annexe on the character and appearance of the building, the impact on the character and appearance of the conservation area and the impact on the residential amenity of neighbouring properties.

**APPENDIX A**

Planning Committee Report – 7 December 2017

ITEM 2.5

**Visual Impact/Impact on Conservation Area**

- 9.02 I consider the key issues in this case are whether it meets the aims and objectives of policy DM33 of Bearing Fruits 2031: SBLP 2017 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. It is also the statutory duty of the Council to be consider whether the special character and appearance of the conservation area is preserved or enhanced. In November 2016, a new two storey dwelling was refused at this property (16/507024/FULL) on the grounds that it would represent harmful development and thus fail to preserve or enhance the character or appearance of the Faversham conservation area.
- 9.03 This application has sought to address this issue. The proposed building is modest in scale and height providing single storey ancillary annexe accommodation. I consider the proposed development now has considerable merit and will enhance the character of the street scene and the visual amenities of the area. As a designated conservation area, it is clearly a heritage asset. Since there is a statutory duty on the Council to ensure that changes to heritage assets are not harmful it has been essential that the proposal is not of any significant harm. I consider that the building as now proposed will be of a significant improvement over the character and appearance of the existing building and is sensitively designed as to retain the spacious character of the rear of Newton Road at this location.
- 9.04 The proposed siting of the new building is on the same position as the existing shed, in the south west corner of the rear garden to 60 Newton Road. I note local concern over inappropriate development in the conservation area but, whilst the proposal is taller than the existing shed, it is acceptable in my opinion and a distinct improvement in the appearance of the site. The ridge height is now lower and as such will not result in it being a dominant feature of the area. In my opinion, the proposed building would fit in with its surroundings and would not be harmful to the attractive spacious character of the area.

**Use as an annexe**

- 9.05 The proposed building contains a simply a bedroom, shower room and lounge, accessible from the rear garden to the host building and would constitute an annexe dependant or ancillary to the main house. I consider that the amount of accommodation being proposed is at such a level that it will be dependent on the main dwelling and as such cannot be used as a separate dwelling in its own right. The proposed building is essentially a bedroom with an en-suite.
- 9.06 I note local concerns with regard to the use of the building as a separate dwelling. I consider that the use of this for an annexe is acceptable and recommend imposing condition (3) below which restricts the use of the building to purposes ancillary and or/incidental to the use of the dwelling.
- 9.07 Although granting permission for this application could encourage others to do the same, I do not consider this to be a reason for refusal. Each application should be considered on its own merits.

**Residential Amenity**

- 9.08 There is no identifiable harm regarding the impact of the proposal upon the amenity of the residents of the adjacent dwellings, no. 58 and 62. There would be a separation distance of approximately 15m between the annexe and the rear elevation of neighbouring properties. Given this intervening distance and that the building will be

**APPENDIX A**

Planning Committee Report – 7 December 2017

ITEM 2.5

single storey with a low pitched roof, I consider that the proposal would not give rise to any serious overshadowing or loss of light to adjoining properties. Neither do I consider there to be any overlooking issues. The proposed rooflights have been removed from the drawings, therefore harmful overlooking into the rear garden of neighbouring properties will not be an issue.

**Highways**

- 9.09 The property does not have any off-road parking spaces. Whilst it is arguable that the existing shed could potentially house a car, it is small and not restricted to garage use, so the proposal will not remove any dedicated parking provision. I do not consider that this issue can be a reason for refusal here. I am mindful that the site is in close proximity to the town centre and accessible to public transport.

**Other Matters**

- 9.10 I note local concern in regards to restrictive covenants; however this is a private issue between neighbours and is therefore a non-material planning consideration.

**10.0 CONCLUSION**

- 10.01 I therefore consider that the proposal is acceptable in terms of its impact upon the character and appearance of the immediate vicinity and the property, and the conservation area, fulfilling the aim of preserving the character of the area and thus the heritage asset. I therefore recommend, subject to conditions, that permission be granted.

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

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

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

- (2) The development hereby approved, including the specification of materials to be used in the construction of the annexe, shall be carried out in accordance with the following approved drawings:

NR1760.01A, NR1760.05A, NR1760.06A and NR1760.07A received 16 November 2017

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

- (3) The building hereby permitted shall not be used at any time other than for purposes ancillary and/or incidental to the use of the property known as "Gladstone House, 60 Newton Road" as a single dwellinghouse.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

## APPENDIX A

Planning Committee Report – 7 December 2017

ITEM 2.5

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

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

In this instance:

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

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



**APPENDIX A****423 PLANNING WORKING GROUP**

The Minutes of the Meeting held on 19 December 2017 (Minute Nos. 418 – 419) were taken as read, approved and signed by the Chairman as a correct record.

**17/505562/FULL – GLADSTONE HOUSE, 60 NEWTON ROAD, FAVERSHAM, ME13 8DZ**

The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

The Area Planning Officer reported that the County Archaeological Officer had advised that no precautionary conditions were required for the application. Two further letters from neighbouring residents who objected to the application, had been received. One objector had stated that the application would have a domino-effect and this would worsen parking issues. The other objector had submitted

photographs which showed the views from their property and had stated that the openness of the urban view would be lost. Together with the view of the conservatory already there, and the height of the proposed annexe, this would result in overshadowing at both ends of their garden.

Following the site visit, Members raised points which included: the proposed annexe was too large for the garden, and for the location; happy that a condition would ensure the annexe remained as a separate dwelling to the main house; the nearby area consisted of a miss-match of buildings; did not consider this modest annexe would do any significant harm; could not see any relevant planning reasons why the application should be refused; and the use of the annexe would increase the pressure on parking.

A Ward Member spoke against the application. He raised concern with the use of the annexe and its height which he considered would result in a shadowing effect on nearby properties. The Ward Member considered the building should be used as a garage and that the application would set a precedent.

On being put to the vote the motion to approve the application was lost.

There was discussion on the valid reasons for refusing the application.

Councillor Bryan Mulhern moved the following motion: That the application be refused on the grounds of demonstrable harm to the amenity of adjacent properties, due to it being overbearing, the loss of parking, and the building should remain as a garage, and the height should not increase. This was seconded by Councillor Andy Booth.

Further discussion took place on the reasons for refusal.

Councillor Bryan Mulhern (Chairman) withdrew his proposal, and moved the following motion: That the application be deferred to allow further discussion between officers and the Ward Members. This was seconded by Councillor Andy Booth (Vice-Chairman).

On being put to the vote, the motion to defer the application was won.

*Resolved: That application 17/505562/FULL be deferred to allow further discussion between officers and the Ward Members.*

## APPENDIX B



## Appeal Decisions

Site visit made on 23 November 2015

by **K R Saward** Solicitor

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

Decision date: 4 January 2016

### 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS

#### Appeal A: APP/V2255/C/15/3031335

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jennifer Zaluska against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 15 April 2015.
- The breach of planning control as alleged in the notice is without planning permission a garage has been erected, the approximate position of which is highlighted on the plan, which in the opinion of the Council would require planning permission.
- The requirements of the notice are:-
  - (i) Remove the garage
  - (ii) Remove all materials and debris caused in complying with condition (i).
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

**Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.**

#### Appeal B: APP/V2255/W/15/3019443

- 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 Jennifer Zaluska against the decision of Swale Borough Council.
- The application Ref 14/503907/FULL, dated 9 September 2014, was refused by notice dated 16 March 2015.
- The development is to construct a timber framed and timber clad garage/storage area to the rear boundary of the property. Access via track to rear of Ruins Barn Road.

**Summary of Decision: The appeal is allowed, and planning permission granted.**

#### Preliminary Matters

1. The allegation in Appeal A refers to the approximate position of the garage being highlighted on the plan attached to the enforcement notice. An arrow on the plan points towards the dwelling whereas the garage is a separate building at the end of the garden. At my site visit, both parties agreed that the plan requires correction and this has been confirmed in writing. The location of the garage is correctly shown on the site plan accompanying the application in Appeal B. I am satisfied that the correction can be made without injustice to

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**APPENDIX B**

Appeal Decisions APP/V2255/C/15/3031335, APP/V2255/W/15/3019443

either party by substituting the enforcement notice plan with another to correspond with the location plan in Appeal B.

2. Equally, no injustice would arise from the consequential minor amendment required to paragraph 3 of the notice to make reference to the building being shown hatched rather than highlighted on the plan. I will therefore correct the enforcement notice in those two respects in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act, as amended.
3. The garage was already built at the time of the application for planning permission in Appeal B and so the application was retrospective. The garage, as built, appears to correspond with the submitted plans.
4. The red line site for the location plan in Appeal B encompasses an area of hard-standing in front of the garage which does not appear in the enforcement notice plan. This does not affect the clarity or validity of the notice which does not require correction in this respect.

**Appeal A on ground (a) and the deemed planning application; and Appeal B**

5. Ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. This ground is concerned with the planning merits of the case, and it raises the same issues as the deemed application for planning permission. The linked section 78 appeal also raises the same issues, and I shall therefore deal with them together.

**Main Issues**

6. The main issues in both appeals are the effect of the garage on the character and appearance of the surrounding area and the living conditions of neighbouring occupiers with particular regard to outlook and sunlight.

**Reasons***Character and appearance*

7. No 2 Ruins Barn Road is one half of a pair of semi-detached houses in a long row of properties in the same form and architectural style. Each property in the row has a long rear garden. Most have a garage or outbuilding of some description at the end of their rear garden. The building subject to this appeal is a large double detached garage with a storage area within its roof space built at the end of the rear garden of No 2. In common with other garages in the row, vehicular access is obtained to it via an unmade track behind the Ruins Barn Road properties. The Council acknowledges that there is no dispute concerning the principle of development and refers to the garage as a "marginal" case.
8. The far side of the track is lined with dense hedgerow providing screening from the fields beyond. Whilst the garages are visible from neighbouring gardens, they cannot be seen from the public domain.
9. The garage has a pitched roof with gable ends. There is a large window in one gable end with a smaller window above. At a ridge height of approximately 4m, it is larger than most others in the row but not excessively so. Moreover, there is a wide variance in size, height, form and roof styles among the structures.



