

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 24 May 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.

Membership to be confirmed following Annual Council on Wednesday 16 May 2018.

Quorum = 6

	Pages
1. Fire Evacuation Procedure	
<p>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.</p> <p>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.</p> <p>The Chairman will inform the meeting that:</p> <p>(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</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>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</p>	

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 26 April 2018 (Minute Nos. 633 - 640) 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. Planning Working Group

To approve the Minutes of the Meeting held on 14 May 2018 (Minute Nos. to follow).

To consider application 17/504618/FULL, 6 Park Avenue, Sittingbourne, ME10 1QX

6. Report of the Head of Planning Services

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 or call 01795 417328) by noon on Wednesday 23 May 2018.

7. Exclusion of the Press and Public

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

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7.

- 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

To consider the attached report (Part 6).

Issued on Wednesday, 16 May 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

Chief Executive, Services 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

24 May 2018

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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PLANNING COMMITTEE – 24 May 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/501317/FULL			
APPLICATION PROPOSAL Erection of a single storey front extension, conversion of existing garage into a habitable space and internal alterations.			
ADDRESS 8 Berkeley Close Dunkirk Faversham Kent ME13 9TR			
RECOMMENDATION Approve			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Jon Haile AGENT Cb Planning	
DECISION DUE DATE 31/05/18	PUBLICITY EXPIRY DATE 24/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/506134/FULL	Erection of a single storey front extension, conversion of existing garage into a habitable space and internal alterations.	WITHDRAWN	18/01/2018
At 38 Berkeley Close			
15/503828/FULL	Erection of single storey front extension and part conversion of integral garage with door to side.	Approved	17/08/2015

1.0 DESCRIPTION OF SITE

- 1.01 8 Berkeley Close is a modern two bedroom mid- terraced dwelling located within the built up area boundary of Dunkirk. The site is located on a residential road with semi-detached and terraced dwellings with off-street parking and small semi or fully paved front gardens.
- 1.02 The property is one of a row of five dwellings which are designed with a flat roof front projection providing a single garage. There is hardstanding to the full width of the property frontage (5m) providing off road parking for two cars.
- 1.03 Further down the road, at no. 38 Berkeley Close, an application for a garage conversion and a similar front extension was approved by Members when Dunkirk Parish Council opposed the proposal.

2.0 PROPOSAL

- 2.01 This application seeks permission for the construction of a single storey extension to the front of the property and the conversion of the existing garage to a habitable room (bedroom with en-suite bathroom).
- 2.02 The single storey front extension would project 3.6 metres from the front elevation of the house and measure 2.5 metres wide and 2.5 metres high. It would be set back from the front wall of the existing garage by 1.3 metres. The existing front entrance door and window would be removed and re-positioned at the front of the extension. It would have a flat roof constructed of EPDM (rubber) membrane. The proposal would provide a larger kitchen.
- 2.03 The external garage door would be removed and replaced with a new window constructed of white UPVC. The external walls below the new window would be constructed of a brick plinth to match the existing brickwork.
- 2.04 Two off-road parking spaces would remain in front of the garage.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM7 (Vehicle Parking), DM14 (General Development Criteria) and DM16 (Alterations and extensions)
- 4.02 Supplementary Planning Guidance (SPG) entitled “*Designing an Extension – A Guide for Householders*”. Of particular relevance here is the guidance on car parking and front extensions. With regards to car parking, the guidance states that:

“Extensions or conversion of garages to extra accommodation, which reduce available parking space and increase parking on roads is not likely to be acceptable. Nor is the provision of all car parking in the front garden a suitable alternative as the position is unlikely to be suitable for a garage and will create a poor appearance in the streetscene.”

With regards to front extensions, the guidance states:

“The Borough Council normally requires that front additions are kept to a maximum of 1.2m.”

5.0 LOCAL REPRESENTATIONS

- 5.01 None

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application as a matter of principle, referring to the emerging Boughton and Dunkirk Neighbourhood Plan in a letter containing photographs of the site and surroundings, and stating;

“The continual conversion of garages is increasing the traffic pressures with excessive on-street parking...”

Boughton and Dunkirk Neighbourhood Plan will be bringing forward policies to curtail this type of development. As an emerging plan, at this stage, it only carries limited weight as a planning consideration, but it does indicate a 'direction of travel' with regard to constraining on road parking.

There is only one dropped kerb and the space available for parking is quite small. There would be a questionable access to the property and difficulties with waste bins.

We would ask that the application is refused.”

- 6.02 The agent responded to the objections to say that the parking is adequate for 2 spaces and is similar to other properties in this road, and has sent its own photograph demonstrating this.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 18/501317/FULL

8.0 APPRAISAL

- 8.01 The main considerations in this case are whether the proposal is acceptable in terms of design and whether the loss of the garage as a parking space and providing all parking to the front of the property is acceptable.

- 8.02 The proposed front extension would alter the character of the property and the visual appearance of the street scene. The proposal is potentially contrary to the advice contained within the SPG, which suggests that front extensions should not project more than 1.2m but as the property has an irregular frontage this advice needs to be applied carefully. This property is set back from the footpath and the road and in my view the extension would have no adverse impact on residential or visual amenity. I do not believe that it should be refused on policy grounds alone and I note that a similar extension has been approved elsewhere on the estate.

- 8.03 The proposed conversion would result in the loss of the property’s only single garage. The question then is what impact will that have on the streetscene and on parking provision at the property. In this road, provision has been made for the parking of cars within the curtilages of all dwellings. The entire frontage of the property is now hardsurfaced, whereas originally some soft landscaping was indicated, with one parking space in front of the garage. The hardstanding to the front now provides off-road parking for two cars which is what the current parking standard for a three bedroom dwelling in a village location requires (see IGN3 from KCC). Parking spaces should normally be 2.5m wide, although between walls it is recommended by Kent Highways that this width should be enlarged to 2.7m. Here the area in front of the garage is 5.0m wide which complies with this guidance for two spaces. The proposal would not lead to new parking or visual amenity problems in the area as cars can already be expected to be parked across the entire frontage of the property on the existing hardstanding. As such, I see no prospect of the Council

being able to defend a refusal of this application at appeal – past experience has made this clear. I take the view that by converting the garage into a habitable room it will have no impact upon the street scene as no new issues would arise.

- 8.04 There is no identifiable harm regarding the impact of the proposal upon the amenity of the residents of the adjacent dwellings, no's 6 and 10. The single storey extension would not project further forwards than the neighbour's garage, therefore I consider the proposal would not give rise to any serious overshadowing or loss of light to adjoining properties.
- 8.05 The garage conversion does introduce a window facing the highway in place of the existing garage door. The size and design of this window is in keeping with the other front windows and as such, I consider that the proposal is acceptable in relation to its impact upon neighbouring amenities.

9.0 CONCLUSION

- 9.01 This application for a single storey front extension and conversion of garage to form a habitable room is considered acceptable and I therefore recommend that 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 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 shall be carried out in accordance with the following approved drawings:

CB-005, CB-006, CB-008 and CB-010

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

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

Reason: In the interests of visual amenity

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:

- 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 acceptable as submitted and no further assistance was required.


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.