**APPENDIX B**

Appeal Decisions APP/V2255/C/15/3031335, APP/V2255/W/15/3019443

The external finishes also vary considerably. Thus, there is no uniformity or fixed appearance with which the garage ought to accord.

10. Indeed, there is an example further along the row at No 28 where there is a notably larger garage building which has been approved by the Council. Not only does it have a higher ridge height than the appeal garage and is greater in scale, it features very large metal doors and painted render creating a very urban appearance and one that draws the eye from distance. In contrast, the appeal building has weatherboard cladding painted in a muted shade and a black corrugated roof. It is far more under-stated and befitting to its location surrounded by domestic gardens and close to open fields.
11. In addition, the appearance and finish is to my mind of superior quality than a good number of the other garages/outbuildings which are in varying states of repair. Given their condition and the wide assortment of outbuildings, the impression is somewhat haphazard. Against this backdrop, the garage is a positive addition. Although it fills a large part of the garden width, there is so much space behind the garage that it does not appear cramped in. I find no harm by reason of its size or design.
12. Consequently, there is no adverse effect on the character and appearance of the surrounding area contrary to Policies E19 and E1 of the Swale Borough Local Plan (LP) 2008 which, amongst other things, seek high quality design appropriate to the location. Nor does it conflict with the similar aims of Paragraphs 56 and 58 of the National Planning Policy Framework (the Framework).

*Living conditions*

13. Three large detached houses in Cromer Road share a rear boundary with No 1 Ruins Barn Road. They are sited perpendicular to the rear gardens of the Ruins Barn Road properties. High boundary fences separate the properties which, together with some foliage, will obstruct views of part of the garage for neighbours from downstairs rooms and rear gardens. However, there will be direct views of the garage roof behind the smaller garage at No 1 when viewed from first floor windows of No 4 Ruins Barn Road, in particular. There is no right to a view in law and so the fact the garage can be seen from neighbouring properties is not a material planning consideration. Instead, I have approached the question of outlook on the basis of any harm to the neighbouring occupiers' which is caused by an overbearing development rather than in the sense of a loss of view.
14. As a functional black coloured roof, it cannot be described as visually attractive. Nonetheless, the building is not close to neighbouring windows nor is it particularly close to the Cromer Road gardens. The rear garden for No 1 Ruins Barn Road provides separation. The roof also slopes away from the rear boundary of the Cromer Road properties which further reduces the likelihood of an enclosing effect occurring. It will still be possible to see around and above the garage albeit those views may have been more appealing before the roof was in place. Whilst neighbours may prefer the building to be flat roofed to reduce its visual impact, no material harm arises from the garage in its existing form. Its combined height, size and proximity are not of a level to give rise to an oppressive form of development for neighbouring residents whether from windows or gardens.

**APPENDIX B**

Appeal Decisions APP/V2255/C/15/3031335, APP/V2255/W/15/3019443

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15. Moreover, the separation distance between the garage and neighbouring houses suffices to avoid any material adverse effect on sunlight to rooms. For the same reason and with other intervening structures and planting, the level of any increased shading of gardens would not be significant.
16. Thus, I find no adverse effect on the living conditions of neighbouring occupiers in terms of outlook or impact on sunlight for demonstrable harm to residential amenity to arise in conflict with LP Policy E1. Likewise, there would be no conflict with the core planning principle in Paragraph 17 of the Framework which seeks to promote a good standard of living conditions for occupants of land and buildings.

**Other Matters**

17. The parish council has raised concerns regarding the potential use of the garage for commercial purposes. At the time of my site visit, the garage was filled with items of domestic storage on the concrete base. A moveable staircase was positioned in one corner leading to an upper floor level with restricted headroom where further items were being stored. From my observations, there was no evidence of an existing commercial use. A commercial use would amount to a material change of use of the building requiring planning permission. Therefore, it is not necessary to impose a planning condition restricting the use to purposes incidental to the dwellinghouse, as suggested by the Council.
18. Whilst the garage was constructed without the benefit of planning permission, this does not affect my consideration of the planning merits.

**Formal Decisions****Appeal A**

19. It is directed that the enforcement notice be corrected: by the deletion of the word "highlighted" from paragraph 3 of the notice and the substitution thereof of the words "shown hatched black" and the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a garage on the land shown hatched black on the plan annexed to this decision.

**Appeal B**

20. The appeal is allowed and planning permission is granted to construct a timber framed and timber clad garage/storage area to the rear boundary of the property, access via track to rear of Ruins Barn Road, at 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS in accordance with the terms of the application, Ref 14/503907/FULL, dated 9 September 2014 and the plans submitted with it.

*KR Saward*

INSPECTOR

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## APPENDIX B



## Plan

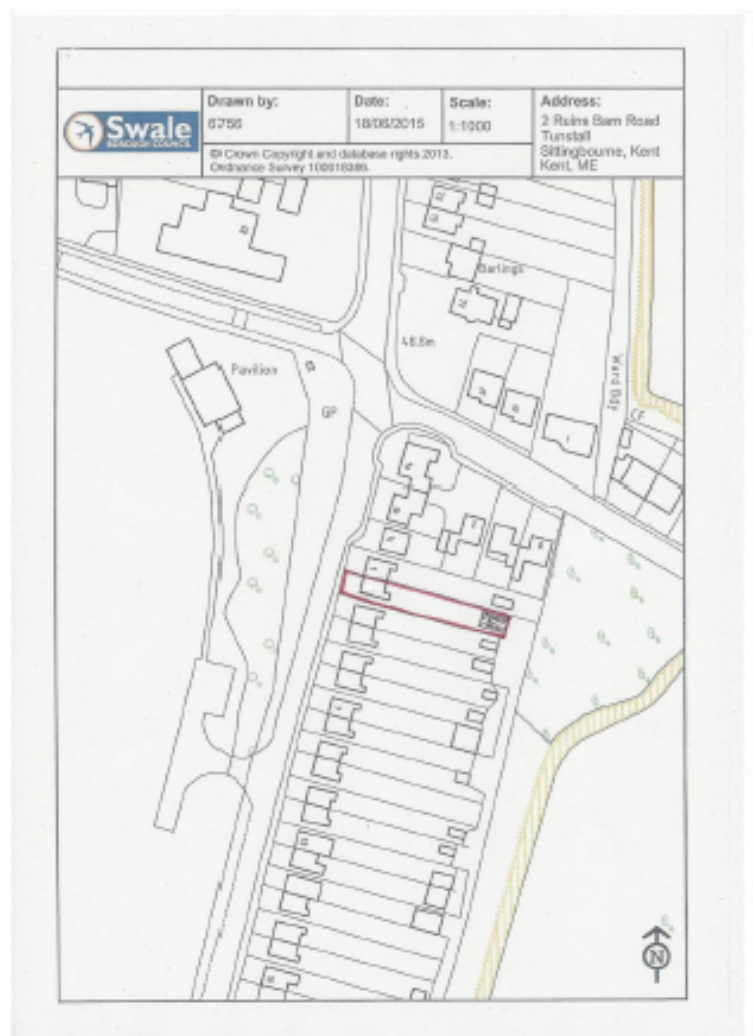
This is the plan referred to in my decision dated: 04.01.2016

by K R Seward Solicitor

**Land at: 2 Ruins Barn Road, Tunstall, Sittingbourne, Kent ME10 4HS**

Reference: APP/V2255/C/15/3031335

Scale: NOT TO SCALE



## APPENDIX C



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## Appeal Decision

Site visit made on 9 August 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 05 September 2016

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**Appeal Ref: APP/V2255/W/16/3150520**

**19 South Road, Faversham, Kent ME13 7LR**

- 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 L.C Guthrie against the decision of Swale Borough Council.
  - The application Ref 15/509814/FULL, dated 18 November 2015, was refused by notice dated 17 March 2016.
  - The development is proposed new dwelling to the rear of 19 South Road, Faversham, Kent ME13 7LR.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue raised in respect of the appeal is the effect of the development on the character and appearance of the surrounding area, and, whether the Faversham Conservation Area would be preserved or enhanced.

### Reasons

3. The proposed development site would comprise that part of the rear garden of No 19 South Road positioned at an angle behind the rear gardens of dwellings fronting on to South Road. The appeal site abuts and relates more closely to Cross Lane, a narrow well-used pedestrian route linking South Road and Bank Street. Cross Lane is bounded on each side by high walls which are mainly of brick construction and incorporate pedestrian gate accesses. To the eastern end of Cross Lane are public car parks and the modern public buildings of Faversham Health Centre, Arden Theatre and Faversham Pools with the outdoor swimming pool with diving platform abutting the boundary of the appeal site. The rear gardens of surrounding dwellings border either side of the walkway over much of its route. With the exception of the single-storey outbuildings to the rear of Nos 29 and 31 South Road and 54 South Street there is a general absence of built development within the abutting gardens. The vegetated gardens with trees and plant growth oversailing the boundary walls along Cross Lane gives the area an open verdant feel to its character. This section leading to South Road is relatively tranquil, leafy and largely undeveloped in nature and contrasts with the busier more developed eastern end of the passageway. I observed that the appeal site relates to this part of the street scape.
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## APPENDIX C

Appeal Decision APP/V2255/W/16/3150520

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4. The proposal would create a substantial building with first storey and pitched roof visible over the Cross Lane boundary high wall. Although Cross Lane is narrow with high walls either side, this would not restrict views of the proposed dwelling as a result of its height and closeness to the pathway. Whilst the eaves height have been kept low and the trees on the swimming pool site would, to some extent, screen the site, the proposed dwelling would be prominently visible in views when travelling in both directions along Cross Street and would be particularly prevalent when viewed immediately adjacent to the site. It would also be visible from neighbouring properties and their gardens and users of the outdoor swimming pool.
5. Whilst I agree with both parties that the design of the proposed development is not intrinsically poor and indeed may reflect other developments in the wider area, a dwelling of this height is not in context with the immediate environment. I note the plot size may have increased and the footprint of the proposed dwelling has reduced from that of the earlier concept schemes. However, the resulting dwelling would not, to my mind, be perceived akin to an ancillary building in the way that the outbuilding to the rear of Nos 29 and 31 South Road appear with a relatively small part of its pitched roof visible over the boundary wall. The proposed development would be out of keeping with the landscaped gardens that form the character and appearance of this part of Cross Lane.
6. I observed that some pedestrian access gates have been boarded up and a small amount of graffiti is present along the pathway. In addition, a section of wall to the western end of the route is topped with a security installation. The appellant suggests that these features degrade the appearance of the area. However, these elements do not detract from the overall appearance of the pathway appreciated by those that use the route. In addition, it is suggested that a dwelling in this location would create a greater sense of security and safety to people using Cross Lane, particularly at night. Nonetheless, any such benefits would not outweigh the harm I have identified above.
7. The appellant refers me to planning permissions for dwellings granted within the surrounding area. I have insufficient information before me to be able to determine the planning circumstances of these developments and the similarities, if any, to the proposed development. The appeal before me relates to a different site and therefore can and should be considered in its own right.
8. Both parties appear to accept that the site has relatively low heritage significance. The appellant's Heritage Appraisal identifies a degree of change to garden boundaries and other land between South Road and the western section of Cross Lane over the past 150 years or so. However, the verdant and largely undeveloped nature of this area that gives distinctiveness to the character and appearance of the appeal site and the surrounding area outweighs the limited heritage significance of the site.
9. The appeal site falls within Faversham Conservation Area and as such the proposal would have an effect on the setting of this part of the Conservation Area. For the reasons given above, I conclude the proposed development neither preserves or enhances the Conservation Area. Given the size and scale of the proposal in the Conservation Area, I consider there would be less than substantial harm to the character and appearance of the Conservation Area. In accordance with paragraph 134 of the National Planning Policy

**APPENDIX C**

Appeal Decision APP/V2255/W/16/3150520

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Framework (the Framework), I must weigh the harm against the public benefit of the proposal. Although the development would bring forward a dwelling, the benefit to the public, in my view, would be limited, and insufficient to outweigh the harm identified. I conclude therefore that the proposal would fail to accord with national policy.

10. For the above reasons, the proposed development would be harmful to the character and appearance of the surrounding area. The proposal is contrary to Policies E1, E19 and H2 of the Swale Borough Local Plan that requires development to reflect the positive characteristics and features of the site and locality and requires development to be appropriate to its context in respect of scale, height and massing, amongst other matters. The proposal is also contrary to Policies DM14, DM33 and CP8 of the Bearing Fruits 2031: Swale Borough Local Plan that seek development to be sited and be of a scale, design, appearance and detail sympathetic and appropriate to the location, and, within a conservation area to preserve or enhance all features that contribute positively to the area's special character or appearance, including spaces, amongst other matters.

**Other Matters**

11. The appellant comments that there is a present shortfall in future housing provision for the area. The proposal would provide one additional home within the urban area in a sustainable location. Whilst the proposal would contribute a dwelling to the Borough's overall housing supply, this benefit would not outweigh the harm identified above.
12. I note the appellant's wish to remain resident in the area and to provide extended living accommodation for ageing family members. Whilst I sympathise with the personal circumstances of the appellant and the future accommodation needs of her family, I am mindful that the harm identified would be permanent and is not outweighed by the appellant's particular circumstances.
13. I have had regard to other matters raised, including those of loss of privacy and overlooking, noise disturbance, impact on trees and services, parking problems in area, and precedent raised by interested parties, however these matters do not outweigh my findings in respect of the effect of the proposed development on the character and appearance of the area.

**Conclusions**

14. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR

**PLANNING COMMITTEE – 1 FEBRUARY 2018****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 17/506378/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a two storey side extension.			
<b>ADDRESS</b> 29 Seathorpe Avenue Minster-on-sea Sheerness Kent ME12 2HU			
<b>RECOMMENDATION</b> GRANT subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal is acceptable in principle and would not be significantly harmful to residential or visual amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> John Barker <b>AGENT</b>
<b>DECISION DUE DATE</b> 14/02/18	<b>PUBLICITY EXPIRY DATE</b> 12/01/18		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/06/1192	Two storey rear extension	APPROVED	14.11.2006
SW/91/0829	Ground and first floor extension	APPROVED	24.09.1991
SW/89/0133	Outline application for chalet bungalow with integral garage	REFUSED	28.04.1989

**1.0 DESCRIPTION OF SITE**

- 1.01 29 Seathorpe Avenue is a detached, two storey dwelling located within the built up area boundary of Minster. It is located on a relatively large plot with a driveway to the front of the property, an existing detached garage to the south of the dwelling and large garden to the rear.
- 1.02 The property is located on Seathorpe Avenue, which is characterised by a mix of dwellings of various scales and designs. Immediately to the north of No. 29 is a detached bungalow, and to the south is a property with a large barn hipped roof that has a maximum height similar to that of the application property.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the erection of a two storey side extension. The proposed extension will be situated on the south of the property, and will measure 12.1m deep by 4.98m wide, with a height of approximately 4.8m to the eaves and a maximum ridge height of 7.1m, which matches the ridge height of the existing property.
- 2.02 The proposed side extension will provide a garage and store room on the ground floor. The internal width of the garage will be 4.12m and stairs to the first floor will be located in the store room. On the first floor, the side extension will provide a lounge, kitchen and bathroom.
- 2.03 The originally submitted plans included three, first floor windows in the flank wall of the extension. Due to the limited distance between the dwellings, these windows could lead to overlooking at the neighbouring property, No. 23. The applicant was advised to alter these windows to reduce the impact of overlooking, and amended plans were submitted on the 8<sup>th</sup> January 2018, removing two of the windows, and obscure glazing the remaining one, with an opening high level fanlight.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None relevant

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- 4.03 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 One letter was received from a neighbour stating *'I am extremely concerned that my kitchen window will be completely overshadowed and overlooked by this new dwelling. I have a "right to light". This application will remove light from my ground floor kitchen and bathroom windows. It looks as though there will be less than a metre between the buildings.'*

## **6.0 CONSULTATIONS**

- 6.01 Minster-on-Sea Parish Council objects to the proposal, commenting as follows:

*"This application is alleged to be misleading. Although it is described as a two-storey side extension, this appears to be the construction of a separate dwelling with no shared facilities. In addition, can the Planning Officer check the light available to the kitchen window of No. 23 as this appears to be minimal."*



## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers for application 17/506378/FULL.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 The application site is situated within the defined built up area boundary of Minster where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts.

### **Visual Impact**

- 8.02 Seathorpe Avenue is characterised by a mixture of property designs at varying scales, with the scale of gaps between properties varying along the street. Side extensions can lead to streets appearing terraced in character, and losing the sense of openness due to the lack of gaps in between properties. In this case, I note the proposed extension will be situated approximately 0.6m from the boundary with No. 23 and approximately 3m from the neighbouring dwelling and therefore contrary to the Council's SPG .However due to the lack of uniform housing forms in the area and a variety of spacing between dwellings , I consider these distances acceptable and I do not consider the proposed side extension will adversely impact the wider street scene or give rise to a terracing effect.
- 8.03 The proposed two storey extension would be situated on the south side of the dwelling, and would be similar in appearance to the pitched roof on the north side of the property. It would be constructed using materials that match those on the existing dwelling. As such, I consider the proposal will not have a harmful impact on the character or appearance of the dwelling or the wider streetscape.

### **Residential Amenity**

- 8.04 I consider the main impact to residential amenity will be felt at neighbouring property No. 23 Seathorpe Avenue. I note the proposed side extension will project 2.2m further than the front wall at the adjacent property. However I note that the proposed projection is in line with the majority of the surrounding properties and do not consider it will cause exceptional harm with regard to overbearing impacts or significantly affect the established building line. No. 23 has been significantly extended to the rear (the OS extract has not yet been updated to reflect the current site circumstances), and the rear wall of the extension will project no further than the rear wall at No. 23. In this regard, whilst the rear extension projects 3m at first floor level I am satisfied that the proposal accords with the advice of the SPG and would not give rise to significant harm to the amenity of those neighbouring residents.
- 8.05 Following amendments, the only window proposed in the flank wall of the extension will be obscure glazed and non-opening other than the high level fanlight, which I consider acceptable. With regard to the comments received from the adjoining neighbour concerning overlooking issues, I consider the amended plans address this issue.
- 8.06 With reference to the objection received from the Parish Council, a condition will be included to prevent the use of the extension as separate accommodation, and its intimate relationship with the host property will also reduce the likelihood of it

becoming a separate dwelling. With regard to the proposed extension blocking light to the kitchen window at No. 23 (a concern that the occupiers of No. 23 also raised), I note there will be approximately 3m between the dwellings. I consider although this distance is small, it is not harmful enough to justify a reason for refusal in this case.

- 8.07 Regarding impact to other neighbouring amenities, due to the distances involved between the host property and other surrounding dwellings, I do not consider the proposal will cause unacceptable harm to residential amenity at neighbouring properties.