18/501317/FULL - 8 Berkeley Close, Dunkirk, Faversham ME13 9TR
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2.2 REFERENCE NO - 17/505115/FULL			
APPLICATION PROPOSAL Erection of groceries online (GOL) distribution hub and associated works.			
ADDRESS Sainsburys Avenue Of Remembrance Sittingbourne Kent ME10 4DN			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal, as amended to include an effective acoustic fence, would not have a detrimental impact on the residential amenity of the area to warrant a refusal. The proposal has been well designed to appear in keeping with the existing retail unit.			
REASON FOR REFERRAL TO COMMITTEE Ward Member call in by Cllr Truelove.			
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Sainsbury's Supermarkets Ltd AGENT WYG	
DECISION DUE DATE 14/12/17	PUBLICITY EXPIRY DATE 29/11/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/504064/FULL	Installation of plant equipment on the roof and within the service yard.	Approved	
SW/03/0035	Installation of roof mounted air handling plant	Approved	
SW/02/1365	Erection of covered trolley bays	Approved	
SW/01/0527	Extension of store to provide additional floorspace and associated works.	Approved	
SW/95/0936	Phase 1 detailed application for food retail store with associated car parking- landscaping and road improvements to the Avenue of Remembrance and its junction with Bell Road. Phase 2- outline application for non-food retail units with associated car parking and landscaping.	Approved	

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application sites forms part of the existing car park, specifically along the eastern elevation of the foodstore and part of the front (north) of the Sainsbury's supermarket which is located off Avenue of Remembrance. Planning permission for the supermarket was granted under SW/95/0936- there was no condition restricting the hours of use attached to this approval.

- 1.02 The site lies within the defined built-up area boundary of Sittingbourne and within the Regeneration Area for Sittingbourne Centre under Local Plan Policy ST4.
- 1.03 Located to the east of the application site is a residential area, Trots Hall Gardens. A number of the residential properties have rear gardens which face towards the application site, most notably Nos 13, 14 15 and 32. The distances from the site boundary to the edge of these rear gardens is between 17m and 19 m. There is substantial established landscaping along the boundary of the residential gardens and along the eastern boundary of the site.
- 1.04 The Sittingbourne conservation area lies to the north of the site, centred along the High Street. Immediately to the south and east of the site is an Area of High Townscape Value.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of 'groceries online' (GOL) distribution hub and associated works at the existing Sainsbury's Sittingbourne. The erection of the extension that would host the distribution hub would create a storage area of 2570 square metres and would include a canopy and loading area.
- 2.02 The proposed extension at its deepest would extend by 15m from the side elevation of the existing store. The loading area would accommodate 14 vans (10 spaces for loading and 4 overnight spaces). The new canopy would cover the loading area for 6 of the loading vehicles whilst the existing canopy would cover 4 of the loading spaces. The proposal also provides 2 x click and collect parking bays.
- 2.03 The application has been amended to show a 2.77m acoustic fence running along the eastern boundary of the application site with an automatic sliding access gate (to acoustic standards).
- 2.04 The proposed hours of operation sought are 7.30am to 11.30pm seven days per week.
- 2.05 The covering letter to the application states the following:
- The distribution hub proposed will significantly improve facilities for the GOL service and ensure staff are dry when loading the delivery vans at the site
 - The height of the distribution hub has been carefully considered and it is substantially lower than the height of the existing building
 - All existing trees will be retained
 - The existing 11 parent and child spaces currently at the eastern side of the store will be relocated to the western side of the car park in front of the store (12 parent and child spaces are proposed)
 - The existing 15 disabled spaces will be reconfigured and will be relocated closer to the store entrance (16 spaces are now proposed)
 - Overall, owing to the reconfiguration of the car park, the total number of parking spaces will decrease by 52 spaces from 391 to 339
 - Proposed hours 0730 to 1130
 - Each GOL van makes up to 3 runs per day with between 8-12 deliveries per run
 - The latest car parking accumulation survey undertaken in 2016 shows that the car park is currently operating well within its capacity

2.06 In an email received on 5th February 2018 the agent confirmed the following:

'We have spoken with Sainsbury's this morning further to your email below. They have confirmed, as noted in my email to you dated 18 January, that the sliding gate to the GOL area will only be open when required for van movements and will be closed at all other times. For security reasons, to protect the large amount of stock and other equipment in this area, Sainsbury's ensure that this gate is kept closed so that no unauthorised person can access the GOL area. If for any reason this gate is not closed then the store will take disciplinary action on staff. It is therefore entirely in Sainsbury's interests to keep the gate closed at all times. Given the foregoing, Sainsbury's will ensure that the gate is kept closed both for noise mitigation measures and also for security reasons.'

2.07 Following further discussions with the agent the following was confirm by email on 7th February 2018:

'Further to my emails below, we have since received confirmation from Sainsbury's that the GOL gate will close automatically behind vehicles on exit and entry to the GOL area.'

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0	0.29 hectares	
Approximate Ridge Height (m)	0	6.5m	6.5m
Parking Spaces	391	339	-52

4.0 PLANNING CONSTRAINTS

4.01 The application site is located in the Town Centre Regeneration Area and lies within the built-up area of Sittingbourne.

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

5.1 Paragraph 11 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 At paragraph 56 it states the Government attaches great importance to the design of the built environments. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

5.3 As a core planning principle, the NPPF requires the planning system to proactively drive and support sustainable economic development to deliver business and industrial units, infrastructure and thriving local places. Every effort should be made objectively to identify and then meet business and other development needs of an area and respond positively to wider opportunities for growth. In seeking to deliver sustainable development and build a strong and competitive economy paragraph 19 of NPPF advises that significant weight should be placed on the need to support economic growth through the planning system.

5.4 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage Local Planning Authorities to support existing

businesses and encourage development that would support a sustainable economy, subject to amenity considerations.

5.5 Paragraph 123 of the NPPF specifically states that:-

“Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions

5.6 The guidance contained within the National Planning Practice Guidance (NPPG) is also relevant.

The adopted Swale Borough Local Plan, Bearing Fruits 2031:

5.7 Policy ST4 (Proposed regeneration strategy), CP1 (Building a strong, competitive economy), CP2 (Sustainable transport), CP4 (good design), DM6 (Managing transport demand and impact), DM7 (parking), DM14 (general development criteria), DM19 (Sustainable design and construction) and DM36 (high townscape value).