### **Parking**

- 8.08 The proposal includes the demolition of the existing garage at the property. The ground floor of the extension will provide a new garage, which will measure 4.4m in width and 8.7m in length, which is larger than the KCC recommended minimum dimensions of 3.6m x 5.5m. A condition will be placed upon the garage to ensure it is used only for the parking of vehicles. There is also a large amount of hardstanding to the front of the property that is currently used as car parking, which will not be effected by the application. As the proposal will not alter the amount of parking provided at the dwelling, it is acceptable in this regard.

## **9.0 CONCLUSION**

- 9.01 Taking into account all of the above, I consider the proposal will not give rise to unacceptable harm to visual or residential amenities and note the parking provision at the property will remain the same. As such, I recommend planning permission be granted.

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

### **CONDITIONS**

- 1) The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

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

- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

- 3) The development hereby approved shall be carried out in accordance with the following approved drawings: JB-002 Rev B, JB-003 Rev A and JB-004 Rev B.

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

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

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

- 5) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No. 29 Seathorpe Avenue.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for the area.

**The Council's approach to this application:**

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

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

In this instance:

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

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

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



<b>2.2 REFERENCE NO - 17/505865/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of a 3 bedroom detached dwelling with associated amenities, as amended by drawings received 10 <sup>th</sup> January 2018			
<b>ADDRESS</b> Land At Sondes Arms, Station Approach, Selling, Faversham Kent ME13 9PL			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Amended proposal is in accordance with national and local planning policy			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary Representations from Parish Council and local residents, and called in by Cllr Bobbin			
<b>WARD</b> Boughton And Courtenay		<b>PARISH/TOWN COUNCIL</b> Selling	
		<b>APPLICANT</b> Mrs Penny Fisher <b>AGENT</b> Mr Richard Baker	
<b>DECISION DUE DATE</b> 09/01/18		<b>PUBLICITY EXPIRY DATE</b> 18/12/17	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/503106/FULL	Weekend Chalet	Refused	18.07.2017
Refused due to poor design			
SW/12/0919	Residential Dwelling	Approved	04.04.2013
In accordance with policy			

## 1.0 DESCRIPTION OF SITE

- 1.01 The site is a fairly narrow strip of land behind the former Sondes Arms public house, which used to be part of the curtilage surrounding the pub. The public house ceased trading some years ago, and now serves as a village shop and tea rooms. The site in question is now in separate ownership, and fenced off from the remaining (former) pub garden, but is overgrown and unkempt.
- 1.02 The site has a frontage to Station Approach, which leads to Selling railway station, from which it is fenced off with tall railings. I understand that the access to the land is by way of an agreement between the applicant and Network Rail.
- 1.03 The land in question is situated within the established built-up area boundary around Selling station as defined on the Local Plan proposals map. Land to the north and east of the site has recently been developed for housing (some of which takes access from Station Approach) and the site now sits between new housing and the rear of the former pub.
- 1.04 Planning permission for a single detached dwelling on the site was granted under planning reference SW/12/0919. That permission may have been begun, at least some of the pre-commencement conditions have been complied with, but the formal position in terms of time of implementation is not entirely clear.
- 1.05 In 2017, an application for a light construction 'weekend chalet' was refused under reference number 17/503106/FULL, due to its poor design and materials.

- 1.06 I note that the application site address was originally described as land off Sondes Court ,Faversham when it was submitted, whereas it is in fact more accurate to describe it as land off Station Approach Selling. I have therefore amended the address accordingly.

## 2.0 PROPOSAL

- 2.01 This proposal is for a three bedroom house and garage and gardens. The house would be of appropriate design, situated towards the centre of the site, with a 10m depth rear garden and a driveway for two cars to the front. The amended drawings show a parking area which would allow vehicles to reverse on site, so as to allow egress in a forward gear.
- 2.02 As originally submitted, the application included a proposal for a single detached garage set parallel to Station Approach, but this has since been deleted as I considered it likely to be an intrusive feature.
- 2.03 The application is supported by a Design and Access Statement that describes the plot as generous, that the layout minimises circulation space, and that the scale and materials of the proposed house will be compatible with the locality.

## 3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Car parking spaces (inc. disabled)	N/A	2	+2
No. of storeys	N/A	2	+2
No. of residential units	N/A	1	+1

## 4.0 PLANNING CONSTRAINTS

- 4.01 None.

## 5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): Paragraphs 14 (Sustainable Development) and 58 (Quality of Development).
- 5.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST1 (Sustainable Development), ST3 (The Swale settlement strategy), CP3 (Delivering High Quality Homes), CP4 (Good Design), DM7 (Parking) and DM14 (General Development Criteria).

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Seven letters and emails of objection have been received from local residents. Their contents may be summarised as follows:
- Traffic problems already in Station Approach
  - Noise and disruption during build
  - The plot is contaminated with concrete which will take a lot of effort to remove
  - Not in Sondes Court
  - No details of sewage disposal
  - Detached garage will obstruct awareness of traffic movements
  - Heavy traffic along Station Approach, particularly mornings and evenings

- Much development in the immediate area over the years
- Junction is complicated and dangerous
- Over-development of site
- Access dangerous with no sight lines
- Will overshadow the garden at the Sondes Café (*NB. The café is situated to the south of the site*)
- Access to the site is via a private road owned by Network Rail; if access is denied, any property would be land locked
- Other new houses have been built in groups, a stand-alone house will not be in keeping with the local vicinity
- A smaller property with no garage might be more acceptable
- New dwelling would look into our garden and windows
- *'The pub was here first'*. The proposal would lead to the loss of this community asset
- Domestic noise; *'DIY, working on cars, garden B-B-Qs, etc.'*
- Not enough room for cars to turn, and dangerous entrance with no sight lines
- Design of dwelling not in keeping with surroundings

## 7.0 CONSULTATION RESPONSES

- 7.01 Selling Parish Council raises objection to the proposal. Their comments are as follows:

*'We held an extraordinary meeting on Wednesday 13<sup>th</sup> (December) to discuss the above planning application. The application was discussed at length and several member of the public had strong views on this.*

*We took a vote on our view on this, and the majority voted in favour of these comments: The building would be too large for the site and there are no details about the foul water drainage. The ingress and egress of the site is very restricted and does not have full view of the road from the proposed driveway and garage. The garage blocks the view of the road.*

*It was also thought that the parking in the area, due to being near the station would also aggravate this problem. It was also suggested that the proximity to the community facility (the Sondes shop and café) might affect the business. The fact that there were previous footings and foundations on that site might also cause a problem.'*

- 7.02 I have discussed the proposal with the Senior Engineer from Kent Highways and Transportation. The original drawings submitted showed a single garage adjacent to the highway, and he was concerned that if that proposal were to be approved, there would be no sightlines to the south of the site for cars or pedestrians whatsoever, due to the position of that garage. He was also of the opinion that, due to the proposed parking configuration, vehicles are unlikely to be able to leave the site in a forward gear, which might further exacerbate the problem of the lack of sight lines. Due to these concerns and similar concerns from local residents, the applicant has submitted new drawings which have removed the garage and have turned the parking spaces about by 90°, allowing forward egress from the site.

## 8.0 APPRAISAL

- 8.01 As the site is located within an established built up area, where policy ST3 suggests that infill development is acceptable, the main issues to consider in this case are

those of residential amenity and highway safety. For the sake of regularity, I shall take each in turn.

#### Residential Amenity

- 8.02 The proposed property would be situated within an existing residential area, where the principle of residential development is acceptable. The proposed dwelling has been designed to offer no new issues of overshadowing, and it should be noted that, as the Sondes café is situated to the south of the site, there is not likely to be overshadowing from the proposed property. One objector has noted that a first floor side window would overlook her property, but this is a small window which would be situated on the landing at the top of the stairs. As such, this window would not serve a habitable room, and the position of this window is therefore acceptable. One objector notes that the previous application for a weekend chalet was refused partly due to issues of mutual overlooking, but that proposal consisted of large windows to habitable rooms, albeit at ground floor level, not a small landing window, so there is no comparison here.
- 8.03 Sounds from everyday living are already present in the area, as this is a predominantly residential area. It is regrettable that any form of development is likely to bring some noise and inconvenience during construction, but this would be for the period of the building works only and can be kept to a minimum via suitable planning conditions. As such, I consider that the effect upon the residential amenity of the area to be acceptable.
- 8.04 I note the concerns raised with regard to the effect of the proposal on the Sondes Café and Shop which appears to be a popular destination for people using both facilities, with a pleasant area of garden to the rear. I appreciate that the proposed site used to be part of the pub garden, but I am not convinced that the proposal would have a significantly damaging effect on this successful and popular community facility.

#### Highway Safety

- 8.05 Prior to the submission of amended drawings showing the removal of the detached garage and showing the original parking configuration, I was concerned with regard to highway safety issues. Station Approach is indeed quite a busy roadway at peak times, with commuters arriving at and departing from the station, and cars tend to be parked along one side of the road during the day. There are no parking restrictions on Station Approach, as it is a private roadway and, as such, access and egress from the site would be restrictive as originally submitted.
- 8.06 However, with the removal of the garage and the re-configuration of the parking changed, I am satisfied that the parking issue has now been effectively answered. I note that a dwelling on this site was approved in 2012 under planning reference SW/12/0919; that this proposal did not include a garage; and that the car parking configuration was northwest-southeast, as now submitted. All other design issues are acceptable, with the proposed design representing a pleasing design, in an area where there is no single established style or design of dwellings.
- 8.07 The scale of development (one single dwelling) would not normally be commented on by Kent Highways and Transportation, but in view of the comments received from local residents, and my own observations on site, I have discussed the proposal with them. Originally, they expressed concern regarding the safety of the proposed access, but they are reassured by the amended drawings now submitted.