6.0 LOCAL REPRESENTATIONS

6.01 2 letters of objection have been received making the following summarised comments:

- Increase in traffic movements to and from the site will impact on environment and noise
- The area already suffers because of the level of noise created by Sainsbury's traffic
- Disturbed by traffic noise at unsocial hours
- No guarantee that there will be anything in place to reduce the noise made by loading and unloading of vans
- No safeguard to reduce noise for residents
- Concerned about the footpath
- The hours of use are excessive- 4am start till after 11.30pm
- Untold amount of vehicular movements
- Air-con units are high level
- The development would be better placed on the western elevation where there are no residential properties

6.02 Following the re-consultation a further 2 letters of objection (1 letter has been signed by 17 local residents) have been received making the following summarised comments:

- Right to peaceful enjoyment to a residential home
- Potential for noise generation has not been addressed to an acceptable level
- Impact of loss of 50 parking spaces
- Sainsburys has previously stated that there would be no commercial traffic operating on this side of the building that is directly opposite the residential properties
- Sceptical about the validity of the noise assessment methodology employed and outcomes stated in the document

- Reliance on management interventions rarely provides successful outcomes and the likelihood of management addressing breaches of policy in this case is likely to become less and less as Sainsburys have recently embarked upon Company wide programme of stripping out layers of management
- Increase in commercial and private vehicle use
- House of operating- suggest hours of operation be restricted to 0700-2200 on weekdays, 0800-2200 Saturday and 0900-1600 Sundays
- The current store opening hours are 0700-2100 weekdays and 1000-1600 on Sunday and the suggested times demonstrate flexibility on both sides
- If Sainsburys really do value their local community and neighbours as their public face would have you believe, they would set up the hub in the area already used for commercial vehicle movements- this would negate the impact upon local residents and still provide the business with the opportunity to actively respond to consumer demand
- Since the introduction of the Argos we have already seen an increase in the number of shoppers using the residential parking areas to avoid the parking charges
- Sainsburys have not actively engaged with the local residents
- During the last 6 months the local residents have endured excessive noise arising from the site where work began to incorporate the Argos Store
- Little was done to address these noise concerns
- The long hours of operating proposed are a concern
- Though the store closes at 9pm there is the associated noise from the staff leaving such as car doors slamming, radios on, car horns beeping etc
- Proposed hours of operation would cause further disruption both early in the morning and late at night to our lives and right to peaceful enjoyment of our area
- The acoustic fence should go along the entire boundary
- Potential increase in accidents due to the increase in vehicular movements
- Impact on the state of the road from commercial traffic

7.0 CONSULTATIONS

7.01 Kent Highway Services raise no objection to the application subject to conditions.

7.02 The Environmental Health Manager has made the following comments:

'This proposal is for a grocery online service hub situated in the south western corner of the existing supermarket site.

This proposal has the potential to cause a noise disturbance to nearby residents. There are three main elements to my noise concerns:

- *The operation of the service – including moving vehicles entering and leaving the site, and the loading and unloading of goods.*
- *Location – this proposed location is close to existing residents, albeit with the main vehicle entrance to the supermarket in between.*
- *Proposed hours of operation - an early start and late finish mean that the prospect of noise from this operation at unsocial hours is very real.*

I have already had extensive conversations with the applicant and planning officer prior to this submission and wrote an initial memo to the planning officer dated 12th

December 2017 in which I was sufficiently concerned to recommend the proposal be refused.

Since then my discussion with the applicant has centred on noise mitigation measures, as the supplied acoustic assessment did not contain any.

Further contact resulted in my suggestion for an acoustic fence to be put in place on the boundary of the site running along the length of the perimeter of the supermarket site as far as the residential properties at Trots Hall Gardens. This suggestion was rejected by the applicant; the explanation given was that this would necessitate crossing a public footpath/right of way.

A compromise solution was reached as the applicant agreed to install an acoustic fence at least 1.8 metre high and at least level with the front façade of the main supermarket, effectively enclosing the proposed GOL site with a gate. I was still concerned about noise from the use of the site with the gate opening and closing many times during the operating hours, so I recommended that the gate should also be of acoustic grade material and be self-closing.

To my knowledge this has been agreed by the applicant, and on this basis I have now withdrawn my initial objection.

However I still have some reservations about the working hours, particularly the late night time – until 23.00. The issues in the applicant's favour at this time is that the supermarket stays open until late evenings (9 o'clock) and there are deliveries at unsociable hours albeit on the other side of the supermarket, i.e. there are noisy activities already occurring on the site as a whole.

No objection for the reasons given above, but with the assumption that the fence and gate is constructed exactly as agreed.'

8.0 BACKGROUND PAPERS AND PLANS

- 8.1 All plans and documents relating to 17/505115 and SW/95/0936.

9.0 APPRAISAL

Principle of Development

- 9.01 The application site lies within the built-up area where there is a presumption in favour of sustainable development subject to visual and residential amenity considerations. The proposal would be attached to an existing well used retail unit and as such I consider the proposed use and development to be in keeping with the surrounding area.

Visual Impact

- 9.02 The height of the proposed distribution hub is lower than the height of the existing store building and the height of the proposed canopy is lower than the existing canopy to the front of the store. The proposal seeks to retain all of the existing trees that are located on the site boundaries and would result in two new trees being planted. In addition the materials proposed (Eurobond wall cladding in grey; topdeck roof construction in light grey and canopy, fascia's and trims to be finished in

light grey) would appear in keeping with the commercial nature of the existing store building. Visually the proposal is unlikely to have a significant impact due to the existing substantial mature landscaping, which is to be retained. I do note that parts of the proposed 2.77m tall closed boarded timber acoustic fence will be visible though the majority of the fence would be largely screened from view by the existing landscaping, whilst the proposed scheme includes the planting of additional trees which again will ensure that the development is effectively screened.

- 9.03 In my opinion the building and canopy would be well designed in terms of scale and design and as such will not have a detrimental impact on the character of the surrounding area.

Residential Amenity

- 9.04 The impact on residential amenity of the occupiers of the neighbouring residential properties at Trotts Hill Gardens is the key issue here. Throughout the application process, my officers have sought the advice from the Environmental Health Manager to ensure that the impact is minimal in terms of the noise concerns. I note the concerns raised about the potential for noise disturbance and this is a matter we have sought to address adequately. The Environmental Health Manager, the Case Officer and the agent have worked hard to achieve mitigation measures that are not only effective but are also appropriate for this location and character of the area. The acoustic fence would have a height of 2.77m and run along the eastern boundary of the application site. The acoustic fence would terminate in line with the existing parking spaces and adjacent to the boundary line of Nos 13 and 14 Trotts Hill Gardens. The advice from the Environmental Health Manager confirms that this is a sufficient length of acoustic fencing to mitigate against any possible noise generated subject to the acoustic gates being automatic and self closing. I am therefore of the opinion that the acoustic fencing proposed is sufficient to address any possible noise generation. Furthermore, I have added condition 4 to require full details of the acoustic fence and the automatic gate to ensure that the details are sufficient.
- 9.05 I note the proposed hours of operation the application seeks, which would be 7.30am till 11.30pm seven days per week and I am firmly in agreement with the local residents that the hours proposed are excessive and would lead to an unacceptable impact on the neighbouring residential amenity. I have discussed this matter at length with the Environmental Health Manager and we are of the opinion that the hours of operation sought are not acceptable for a site located in close proximity to residential properties. The existing store opening hours are 0700 to 2100 Monday to Saturday, 1000 to 1600 on Sundays and 0900 to 1900 on Bank holidays. With this in mind I am concerned that to allow greater hours of operation for the 'GOL' (groceries on-line) would have a significant impact on the amenity of the adjacent neighbouring residential properties. As such I suggest the following hours of operation:

0700-2200 Weekdays

0800-2200 Saturdays

1000-1600 Sundays and Bank Holidays

- 9.06 The above suggested hours are broadly in line with the opening times of the store and as such would not lead to an increase in unsociable hours of operation. It is not unreasonable to allow for 'quiet' times for the local residents and I believe that the

suggested hours accommodate that. I note that from the comments received that the local residents are concerned that the 'GOL' hub will not be managed properly in terms of the noise mitigation measures and therefore I have added a condition requiring the submission of a Management Plan to be agreed by the Local Planning Authority prior to the commencement of use. The Management Plan will require full details to be submitted on how the yard area will be managed to reduce noise.

- 9.07 It is important to note that if the proposed development does not accord with the details agreed by condition then the Council can take the necessary enforcement action against a breach of condition and in addition to this any potential noise nuisance can be investigated by the Environmental Health team under separate legislation.
- 9.08 Members should note that officers consider that the applicant has gone a significant way to amend the application to reduce the impact on the neighbouring residential properties to acceptable levels, and that the submitted amendments reflect the advice given by officers.
- 9.09 Subject to the above and the suggested conditions I am of the view that any possible noise generated can be controlled through the effective acoustic fence and automatic gate system.

Highways

- 9.10 I am of the opinion that the proposal would not generate an unacceptable amount of vehicular movements to and from the site. The covering letters submitted with the application state that 'each van makes up to 3 runs a day with between 8-12 deliveries per run'. I consider these additional vehicular movements to and from the 'GOL' hub unlikely to generate a significant increase in traffic in this area. Furthermore, the loss of some 52 parking spaces is unlikely to impact on the capacity levels of this car park. The application has been submitted with a survey which confirms that the loss of the parking spaces is acceptable; in any case there are other car parks available in close proximity of the store.

Landscaping

- 9.11 The proposal seeks to retain the existing mature trees located along the eastern boundary of the site whilst also planting additional landscaping. I consider this approach to be acceptable and have therefore added a condition requiring full details of landscaping and protection of all existing landscaping.

10.0 CONCLUSION

- 10.01 The proposal has been well designed to appear in keeping with the existing store building and in my opinion would not have a detrimental impact on the visual amenity of the area. I note the objections raised with regards to potential noise generation and as such have added a number of conditions requiring a Management Plan, full specification details of the acoustic fence and of the automatic sliding gates. The mitigation measures ensure that the impact on the residential amenity is minimal. I have also restricted the hours of operation as discussed above. Whilst officers are sympathetic to the concerns raised by the objectors, who all live in close proximity to the site, they are firmly of the view that the main reasons of objection have been overcome, these mainly being the noise impact suffered by neighbours as a result of operations within the yard/ building, and vehicles going in and out of the site.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings:
12074-PL0001 Rev A; 12074-PL0015 Rev A; 12074-PL0016 Rev A; CHQ.16.12074-CHQ-XXX-00-DR-A-PL0017 Rev A; CHQ.16.12074-CHQ-XXX-00-DR-A-PL0018 Rev C; 0522_0117-CHQ-XXX-00-DR-A-PL0019; CHQ.16.12074-CHQ-XXX-00-DR-A-PL0021 Rev A and CHQ.16.12074-CHQ-XXX-00-DR-A-PL0023 Rev A

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

- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall be as stated on the submitted planning application form and shall be completed in exact accordance with the approved details.

Reason: In the interests of visual amenity.

- 4) No development beyond the construction of foundations shall take place until full specification details of the hereby approved acoustic fence and automatic sliding access gate, as shown on drawings 12074-PL015 Rev A and CHQ.16.12074-CHQ-XXX-00-DR-A-PL0023 Rev A, have been submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained, operated and retained in its position in perpetuity in a manner that prevents the transmission of noise to neighbouring premises.

Reason: In the interests of residential amenity.

- 5) No development beyond the construction of foundations shall take place until details of any mechanical ventilation system that is to be installed have been submitted to and approved by the Local Planning Authority. and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

- 6) No development shall take place, including any works of demolition, 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.

- 7) No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

- 8) No development shall commence until an Arboricultural Impact Assessment and Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include measures to protect existing trees to be retained on site and measures to deal with contamination within the root protection area of retained trees. The development shall be carried out in accordance with the approved details, and the approved tree protection measures shall be fully installed prior to the commencement of any development on the site, and retained on site for the duration of the construction.

Reason: To protect important trees on site, in the interests of visual amenity.

- 9) 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.

- 10) No development beyond the construction of foundations shall take place until a Management Plan relating to containment of the impacts on local amenities of noise and traffic arising from use of the site for GOL distribution hub has been submitted to and approved in writing by the Local Planning Authority. Upon approval the use of the GOL distribution hub shall be in accordance with the approved details.

Reason: In the interests of local amenity.

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

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.

- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

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

- 12) 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.

- 13) Unless otherwise agreed with the Local Planning Authority no trees shall be removed from the site.

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

- 14) 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.

- 15) 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.

- 16) The premises shall be used for the purpose of a Groceries Online Distributions Hub and for no other purpose whatsoever, including any other purposes in Class B8 (Storage and Distribution) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and any other use 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.

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

- 17) The use of the premises hereby permitted shall be restricted to the hours of 7 am to 10 pm on weekdays, 8 am to 10pm on Saturdays, and 10am to 4pm on Sundays and Bank Holidays.

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

- 18) The area shown on drawing number 12074-PL0016 Rev A as loading, off-loading and parking space shall be used for or be available for such use at all times when the premises are in use and no 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 that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

Reason: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users.

Council's approach to this application

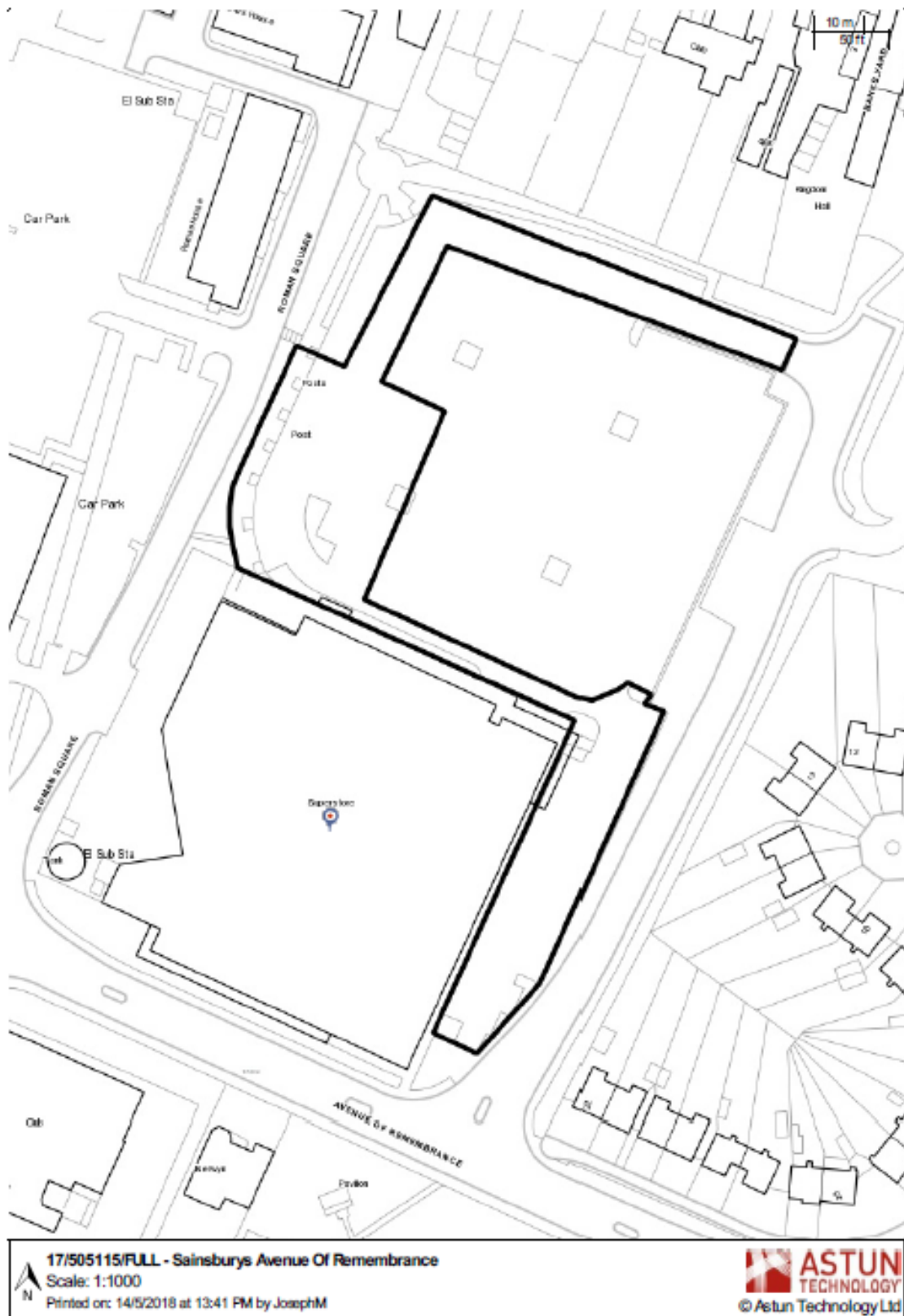
In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:
Offering pre application advice
Where possible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