- 8.08 Finally, as mentioned above, I note that a similar sized property was approved on this site under planning reference SW/12/0919. This approval has set a precedent for acceptance of a dwelling on this site, which is within the defined built-up area boundary. The proposal accords with Paragraph 14 of the NPPF and Policy ST3 of the Local Plan, and represents sustainable development. As such, I recommend that the application be approved, subject to conditions.

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

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

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following drawing: 2698/1A.

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

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

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

- (4) No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (6) 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.

Reason: In the interests of residential amenity.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

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

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (10) No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

- (11) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular

access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

- (12) No development beyond the construction of foundations shall take place until details of a covered secure cycle parking facility shall be submitted to the Local Planning Authority for approval in writing and the approved facility shall be provided prior to the occupation of the dwelling hereby approved and shall be retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development

- (13) Upon completion, no further enlargement of the property whether permitted by Classes A or B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

### **Council's approach to the 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:

Providing a pre-application advice service

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 case, the application was considered acceptable upon the receipt of amended drawings.

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.



**PLANNING COMMITTEE – 1 FEBRUARY 2018****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 17/506506/FULL</b>			
<b>APPLICATION PROPOSAL</b> Demolition of existing rear extension and erection of a new single storey rear extension.			
<b>ADDRESS</b> 47 Princes Avenue Minster-on-sea Sheerness Kent ME12 2HJ			
<b>RECOMMENDATION</b> Refuse subject to outstanding representations (closing date 26 January 2018)			
<b>SUMMARY OF REASONS FOR REFUSAL</b> The proposal, by virtue of its scale will result in the loss of all private amenity space at the dwelling. It will also negatively impact on the residential amenity of neighbouring dwelling No. 45 Princes Avenue due to its excessive depth.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council support application			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr & Mrs M Woods <b>AGENT</b> Redsquare Architects Ltd
<b>DECISION DUE DATE</b> 16/02/18	<b>PUBLICITY EXPIRY DATE</b> 26/01/18		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/07/0043	Outline application for the erection of two chalet bungalows (to replace existing bungalow)	APPROVED	12.03.2007
An application for reserved matters relating to the above application was not submitted, therefore this proposal was taken no further and the permission has expired.			

**1.0 DESCRIPTION OF SITE**

- 1.01 47 Princes Avenue is a detached bungalow located within the built up area of Minster. The property is situated to the rear of the plot, with a large garden and driveway to the front, and private amenity space to the rear.
- 1.02 Princes Avenue is an unmade road characterised by varied styles of properties, although the dwellings immediately to the south of the property are also bungalows of a similar scale and design. No. 47 is the last property on the eastern side of the road.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the erection of a single storey rear extension. It would involve the demolition of the existing rear extension (for which no planning history can be found). The proposed extension would project from the rear wall of the existing dwelling by 6.45m and have a width of 14.6m. The proposed extension would have a pitched roof with a maximum height of approximately 4.9m, slightly above the ridge height on the existing bungalow.
- 2.02 The proposed extension will provide a large living area comprised of a lounge, dining area and kitchen. It will also create a fourth bedroom and En-suite.
- 2.03 The proposed materials include tiles to match the existing roof, and weatherboarding to the walls of the extension.
- 2.04 Due to the scale of the extension almost the entirety of the private amenity space to the rear of the property will be lost.
- 2.05 The surrounding neighbours were consulted on the proposal and a site notice was also posted. The closing date for all comments is 26<sup>th</sup> January 2018, and this report is therefore subject to the receipt of any additional comments, which will be reported at the meeting.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies CP4, DM14 and DM16 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- 4.03 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 No comments had been received at the time of writing, but as at 2.05 above the final closing date is 26<sup>th</sup> January and any comments received will be reported to Members at the meeting.

## **6.0 CONSULTATIONS**

- 6.01 Minster Parish Council support the application.

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application papers for application 17/506506/FULL.

## 8.0 APPRAISAL

### Principle of Development

- 8.01 The application site is situated within the defined built up area boundary of Minster where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts.

### Visual Impact

- 8.02 The proposed extension will be situated mainly to the rear of No. 47, although it does project 4.25m to the side (north) of the dwelling, so will be visible from the street scene. I consider the proposal acceptable in terms of its design due to the varied housing styles on Princes Avenue. The roof will be pitched, and of a similar ridge height to the roof on the existing property. It will be tiled to match the original roof, and the extension will be clad in weatherboarding. I consider the proposed materials acceptable in this case due to the lack of uniform housing in the surrounding area, and the location of the property at the end of the street, away from public vantage points. Overall, I consider the application acceptable in terms of design and in relation to its impact on visual amenity.

### Residential Amenity

- 8.03 The proposed extension will impact upon the neighbouring property at no. 45 Princes Avenue. The rear wall of the existing dwelling extends past the neighbouring property by approximately 4m. The proposed extension will project a further 6.4m to the rear. The Council's SPG entitled "*Designing an Extension*" states that for rear extensions close to the common boundary, a maximum projection of 3m is allowed. Although there is a 2.1m gap between the extension and the common boundary, due to the fact the existing dwelling is already situated further back than no. 45, I consider the impact that the proposed extension will have on the adjacent dwelling will be unacceptable. The rear extension will extend almost the full length of the garden at No. 45, and although it will only be single storey, it will be clearly visible from the neighbour's garden, resulting in a loss of outlook and sense of enclosure for the occupiers of no. 45. I consider this would amount to a justifiable reason for refusal.
- 8.04 Regarding the neighbouring dwelling to the rear, Gallons Lapp, the proposed extension will be located approximately 13m away. The Council usually requires a distance of 21m between windows to the rear and other houses to the rear, however in this case I consider due to both properties being bungalows, the amount of mutual overlooking will be reduced. I also note there is a large amount of foliage along the common boundary between the properties, again reducing the amount of overlooking that could occur. Furthermore I note that the rear elevation of the proposed extension has been designed to include 3 high level windows and a mainly solid door to minimise any potential overlooking towards the dwelling to the rear – Gallons Lapp. Taking all of this into account I consider the proposed extension will not cause unacceptable harm to the amenities of the occupiers of Gallons Lapp.
- 8.05 Regarding the residential amenity of the occupiers of the property, the proposal will result in the loss of all the private amenity space to the rear due to the scale of the proposed extension. Taking into account the additional bedroom in the proposed extension, the property will become a four bedroom dwelling, which is likely to be a family home and therefore a private garden will be vital. I consider the lack of a private



rear garden will be detrimental to the living conditions of the occupiers of the house and this would amount to a reason for refusal.

### **Parking**

- 8.06 The proposal includes the addition of another bedroom, turning the property into a four bedroom bungalow. However the driveway to the front of the dwelling is large enough to comfortably park two cars which is compliant with the KCC standards (as set out in Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking), which state two parking spaces are required for a four bedroom property. Therefore I consider this aspect of the proposal acceptable.

## **9.0 CONCLUSION**

- 9.01 I consider the proposal is acceptable with regard to its impact on visual amenities and has adequate parking provision for a four bedroom dwelling. However, the extension will project rearwards by an unacceptable amount in relation to neighbouring property, no. 45. Furthermore the loss of all private amenity space to the rear will have a detrimental impact to the amenity of the occupiers of the dwelling. Therefore I recommend planning permission should be refused.

## **10.0 RECOMMENDATION –REFUSE for the following reasons:**

- 1) The proposed rear extension, by virtue of its excessive depth and positioning would amount to an oppressive and overbearing structure that would have an adverse impact to the residential amenity of the occupiers of 45 Princes Avenue. The proposal would therefore be contrary to policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017” and the Council’s adopted Supplementary Planning Guidance entitled “Designing an Extension: A Guide for Householders”.
- 2) The proposed extension, by virtue of its scale and position, would fail to provide any private amenity space to the rear of the property, which would be significantly detrimental to the living conditions of its occupants. The proposal would therefore be harmful to residential amenity in a manner contrary to policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