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2.3 REFERENCE NO - 17/505973/FULL			
APPLICATION PROPOSAL Retrospective - demolish metal frame workshop and replace with outdoor timber office with change of use from outbuilding to B1 business use.			
ADDRESS 2 Sunnyside Avenue Minster-On-Sea Kent ME12 2EN			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed development would not give rise to significant harm to visual or residential amenity that would justify refusal.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Mark Roach AGENT	
DECISION DUE DATE 08/02/18	PUBLICITY EXPIRY DATE 19/01/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None relevant.	N/A	N/A	N/A

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 2 Sunnyside Avenue is a detached bungalow located within the built up area boundary of Minster. The property has a large open frontage with hardstanding to the front, adjacent to the proposed office.
- 1.02 The site is located at a junction and has a frontage that faces out onto Sunnyside Avenue but amenity space that extends along Scrapsgate Road.
- 1.03 The proposed timber office is located to the front of the dwelling, in the same location as a previous lawful structure (albeit slightly smaller) and is visible from public vantage points on Sunnyside Avenue. There is a large hedge that extends along the boundary of the property, obscuring the majority of the office from view from Scrapsgate Road.

2.0 PROPOSAL

- 2.01 This retrospective planning application seeks permission for the demolition of a metal frame workshop and the construction of a timber office, used for B1 business use.
- 2.02 The building is used as a base for a Sports kit and Workwear Suppliers, “Stadium Sports”, employing a total of 4 people (maximum of 2 per day) with opening hours of 09:00-16:00 Monday to Friday. The use constitutes a small family run business, with the employees being the homeowners and their relatives.

- 2.03 The outbuilding is an unconventional shape but has a width at the widest point of 6.5m and a depth at the deepest point of 8.5m with an overall total height of 2.5m. The total floor space covered by the proposal is approximately 36m².
- 2.04 The building has timber frame walls with a tongue and groove finish, timber framed windows and wooden doors and a flat felt roof.
- 2.05 The applicant was advised to submit a supporting statement however this was not received.

3.0 PLANNING CONSTRAINTS

- 3.01 The site lies within Flood Zone 3

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, DM7, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

5.0 LOCAL REPRESENTATIONS

- 5.01 No comments have been made by neighbouring residents.

6.0 CONSULTATIONS

- 6.01 Minster-on-Sea Parish Council raises objection, commenting as follows:

“The proposal does not comply with the street scene in respect of building lines for either Sunnyside Avenue or Scrapsgate Road. It also impacts negatively on the site lines for motor vehicles using the Sunnyside Avenue to Scrapsgate Road junction preventing drivers from seeing and being seen with appropriate visibility splays. It is a commercial premises - inappropriate in a residential setting.”

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 17/505973/FULL.

8.0 APPRAISAL

- 8.01 The application site lies within the built up area boundary where the principle of development is acceptable subject to other considerations. In this instance the impact on visual and residential amenity must be considered as well as the potential impact on highway safety.

Visual Impact

- 8.02 Sunnyside Avenue is characterised by a mixture of detached and semi-detached properties consisting of bungalows and two storey dwellings. The proposed development is a single storey timber office located to the front of 2 Sunnyside Avenue and is visible from public vantage points along Sunnyside Avenue. The

application site in question is an end of road corner plot located at the junction joining Scrapsgate Road.

- 8.03 I note the objection raised by the Parish Council regarding the proposal's lack of conformity to the building lines on Sunnyside Avenue and Scrapsgate Road but I give weight to the apparent lack of a strong building line on Sunnyside Avenue as there are a variety of property styles that are not uniformly placed along the road. No. 2 Sunnyside Avenue is set back from its neighbour and has private amenity space that extends to the side and front of the property as opposed to the rear, and whilst the building is visible from the street, it is not prominent. I also give weight to the fact that it replaced a fairly unattractive steel frame building in a similar location.
- 8.04 I do not believe that the comparison to the building lines on Scrapsgate road holds a significant amount of weight as the development is obscured by a hedge from this perspective and therefore the impact of development on the visual amenity of this streetscene is successfully mitigated.
- 8.05 In my opinion the siting of the proposal is appropriate and the development does not create an overbearing impact on the street scene or cause significant harm to visual amenities.

Residential Amenity

- 8.06 As 2 Sunnyside Avenue is a corner plot there is no directly adjacent neighbour to the west of the property. Consequently the only neighbour with the potential to be directly impacted as a result of this application is 4 Sunnyside Avenue which is situated on the east side of 2 Sunnyside Avenue and has the proposal directly facing its side wall. Notwithstanding this, the adjacent neighbour 4 Sunnyside Avenue is approximately 10.3m from the proposed development which I consider is a sufficient distance to maintain privacy and therefore in my opinion it is unlikely to be negatively impacted by this proposal.
- 8.07 With regards to the potential impact on other neighbours on Sunnyside Avenue I believe that the development is a sufficient distance from them so as not to have a significant impact on residential amenity and from the perspective of any neighbours located on Scrapsgate Road the development is hidden from view so I consider the potential impact to be minimal.
- 8.08 The applicant has confirmed that although many of the customers will be online there is the potential for customers to visit the site and has stated that this would be of a very small scale with a maximum of two customers a day during busy periods. As the proposed opening hours of the business are between 09:00 and 16:00 which is typical of a working day and there are stated to be few customers visiting the site, I do not consider that there will be additional disturbance to immediate residents and do not consider that this particular business use will be out of place in a residential setting.
- 8.09 Members will note that no objections have been received from local residents with regards what appears to be a low key business use here. I give this some weight, but lack of objection is not in itself a reason for granting permission. The applicants have set out that a small number of customers will visit the site and it seems to me that the specific business use carried out is comparatively un-intensive and unlikely to generate large numbers of visitors. I recommend imposing conditions 1 and 2 below, which respectively restrict the use of the building to the specific company applying for

permission, and prevent any part of the building being used for retail purposes falling within Use Class A1