### **The Council's approach to this application:**

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

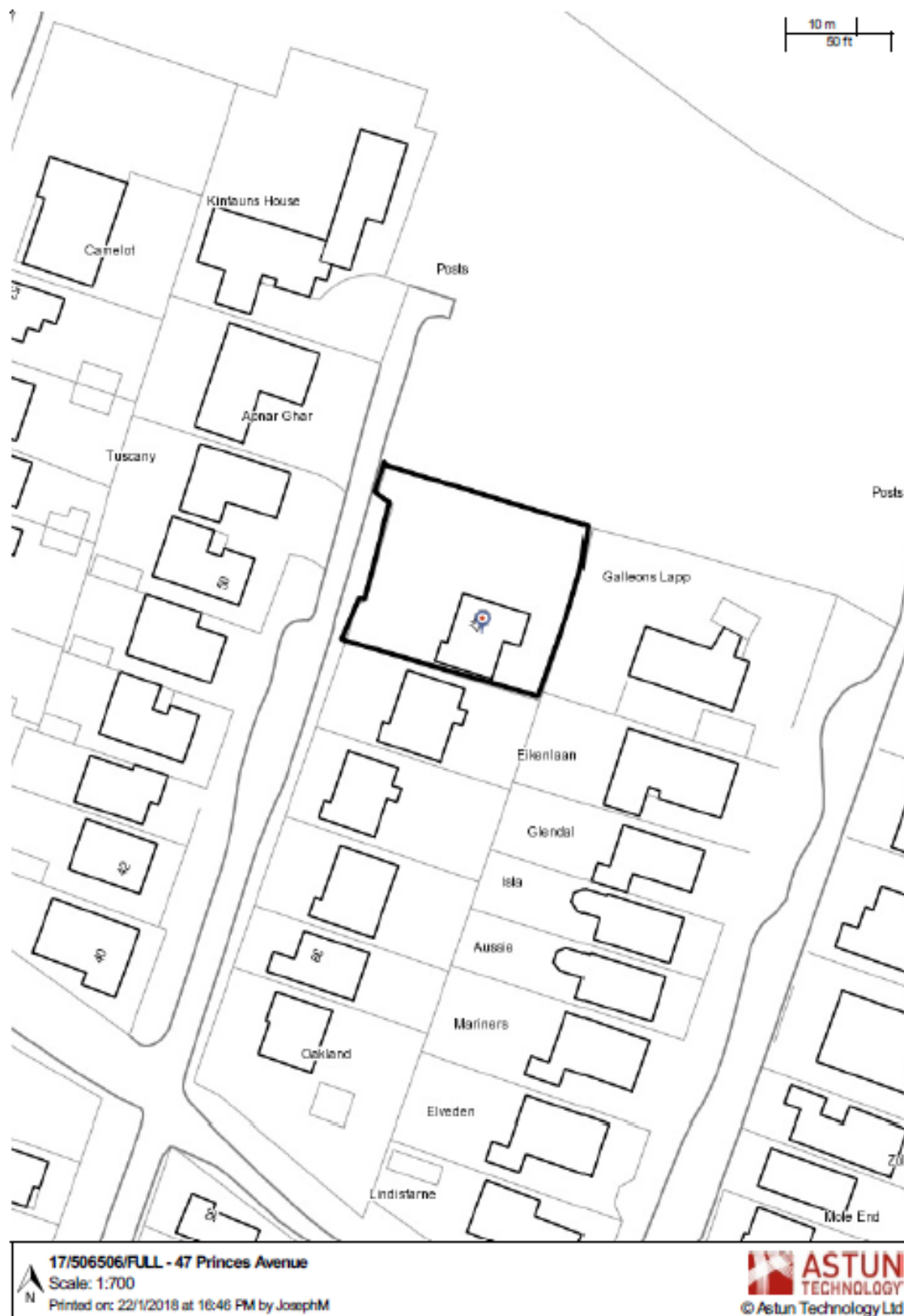
- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any solutions to resolve this conflict.

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

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





The Planning Inspectorate

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## Appeal Decision

Site visit made on 12 December 2017

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 22 December 2017

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**Appeal Ref: APP/V2255/D/17/3183399**

**28 High Street, Queenborough ME11 5AA**

- 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 Dale Blake against the decision of Swale Borough Council.
  - The application Ref 17/502840/FULL was refused by notice dated 8 August 2017.
  - The development proposed is insulation and timber cladding to the rear, side and front of the property.
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### Decision

1. The appeal is dismissed.

### Main issue

2. The main issue in this appeal is whether the development has preserved or enhanced the character or appearance of the Queenborough Conservation Area.

### Reasons

3. The buildings within the Conservation Area vary in matters such as their design details, form and materials. However, the architectural quality of the buildings is, nevertheless, an important element in the special interest of the Area. The appeal concerns a two storey property at one of the ends of a small terrace. Prior to the alteration the subject of this appeal, which has already taken place, the overall terrace of three properties had a particularly cohesive and unified appearance. This derived from the significant degree of consistency with regard to matters such as the facing brickwork, front building line and the arches above the windows, as well as the hipped roof form. As a result, the terrace made a positive contribution to the architectural quality of the Area, despite not being a Listed Building or designated as a locally listed building.
  4. However, the timber cladding provides an abrupt and discordant contrast with the brickwork of the other two properties. The obscuring of the brick arches over the windows at the front has further exacerbated this mismatch. This has resulted in the terrace being unbalanced, with an undue loss of cohesion. The altered dwelling is an incongruous presence in the context of the host terrace to the detriment of the streetscene, regardless of the varied design and timber cladding found elsewhere in the Area. Measures such as painting the cladding or adding detailing would not prevent the adverse unbalancing impact. In any case, it is the development that has already taken place which is the subject of this appeal.
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Appeal Decision APP/V2255/D/17/3183399

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5. The Appellant has indicated particular buildings on a plan, including a terrace where the three dwellings have different materials at the front, comprising painted brickwork, render and timber cladding. That with timber cladding differs from the others due to having a dormer addition and higher roofline, distinguishing this overall building from the host terrace in this case. In any event, I do not have any evidence to show that a comparably uniform original terrace has been unbalanced due to decisions made by the Council, either in relation to this other terrace or any other properties. It has not therefore been shown that the Council's decision making has been unreasonably inconsistent.
6. For the above reasons, I conclude that the development has been detrimental to the architectural integrity of the host terrace and diminished the positive contribution that it made to the Conservation Area. In consequence, the character and appearance of the Conservation Area has been adversely affected and not preserved or enhanced.
7. There is conflict with Swale Borough Local Plan 2017 Policies CP4, DM14, DM16 and DM33. This arises in relation to matters such as the intention to secure high quality design, conserving and enhancing the built environment, preserving architectural features of interest and paying special attention to the use of materials. There is also conflict with advice in the Council's supplementary planning guidance, Conservation Areas, that alterations should respect existing materials and match them in texture and colour.
8. In relation to designated heritage assets, the National Planning Policy Framework (The Framework) indicates that where there would be harm that is less than substantial, it must be weighed against the public benefits of the proposal. Although less than substantial harm would arise, considerable importance and weight must still be attached to it. This is necessary to reflect the statutory duty of paying special consideration to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
9. My attention is drawn to subsidised regeneration works carried out in the Borough to improve poor levels of energy efficiency. However, this is said to have not happened in Queenborough where residents have had to undertake their own works. It is claimed that the insulation and cladding has made the host property significantly more thermally efficient. Despite policy support for this in order to mitigate climate change, the extent of the improvement has not been quantified and there is no evidence that this could not have been achieved in a less visually damaging way by other means such as loft insulation, for example. I therefore afford this consideration relatively limited weight so that it is significantly outweighed by the resultant harm and the development is contrary to the policies of the Framework in respect of heritage assets.
10. The Appellant has expressed concern about the Council's handling of this matter and an unwillingness to negotiate. However, neither this nor matters such as the absence of complaints or objections can confer acceptability on the development which I must consider strictly on its own planning merits. Because of the detrimental effect on the Conservation Area and taking account of all other matters raised it is determined that the appeal fails.

*M Evans*

INSPECTOR





## Appeal Decision

Site visit made on 21 November 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 22<sup>nd</sup> December 2017

**Appeal Ref: APP/V2255/W/17/3181733**

**70 High Street, Blue Town, Sheerness, Kent ME12 1RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Michael Morgan against Swale Borough Council.
- The application Ref 16/505002/FULL, is dated 10 June 2016.
- The development proposed is a three-storey, two bedroom dwelling house.

### Decision

1. The appeal is dismissed.

### Background and Main Issue

2. The appeal was made against the failure of the Council to determine the application within the prescribed period. Following the appeal the case was reported to Swale Borough Council Planning Committee on 9 November 2017 which agreed that had the Council been in a position to determine the application it would have been refused for the following reason:

*The proposal would introduce more vulnerable residential accommodation into an area of Flood Zone 3 which is at risk of flooding to a depth of 2.1m when climate change is considered in the 1 in 200 year event. As such, it would give rise to significant and unacceptable risk to human life not outweighed by the benefits of the proposal. The proposal would therefore be contrary to policies DM 14 and DM 21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) and to the advice of paragraphs 99 and 100 of the National Planning Policy Framework (the Framework).*

3. Having considered this reason, and the other evidence provided, the main issue in the appeal is considered to be whether the development would be appropriately designed to mitigate the risk of flooding.

### Reasons

4. The proposal relates to a single-storey workshop building which is adjacent and built up to a semi-detached pair of period three-storey dwellings. The site is in the older part of Blue Town and within a conservation area. The existing building would be replaced by a new three-storey dwelling of a design matching the pair next to the site but built to a lower roof height.
5. Blue Town, along with the rest of the built-up part of Sheerness on the west end of the Isle of Sheppey, falls within Flood Zone 3 in the Environment

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Appeal Decision APP/V2255/W/17/3181733

Agency's (EA) flood maps, indicating a high risk of flooding. This built-up area does however benefit from flood defences. Paragraph 100 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. This involves applying a Sequential Test to steer new development to areas with the lowest probability of flooding.

6. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Framework requires the Exception Test to be applied if appropriate. Two requirements are necessary to pass the Exception Test. Firstly, it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared. Secondly, a site-specific flood risk assessment (FRA) must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
7. Because the site is within a high risk Flood Zone 3 location and involves a less vulnerable workshop use being replaced by more vulnerable residential accommodation, the Council required the appellant to produce a FRA<sup>1</sup>. The Council has not referred to the Sequential Test but, as the proposal relates to previously-developed land within a wider urban area that falls entirely within Flood Zone 3, I am satisfied in this case that there is no reasonable alternative for this development in a location at a lower probability of flooding. However, to be considered acceptable in relation to flood risk the proposal should satisfy the Exception Test.
8. The EA has objected to this proposal as failing to meet the second part of the Exception Test. The EA has noted that the FRA shows the site to be defended to the 1 in 1000 year event but that there remains a risk of flooding when climate change is accounted for during the 1 in 200 year event. These show that flooding would potentially affect 2.1m in depth in the climate change scenario and so the EA concludes that residential development at ground floor is not appropriate at this location other than by raising it above this level or moving all such uses to first floor and above.
9. Based on the actual flood risk, which the FRA considers low, the mitigation suggested by the EA is found by this report to be impractical. In addition to main living and sleeping accommodation being above ground floor and a raised floor threshold of 75 – 250mm to prevent surface water entry in the event of a localised flood event, both of which are provided for in the submitted plans, the FRA also recommends further flood resistance and resilience design measures, sign up to EA floodline warnings and a surface water management strategy.
10. The appellant has not provided any further statement of case or detailed proposals as to how these additional FRA recommendations might be addressed so as to outweigh the EA concerns. The Council considers that in failing the EA requirements the proposal would give rise to unacceptable risk to human life, which is not outweighed by the benefits of the visual improvement of the site

<sup>1</sup> Flood Risk Assessment for the Proposed Development of 70 High Street, Blue Town, Sheerness, Kent. Herrington Consulting Limited November 2016.



Appeal Decision APP/V2255/W/17/3181733

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and the provision of an additional dwelling in a sustainable location. I agree that without adequate mitigation this proposal would not otherwise provide the wider sustainability benefits to the community that outweigh flood risk and consequently the second part of the Exception Test would not be met.

11. On the basis of the details submitted I must conclude that the development would not be appropriately designed to mitigate the risk of flooding. As a consequence the proposal would be contrary to LP policies DM 14 and DM 21 and to paragraphs 99 and 100 of the Framework.

**Conclusion**

12. For the reasons given, having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

*Jonathan Price*

INSPECTOR

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## Appeal Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

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

Decision date: **4<sup>th</sup> January 2018**

**Appeal Ref: APP/V2255/W/17/3180827**

**31A St Georges Avenue, Sheerness, ME12 1QX**

- 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 D Gail of Millennium Property Developments Limited against the decision of Swale Borough Council.
- The application Ref 17/500531/FULL, dated 31 January 2017, was refused by notice dated 21 April 2017
- The development proposed is construction of a single live/work unit with work-space on ground floor and residential accommodation on upper 2 floors.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are the effect of the proposed development on:
  - The living conditions of occupiers of existing residential buildings, with particular regard to whether the development would result in an overbearing effect on No.31 St Georges Avenue;
  - The living conditions of occupiers of existing residential buildings, with particular regard to whether the development would result in an unacceptable loss of privacy to No.31A St Georges Avenue; and
  - The character and appearance of the area.

### Procedural Matters

3. Following the decision the Council have adopted the Swale Borough Local Plan 'Bearing Fruits' 2031. In consequence, policies CP4 and DM14 of the Swale Local Plan 'Bearing Fruits' are now part of the development plan and can be given full weight in the decision. Policies E1 and E19 of the Swale Borough Local Plan 2008 are no longer part of the development plan and have no weight in the decision. I have dealt with the appeal accordingly.

### Reasons

#### *Overbearing effect*

4. The proposed three storey building would be constructed immediately adjacent to the boundary of the rear garden of 31 St Georges Avenue. Because of its

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Appeal Decision APP/V2255/W/17/3180827

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substantial height and bulk, it would appear intrusive and overbearing in views from this area. It would enclose the rear part of the neighbouring garden and would significantly diminish the outlook from this area, creating a visually dominant feature.

5. Because of its bulk, height and location, the proposed building would also obstruct the path of the sun, resulting in overshadowing of the neighbouring garden. The appellant provides evidence that the overshadowing would comply with standards set out in the Building Research Establishment guidance "*Site layout planning for daylight and sunlight: a guide to good practice*", with the additional overshadowing occurring in the mid-afternoon, roughly between 1pm and 3pm. However, technical compliance with these guidelines in respect of overshadowing would not overcome the poor visual relationship between the two properties, and the harm that arises from the resultant overbearing effect on No.31.
6. In coming to this view I have taken into account that much of the boundary between 31 and 31A would remain unaltered, and part of the building would be recessed away from the boundary wall. However, these facts do not mitigate the harm identified above.
7. Consequently, because of its height, bulk and close proximity to the common boundary, the proposed development would result in an overbearing effect that would lead to significant and unacceptable harm to the living conditions of occupiers of No 31. The proposed development would therefore conflict with Policy DM14 of the Swale Local Plan 2017 ("Local Plan") which requires that, amongst other things, new development is of a scale that is sympathetic to its location, and does not result in significant harm to the amenity of occupiers of surrounding buildings.

#### Overlooking

8. The proposed building would be located around 14 metres away from the rear elevation of 31A St Georges Road. The Council express concern that the first floor windows on the proposed building would overlook windows in the rear elevation of No.31A that are not currently directly overlooked. Whilst the separation distance would be similar to that found between other buildings in the surrounding area, new development must take the opportunities available to improve the quality of an area and the way it functions.
9. To mitigate the effects of this overlooking the appellant has proposed at appeal stage that a privacy screen is installed that would deflect views away from the first floor living room window. I agree this would be necessary to provide for a degree of outlook from the proposed building whilst protecting the privacy of neighbouring residents. Further details of its design, and the use of obscure glass on the relevant parts of the building could be required by planning condition, which could also secure its retention. Subject to the imposition of these conditions, the proposed development would not result in harm to the living conditions of No 31A through loss of privacy. There is no conflict with policy DM14 of the Local Plan which requires that new development does not result in significant harm to the amenity of occupiers of surrounding buildings.

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2

Appeal Decision APP/V2255/W/17/3180827

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*Character and appearance*

10. The proposed building would face Granville Road. Whilst many of the buildings in the surrounding area are two storeys in height and have a relatively uniform appearance, this is not true of the area immediately to the north west of the site facing Granville Road. The proposed building would be located within the setting of a number of industrial buildings and isolated residential dwellings. I observed that the closest neighbouring property on Granville Road has the appearance of an industrial building with a corrugated metal roof.
11. Within this context the proposed building would have a striking, contemporary appearance. National planning policy advises that planning decisions should not stifle innovation, originality or initiative. The apparent irregularity of the fenestration would not depart from any prevailing pattern of development on this side of Granville Road. For the same reason the use of timber cladding, the shallow roof pitch and extent of glazing on the front elevation would not result in any significant harm given the varied appearance of buildings along Granville Road to the north west of the site. The proposed metal roof would reflect materials evident on industrial buildings in the surrounding area.
12. As such, whilst the design of the building departs from the appearance and fenestration of the buildings on St Georges Avenue and the other side of Granville Road, such a departure would be justified given its immediate townscape context. In consequence, there would be no harm to the character and appearance of the area. There is no conflict with policy CP4 of the Swale Local Plan which requires development proposals to be of a high quality design that is appropriate to its surroundings.

*Other Matters and conclusion*

13. The proposed development would provide a new dwelling that would fulfil a housing demand. It addresses the constraints of the site due to flood risk by raising the residential accommodation and providing commercial space at ground floor level. The design is innovative and the standard of residential accommodation provided is good, and I have found that there would be no harm to the character and appearance of the area. Furthermore, any overlooking could be mitigated through measures including the construction of a privacy screen, which could be secured by planning condition. However, these considerations do not, even cumulatively, outweigh the harm that would arise to the living conditions of the occupants of No 31 due to the overbearing effect the proposed building would have on their garden area.
14. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Neil Holdsworth*

INSPECTOR

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3

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## Appeal Decision

Site visit made on 8 January 2018

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

an Inspector appointed by the Secretary of State

Decision date: **17<sup>th</sup> January 2018**

**Appeal Ref: APP/V2255/W/17/3185369**

**Land to the rear of 148, High Street, Newington, Kent ME9 7JH**

- 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 & Mrs Steve Mason against the decision of Swale Borough Council.
- The application Ref 17/500946/FULL, dated 7 March 2017, was refused by notice dated 1 August 2017.
- The development proposed is demolition of existing garage, erection of 2 garages, 3 dwellings to include new access with associated parking and landscaping and erection of summer house/studio.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - a) the effects of the proposed development on the character and appearance of the countryside;
  - b) whether or not the site would be suitable for a residential development given its location outside the built-up area boundary of Newington.

### Reasons

#### *Character and appearance*

3. Newington is a village which straddles the A2, one of the main routes that run through the Borough. It is described in Policy ST3 of the Swale Borough Local Plan (Local Plan) as a Rural Local Service Centre, which provides a range of services to its residents and to those pass through and live in the surrounding rural area.
4. The appeal site is an area of land to the rear of No 148 High Street (the A2). It lies to the east of the village centre. The proposed access would be within the settlement and be shared with No 148. However, the area in which permission is sought to construct three new dwellings lies beyond the settlement boundary. For planning purposes the site is therefore within the countryside.
5. With the exception of a modest sized barn, which was previously part of Lions Farm, the site is currently an open field enclosed on its southern boundary by a low wire mesh fence. The grass has been mown and the area appears to be used for recreational purposes. As no substantive evidence of the original arrangement of any agricultural buildings associated with the farm was provided, I was unable to compare the appeal proposal with previous development on the site. The land

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Appeal Decision APP/V2255/W/17/3185369

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immediately to the south of the site is also in the appellants' ownership and is open, gently undulating countryside. Part of the eastern boundary of the site abuts a car repair and maintenance depot. These commercial activities are visible through the sturdy metal fence. To the west there is open land which lies beyond the rear gardens of the properties fronting the High Street.

6. Although the commercial activities to the east have encroached to a small degree into the area to the rear of the High Street, the remainder has retained its open, rural character. Any other existing buildings appear to be part of the agricultural activities that previously took place in the area and are typical of those that can be seen in the countryside. There is therefore a significant change of character between the development which fronts the High Street and the area to the south.
7. The largest of the proposed dwellings would be a clear incursion into the open, rural landscape and countryside to the south of the High Street. The two smaller dwellings would be reasonably close to either the existing building or the adjacent commercial activities. Nevertheless, the introduction of the proposal as a whole with its access road, garages, parking areas, gardens and associated residential paraphernalia, would significantly erode the open, rural character of the area.
8. I note that the supporting text to Policy ST3 recognises that there may be opportunities to develop sites to the east of the village, but only where there is potential to develop a visually well contained site. In my view the proposal would fail to do this as there are no natural features that would contain the development on its southern side. Consequently, the development as a whole would represent an unacceptable incursion into the countryside which would be harmful to the area's open, rural character and appearance. This would be the case regardless of the precise details of the layout or design of the individual buildings.
9. I therefore conclude that the proposal would harm the character and appearance of the countryside, contrary to Policies ST3, CP3, CP4 and DM14 of the Local Plan, all of which seek to conserve and enhance the countryside.