Highways

- 8.10 There is a large section of existing hardstanding to the front of the property and adjacent to the proposed office which is suitable for parking. There are at least three 5.0m x 3.6m car parking spaces all with full access on and off of the site which accords with adopted Kent Vehicle Parking Standards.
- 8.11 With reference to the Parish Council's comments regarding the impact of the proposal on visibility at the junction, I note that the office is almost completely obscured by a large hedge at the junction so I do not believe the proposal to have any additional negative impact on the site lines of the junction and note that the Highways Authority could find no issues to raise.
- 8.12 I therefore determine that there would be no resulting harm to highway safety or indeed it would seem unlikely that additional parking on the street would also occur as a result of this development as the current provisions are acceptable.

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 consider that highway safety is maintained. I also note that sufficient parking provision has been demonstrated and as such recommend that retrospective planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The building and use hereby approved shall be used for office purposes only, and for no other use whatsoever, including any use that might be granted deemed consent by the Town And Country Planning (General Permitted Development) (England) Order 2015 (as amended), and shall be used solely for "Stadium Sports" and for no other business purposes.

Reason: In accordance with the terms of the application, and in the interests of residential amenity and highway safety and convenience.

- (2) No part of the building shall be used for retail purposes falling within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: In accordance with the terms of the application, and in the interests of residential amenity and highway safety and convenience.

The Council's approach to this application:

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

- Offering pre-application advice
- Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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



2.4 REFERENCE NO - 18/500738/FULL & 18/500739/LBC			
APPLICATION PROPOSAL			
Conversion of former school building to provide three dwellings with associated demolition/building works, internal and external alterations, provision of additional floorspace at first floor level, including three dormer windows, landscaping, including removal of three trees and car parking			
ADDRESS Tunstall Church Of England Primary School Tunstall Road Tunstall Sittingbourne Kent ME9 8DX			
RECOMMENDATION – Planning permission and listed building consent to be granted			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposal is in accordance with relevant national and local planning policy.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD West Downs	PARISH/TOWN COUNCIL Tunstall	APPLICANT First Bid Developments Ltd AGENT Penshurst Planning Ltd	
DECISION DUE DATE 11/04/18	PUBLICITY EXPIRY DATE 04/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/502970/FULL & 17/502971/LBC	Part demolition and part rebuilding of former school building, conversion with first floor extension to create two 4 bedroom dwellings, together with the erection of two detached 4 bedroom dwellings, with associated landscaping, including removal of three trees and parking.	Withdrawn by Applicant	13.02.2018
SW/12/1317	Temporary change of use of land from agricultural to car park associated with Tunstall School and construction of car park with associated infrastructure (Regulation 3 application, decided by KCC)	Refused	19.03.2013

1.0 DESCRIPTION OF SITE

- 1.01 The property is the former Church of England Primary School, situated within the village of Tunstall. It is a Grade II listed building, constructed in 1846, and still displays an impressive façade. Unfortunately, this high level of design does not continue through to the rear of the building, with a number of less sympathetic extensions which were added to the building.
- 1.02 The front of the property presents a very attractive façade, finished in brick and flint, representing the original school building. Behind this part of the building, the school has been considerably extended over the years. Whilst those changes have perhaps not been made in a manner totally sympathetic to the original building, they clearly

mark the two ages of the school, and the extensions are not visually offensive. The inside of the original part of the building is disappointingly devoid of any interesting or historical architectural features, which appear to have long since been removed

- 1.03 At the rear of the building is a fairly large area of land, a lot of it given over to hard surfacing, which served as recreation space and parking for the school. The rear of the property is accessed by a single track driveway, and I understand that a number of parties enjoy access rights over this land, which also forms a public right of way. I understand that this route was used by staff cars when the school was in use as such. To the rear of the site lies Tunstall village hall; a fairly modern hall surrounded by attractive grounds and generous parking provision.
- 1.04 The site is located outside of any established built-up area boundary; within the Tunstall conservation area, and adjacent and near to other listed buildings.
- 1.05 After the school closed, a planning application and a listed building application were received in 2017 for the conversion of the school to two properties, and the construction of two new detached for bedroomed houses at the rear. As this latter part of the proposal would have caused the application to fail, those applications were withdrawn by the applicant (17/502970/FULL & 17/502971/LBC).

2.0 PROPOSAL

- 2.01 The proposal is for the conversion of the former school building into three C3 residential dwelling houses, two with three bedrooms and one with four bedrooms.
- 2.02 The proposed drawings show the retention of the later rear additions to the school, albeit with considerable changes to the fenestration of those parts of the building. No changes are envisaged to the front façade.
- 2.03 The very rear of the building would have dormer windows added. These dormers are in accordance with the Council's Supplementary Planning Guidance, being of vertical proportions with pitched roofs, and large enough only to let in light.
- 2.04 Each property would have its own rear amenity space, with a communal parking area showing seven spaces (two per dwelling and one visitor space) to the rear of the building, which would be accessed by an existing track which previously served as vehicular access to the rear of the building. This track also forms part of Public Right of Way ZR147, and I understand that a number of local people also have vehicular access rights across this land. The school originally had fifteen vehicle parking spaces to the rear; the proposal is for seven spaces.
- 2.05 The application is accompanied by a Planning Statement; a Heritage Statement; and Ecological Appraisal, a Marketing Appraisal; and an Arboricultural Survey. The Planning statement explains how the applicant has arrived at this proposal and the Heritage Statement discusses the effect of the proposal on the character and setting of the listed building. The Marketing Appraisal is a lengthy letter from a local Estate Agent, considering other uses for the building, including commercial and community uses, but concludes that these uses are not viable.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.31h	0.31h	-
No. of Storeys	2	2	-
Parking Spaces	15	7	-8
No. of Residential Units	Nil	3	+3

4.0 PLANNING CONSTRAINTS

Conservation Area Tunstall

Listed Buildings SBC Ref Number: 1115/SW

Description: G II TUNSTALL C E PRIMARY SCHOOL, TUNSTALL

Outside established built-up-area boundary.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 National Planning Policy Framework (NPPF): Paragraphs 7 (sustainable development); 55 (re-use of redundant buildings); 131 (creating sustainable uses for heritage assets); and 132 (significance of designated heritage assets).

5.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (delivering sustainable development in Swale); ST3 (the Swale settlement strategy); CP4 (requiring good design); CP8 (conserving and enhancing the historic environment); DM7 (vehicle parking); DM14 (general development criteria); DM16 (alterations and extensions); DM32 (listed buildings); and DM33 (conservation areas).

6.0 LOCAL REPRESENTATIONS

6.01 One of the Ward Members has expressed concern that the Public Footpath (ZR147) should not be compromised by this proposal, and that pedestrian safety may be compromised.

6.02 The Swale Footpaths Group raises similar concerns.

6.03 Three letters/emails of objection have been received from local residents. Their contents may be summarised as follows:

- Footpath ZR147 is a public footpath, not a public bridleway
- *'The use of a footpath for vehicular access is contrary to the Public Right of Way designation and must not be allowed.'*
- Who will be responsible for maintenance of the front lawned area?
- Seven parking spaces are shown on the drawings: this would represent an intensification of vehicle movements on the site
- *'I am confused as to why KCC Highways previously objected to a 6 car park due to highway safety and feels now that 7 cars is not going to cause the same issues.'*
- *'It would also seem prudent to ensure that both developers and those who use the public footpath are clear on rights of way, who has priority, and who will ensure the section to be used by vehicles will cover the cost of repairs for maintenance, as this was never carried out by the previous occupiers or on their behalf.'*
- Sight lines from access are poor.

- I have rights of access over this land
- The old school does need renovating but lends itself to one dwelling with limited access to the front

6.04 One letter of support has also been received from a local resident. The letter states that the supporter sold part of the land to the developer, but no contingent payments are due to the supporter, should planning permission be granted. The points noted in the letter may be summarised as follows:

- Proposal would bring the building back to life
- Present form has always been acceptable to planners
- Would create three family homes within the village

7.0 CONSULTATIONS

7.01 Tunstall Parish Council raises objection to the proposal. Their comments, in full, are as follows:

“1) Access. While the Parish Council recognises the current proposed route is already in use by two properties and for access to surrounding farm land and that many more cars used it when the school was operational. The Parish Council would be abandoning its duties if it did not draw attention to the safety of the site access keeping in mind a previous application for a new car park was refused due to such concerns. Councillors recognise the current access is used and have no objection to its future use due to precedent being set but would like to see improvements made, for example the expansion of sight lines with the removal of hedges if necessary, an increased width of the access road again with the removal of overgrown trees and hedges to the original field boundary and replanting to improve overall content of hedgerow biodiversity. This may need to be done in cooperation with a third party landowner.

2) Councillors were very disappointed with the new plans in comparison to the old, while Councillors recognise that each application should be viewed in isolation, they could not help but be taken aback by the stark contrast. The new plans do indeed make very clever use of the existing site to shoehorn in 3 properties. Councillors do not think it the best use of the site nor does it respect the existing conservation area. The front of the site is listed and of an attractive knapped flint and tiled roof construction respecting the north Kent Downs vernacular building style. Whereas the modern extensions are not of architectural or design value whatsoever and reflect a value for money basic local government project. The previous plans however were very sympathetic to the conservation area and surrounding local building design, reflecting the original school frontage and mirroring the village hall and other buildings, creating a development, that in Councillors' view enhanced the area. If intensification of the site was an issue for planners why not remove just the one detached home rather than both, you cannot get much more intensified than hundreds of children in a school compared to a handful of dwellings. A conservation area should not seek to create a museum approach where nothing can change but to add and enhance while conserving the overall feel and look. The new plans go right against this principle. The removal of mature trees within the site is unnecessary now as they are in the proposed garden area and more specimen tree planting around the site would also enhance the area and biodiversity.

In summary, the Parish Council still has concerns over access sight lines and access width. Tunstall Parish Council is not happy with the provision of such an inferior proposal when compared to the one that preceded it, and although it had its issues, its benefits were much more pronounced. Councillors would urge planners to be sympathetic to the applicant and come to a via media solution, where site intensification is lessened and a better quality set of dwellings designed that make better use of the site, and are more in keeping with the local building vernacular as exhibited by the listed part of the building, the village hall and local area.”

7.02 Historic England raises no objection.

7.03 No responses have been received from the Six National Amenity Bodies.

7.04 Kent Highways and Transportation raises no objection..

7.05 The KCC Public Rights of Way Officer raises no objection, commenting as follows;

“The applicant has demonstrated their awareness of the Public Right of Way ZR147 although the correct status of the route is a footpath. The proposals do not impact the path; therefore I have no objections to the application. The proposed access route for vehicles is the public footpath, which I understand was historically used by the school.”

7.06 Natural England raises no objection, referring the Council to their Standing Advice.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Application papers relating to applications 18/500738/FULL & 18/500739/LBC

9.0 APPRAISAL

9.01 The issues to consider in this case are those of the principle of development, design & listed building issues, and access. For the sake of regularity, I will take each of these in turn.

Principle of Development

9.02 As noted above, the site is located outside any established built-up area boundary, where policies of rural restraint apply. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that;

“At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”

The proposal, if approved, would produce three new properties within Tunstall, which would not normally be in accordance with Policy ST3.

Similarly policy DM3 states that;

“Planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area. Planning permission for residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable.”

- 9.03 The former school has been empty for some years, and as a consequence, the setting and fabric of the building have begun to deteriorate. As such, there is an importance in ensuring a useful future for the building to arrest its present decline. The property has been market tested by auction in May 2016 and the applicant has submitted a detailed report from a local Estate Agent, which suggests that there are no other viable uses for the building other than for residential use and, bearing in mind the location and status of the property, the fact that this property has been put to the market is crucial in my view in addressing the criteria of policy DM3 as this gave the opportunity for the site to be purchased for commercial uses. This did not happen as a matter of fact, and thus is far more weighty evidence than a viability report which might speculate on the potential viability of other uses.
- 9.04 I am also persuaded to give weight to the fact that this proposal is concerned with the conversion of a listed building which is now redundant in terms of its original use, and the importance of conserving the listed building and bring it back into an appropriate use which mitigate against the more general aims of Policy ST3.
- 9.05 Although the previous application would have only converted the school to two properties, and the two conversion properties would have been in accordance with national and local planning policy, the two new build properties would not have been in accordance with policy, which is why that application was withdrawn.

Design and Listed Building Issues

- 9.06 The proposed design changes to the building have been criticised by the Parish Council. This is mainly due to the fact that some of the later extensions to the property would have been removed or re-designed under the previous proposal. However, I would contend that the erection of two new detached dwellings in the former grounds of the school would have had a far more profound effect on the character and setting of the listed building than leaving but improving the design and finish of the existing extensions. As such, I do not agree with the Parish Council's comments.
- 9.07 I note previous comments in relation to the 2017 scheme which was subsequently withdrawn, and consider that the new scheme responds well to the concerns expressed by officers. I have considered the supporting statements and accept that a (necessarily sensitive) residential conversion of the redundant school building offers the best realistic prospect for conservation of the heritage significance of the grade II listed building, and for the building continuing to contribute to the character and appearance of its wider setting within the Tunstall conservation area.
- 9.08 I understand there is some local concern about the prospect of the building being converted into 3 dwellings, but I do not see the harm in this respect. The applicant's agents have correctly identified that the principle heritage significance of the listed building lies in its front elevation and the two flank elevations of the original part of the building. These will be preserved in this scheme and the frontal aspect of the site will remain largely unchanged.

- 9.09 In my view the scheme responds well to the current plan form of the building and necessitates only minor changes to the internal arrangement of walls, which in my view would not materially harm the significance of this designated heritage asset. Essentially, it seems to me that good use is made of the original part of the building and its linked modern rear extension to create three dwellings which would be spacious and achieve a good standard of residential amenity. The proposed alterations to the rear and flank elevations of the modern addition work well as a modern and simpler style, to contrast effectively with the original school building and its more ornate facing and roofing treatments and fenestration design.
- 9.10 Finally, whilst I understand the reason for removing three trees to the rear of the building if two new dwellings were to be built, this is not necessary under the present proposal, and I have included a condition below which would seek to retain those trees.