#### *Suitability of location*

10. Notwithstanding the fact that Newington is an accessible village with a significant range of services, the Local Plan has defined its built-up area boundary. The supporting text of Policy ST3 recognises that development opportunities within the village are limited for a variety of reasons, including poor air quality and the surrounding high quality agricultural land. Any residential development beyond the boundary established by the Local Plan would therefore conflict with the aim of providing homes in accordance with the Borough's identified and agreed settlement hierarchy.
11. I conclude that the appeal site would not be a suitable location for additional housing, given its location outside the built-up area boundary of Newington. The proposal would be contrary to Policies ST3 and CP3 of the Local Plan, which seek to provide new homes in accordance with the settlement hierarchy.

#### *Planning balance*

12. The National Planning Policy Framework (the Framework) seeks to significantly boost the supply of housing and requires local planning authorities to demonstrate a five-year supply of deliverable housing sites. Until recently the Council was unable to do so. However, throughout the pre-application process in relation to the appeal proposal, the Council indicated to the appellants that progress was being made with the Local Plan and, if found sound, this would result in it having an adequate supply of housing sites.

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<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/17/3185369

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13. The application was submitted in March 2017, shortly after the re-convened Examination in Public of the Local Plan. The Plan was found sound and adopted in July 2017. The Council determined the application immediately afterwards and did so in accordance with this new Local Plan. I am required to do the same.
14. The appellants contend that the five-year housing land supply is not robust and that any shortfall should be made up in the early years of the Plan. However, it is not the purpose of an appeal to revisit the assumptions or methodologies used to determine the borough's housing need, particularly as the issue has been recently tested through the Examination in Public. Even if there was a shortfall in the five-year supply, the three homes proposed in the appeal scheme would make only a minor contribution to it. This matter is therefore not a factor that weighs in the scheme's favour.
15. I am aware that an Inspector granted planning permission for development of nine dwellings at Ellen's Place in March 2017<sup>1</sup>. However, that scheme was assessed against different policies and when the Council was unable to demonstrate a five year housing land supply. The Inspector found that even though that scheme did not conform to the development plan, the adverse impacts did not significantly and demonstrably outweigh the benefits. The particular circumstances of that site and the policies which applied at the time therefore justified allowing the appeal. That decision cannot be compared with the proposal before me, which I have determined on its individual merits in the light of current planning policy.
16. I note that the appellants seek to construct three dwellings to enable them to live in the largest house, whilst their elderly parents would live independently in the other two. Whilst I appreciate that this would work well for the appellants, there is no mechanism to ensure that the dwellings would continue to be used in this way in the future. These personal circumstances therefore carry little weight in my determination of the appeal.

### Conclusions

17. The Framework reiterates that planning law requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal would harm the open, rural character and appearance of the countryside. In addition, the appeal site lies outside the settlement boundary of Newington within the countryside. The introduction of residential development on it would be contrary to the strategy for the Borough to locate new homes within existing settlements.
18. The proposal would therefore conflict with the development plan and there are no material considerations, which outweigh this conflict. For this reason, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

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## Appeal Decision

Site visit made on 8 January 2018

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

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

Decision date: 16<sup>th</sup> January 2018

**Appeal Ref: APP/V2255/W/17/3183089**

**Agricultural Barn, Foresters Farm, London Road, Dunkirk ME13 9LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by B B Stephens and Son against the decision of Swale Borough Council.
- The application Ref 17/502466/PNQCLA, dated 8 May 2017, was refused by notice dated 4 July 2017.
- The development proposed is change of use of agricultural building to 2 dwelling houses together with operational development.

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was determined under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (GPDO). However the application form does not provide a succinct description of the development. The Council's decision notice and the appeal form both refer to the prior notification and prior approval elements of the process. Nevertheless, it is clear that the proposal seeks a change of use of an agricultural building to two dwellings, so I have adopted this part of the description in this Decision for the sake of brevity.
3. There is no dispute that the current proposal meets the requirements of Schedule 2, Part 3, Paragraphs Q.1(a) to (h) or (j) to (m) of the GPDO.

### Main Issue

4. The main issue is whether or not the proposal would constitute permitted development having regard to the provisions of Class Q of the GPDO.

### Reasons

5. The appeal barn is a large, rectangular, steel framed building which is significantly longer than it is wide. It has a steep, mono-pitched roof and is enclosed on both its short sides and the smaller long side by trapezoidal section steel cladding. However, its tall north-eastern side is open for more than half its length. The remainder of this elevation also includes openings with large steel sliding doors. The roof is sinusoidal profile asbestos sheeting.

<https://www.gov.uk/planning-inspectorate>



Appeal Decision APP/V2255/W/17/3183089

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6. The report on structural feasibility concluded that the steel frame is sufficiently strong to be adapted to a residential use, even though one or two roof purlins have minor damage and would need to be renewed. The steel columns and rafters are significantly larger than is usual with an agricultural building and it would appear that it has been relocated. Whilst the appellant suggests that this provides evidence that the building was designed as 'habitable', given its dimensions, it seems more likely that its previous use could have been commercial. However, as there is no dispute about its agricultural use, any previous use is not material to the current proposal.
7. The structural report concluded that whilst the barn is strong enough to be converted, it would require a lightweight cladding system and full reinstatement of the building's original lateral stability system. The proposal would also include the insertion of a new first/mezzanine floor which would need to be supported independently. In addition, a new and substantial wall of significant width and height would need to be added to the front of the building for approximately half its length.
8. It seems to me that these requirements and additions would amount to structural alterations to the building. This is confirmed by the conclusions of the report which states that 'the structure is ideally suited to being retained and used *within the new residential structure*' (my emphasis). However, such works are specifically excluded by the advice set out in Paragraph 105 of the Planning Practice Guidance (PPG)<sup>1</sup>, which states that it is not the intention of the permitted development right to include the construction of new structural elements for the building.
9. I note that the existing cladding on the rear of the barn, which is close to the site boundary, would be retained. However, the steel cladding on the north-west and south-east sides of the building would be replaced with cedar timber cladding. The drawings show that the front elevation of the full length of the building would comprise cedar timber cladding punctuated by large areas of glazing. Both dwellings would have substantial areas of glazing that would occupy almost the full height of the building as well as patio style windows and doors, together with other windows at ground and first floor level. All the windows would have a strong vertical emphasis. These features would be very different in form and appearance from any that currently characterise this utilitarian agricultural barn.
10. Furthermore, it is proposed to replace the asbestos roof with lightweight slates. This would not be a straight forward replacement, as the new roof would include two openings to enable the provision of an internal courtyard within each of the dwellings. The new roof would also incorporate several rooflights.
11. The overarching provisions of Class Q within the GPDO state that for the change of use to be permitted development the building operations must be reasonably necessary to 'convert' the building. If the works go beyond what would amount to a 'conversion', then the development would fail at the first hurdle. The exceptions set out in Q.1(i) allow for the installation or replacement of windows, doors, roofs or external walls, but this is subject to those 'reasonably necessary for the building to function as a dwellinghouse'.

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<sup>1</sup> Reference ID: 13-105-20150305

Appeal Decision APP/V2255/W/17/3183089

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12. Taken in isolation, some of the individual elements of the appeal proposal could be considered to be acceptable. However, when all the changes required in this case are considered cumulatively, their extent would amount to a significant change to the structure and appearance of the building. Very little of the original building would remain other than its metal frame and the cladding on its rear elevation. It seems to me that these fundamental alterations would go well beyond what could reasonably be described as a 'conversion' and would amount to a 'rebuild'.
13. In coming to this view I have had regard to the various appeal decisions<sup>2</sup> presented to me by both parties, where Inspectors arrived at different conclusions. However, in each situation the Inspector considered the merits and particular circumstances of the cases before them. In each one the decision as to whether or not the building operations amounted to a conversion or a rebuild, was a matter of planning judgement.
14. This approach was confirmed by the decision of the High Court in the case of *Hibbitt & Another v Secretary of State for Communities and Local Government & Ors*, which was handed down in November 2016 and has been referred to by both parties<sup>3</sup> (the *Hibbitt* case). This is a matter to which I give significant weight, particularly the analysis set out in paragraphs 23-35 of that judgement.
15. The Court's decision is likely to have caused the Council to reconsider the way in which it subsequently assessed applications for prior approval under Class Q of the GPDO. The decision granted by the Council prior to the *Hibbitt* case, Ref: 16/503223/PNQCLA, dated 13 June 2016, is therefore not directly comparable with the appeal proposal.

#### Conclusion

16. The proposal would exceed the overarching requirements of Paragraph Q (b) and would not meet the requirements of Paragraph Q.1(i) of the GPDO. The issue of conditions, as set out in Paragraph Q.2(1), is therefore not relevant to the determination of the appeal.
17. For the reasons set out above, I conclude that the proposal would not be permitted development under the provisions of Class Q and that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

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<sup>2</sup> Appellant's references: APP/P3040/W/16/3165076, APP/P2935/W/16/3157544, APP/W1145/W/16/3156231  
Council's references: APP/R3325/W/16/3154499, APP/V2255/W/17/3173539

<sup>3</sup> EWHC 2853 (Admin)

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