Access

- 9.11 I understand the concerns raised by local residents with regard to access issues, but have to rely on the expert advice of our colleagues at Kent Highways and Transportation, who have raised no objection to the proposal, subject to the inclusion of conditions and informatives which would include the provision and retention of vehicle and cycle parking, the requirement for a Construction Management Plan, and the use of a trained banksman to assist construction vehicles when leaving the site during the construction period.
- 9.12 I note the comments regarding the refusal of the existing access for the provision of a new staff car park for the school in 2012, and the question as to why the proposal is acceptable now. Highways colleagues have replied as follows:

“My understanding is that the application in 2012 sought to introduce the principle of additional vehicles using the access track, to which we naturally had objections concerning visibility at the time. However, this recent application now represents an actual reduction in vehicle movements from the established use and we cannot object on grounds of highway safety because the principle of access is now established.”

- 9.13 Similarly, the Public Rights of Way Officer raises no objection to the proposal, leading me to the conclusion that he believes that pedestrian access to the site will be safe for pedestrians using the footpath.

10.0 CONCLUSION

- 10.01 I consider that the redundant school building is a vital contributor to the character and appearance of the Tunstall conservation area, which this proposal will conserve and secure a viable future for. All the Council's normal requirements in terms of marketing, design and access have been addressed and I therefore recommend that the applications be approved, subject to the conditions set out below.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

Planning Permission – 17/502970/FULL

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) No development shall take place until details in the form of samples of external finishing materials to be used in 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.

- (3) No development shall take place until detailed drawings at a suggested scale of 1:5 of all new external and internal 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 the special architectural or historic interest of the listed building.

- (4) No development shall take place, including any works of demolition, 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. measures to control the emission of dust and dirt during construction
 - v. 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.

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

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (7) 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.

- (8) 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.

- (9) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Notwithstanding the details shown on drawing reference SW/16/147.03B, the three trees shown to be removed shall also be retained and maintained.

Reason: In the interests of visual amenity.

- (10) The area shown on the submitted plan as Parking Area on approved drawing SW/16/147.03B 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 dwellings hereby permitted.

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

- (11) Before the development hereby permitted is commenced, details of covered cycle storage for each property shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Reason: In the interests of visual amenity.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation,

where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this instance, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Listed Building Consent – 17/502971/LBC

CONDITIONS

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

Reason: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) No development shall take place until details in the form of samples of external finishing materials to be used in 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.

- (3) No development shall take place until detailed drawings at a suggested scale of 1:5 of all new external and internal 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 the special architectural or historic interest of the listed building.

- (4) No pipework, vents, ducts, flues, meter boxes, alarm boxes, ductwork or other appendages shall be fixed to the exterior of the listed building the subject of this consent without the prior written consent of the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (5) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (6) Before the development hereby permitted is commenced, a detailed schedule of works shall be submitted to and agreed in writing by the Local Planning Authority before any works commence. This schedule of works shall be discussed and informally agreed with the Local Planning Authority's Conservation & Design Manager on site, and then formally submitted in writing for formal approval by the Local Planning Authority. The schedule shall include details of repairs to be carried out (including any re-pointing), the removal of redundant wiring/cablings/pipework and modern insertions, including wall and floor finishes, suspended ceilings and radiators, etc. The schedule must include a timetable for the start and estimated completion

of each item of work, and include inspection slots at appropriate intervals to allow the Local Planning Authority's Conservation & Design Manager to properly monitor the standard of work being undertaken on the listed building.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (7) Before the development hereby permitted commences, drawings at 1:10 elevation and 1:1 or 1:2 part vertical and part horizontal section of each new/replacement window (including dormer windows) and door type (including for internal doors) shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved drawings.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (8) Before the development hereby permitted commences, drawings at 1:10 elevation detail (side and flank) of the proposed dormers shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved drawings.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (9) Before the development hereby permitted is commenced, manufacturer's details and specification of the exact Conservation roof lights to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved drawings.

Reason: In the interest of the special architectural or historic interest of the listed building.

- (10) All making good works to the listed building (including its modern rear extension) shall be carried out using matching finishes and materials (including colour finish), unless otherwise specifically previously agreed in writing with the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

HABITAT REGULATIONS ASSESSMENT

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

The application site is located approximately within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting

the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

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


- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

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

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

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.



 18/500738/FULL & 18/500739/LBC - Tunstall C of E Primary School, Tunstall Road, Tunstall, Sittingbourne ME9 8DX
Scale: 1:1250
Printed on: 14/5/2018 at 14:48 PM by AngelaA

2.5 REFERENCE NO - 18/500667/FULL			
APPLICATION PROPOSAL Removal of Condition 4 of planning permission SW/13/1399 (Removal of condition 8 of SW/89/0400, to allow occupation other than only by fire service personnel) - to allow 4no. houses to be made available as market housing.			
ADDRESS 1 - 4 Beaumont Davey Close Faversham Kent ME13 8XR			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is in accordance with Bearing Fruits 2031: The Swale Borough Local Plan 2017			
REASON FOR REFERRAL TO COMMITTEE Town Council objection			
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Kent Fire and Rescue Service AGENT Ms Kirsty Castle	
DECISION DUE DATE 06/04/18	PUBLICITY EXPIRY DATE 23/03/18	OFFICER SITE VISIT DATE 23/04/2018	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/500688/FULL	Removal of condition 6 of planning application 16/507275/FULL (Extension of existing private road with turning tee and the erection of two, two storey detached dwellings with integral garages) - to allow houses to be made available as market housing.	Ongoing – included elsewhere on this agenda	
16/507275/FULL	Extension of existing private road with turning tee and the erection of two, two storey detached dwellings with integral garages	Approved	09/12/2016
SW/13/1399	Removal of Condition 8 of SW/89/0400	Approved	06/01/2014
SW/89/0400	Creation of six new houses for fire service personnel	Approved	22/03/1990

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of four detached houses constructed in the early 1990s and adjacent to Faversham Fire Station. The houses were constructed to house Fire Service personnel, and Condition 8 of planning reference SW/89/0400 was appended to that permission to ensure that the occupation of the houses was only to be for Fire Service personnel and their families, as the site was outside of the established built-up area of Faversham, where such development would not normally be permitted. Six houses were permitted, but only four were constructed.
- 1.02 In 2014, an application to remove Condition 8 of SW/89/0400 was approved, but Condition 4 of that permission then stated that the houses would now only be open for rented affordable housing through an established Housing Association, again due to their position outside the established built-up area boundary.

- 1.03 Following discussions with officers in 2016 an application to build the last two houses originally permitted under planning reference SW/89/0400 was approved under planning reference 16/507275/FULL. Condition 6 of the permission also restricted the use of the houses for affordable housing use only.
- 1.04 The new Local Plan 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' was adopted by the council on 26th July 2017. Part of the many changes incorporated within the plan included changes to the established built-up area boundary, and the changes to the boundary brought this particular site from outside the boundary to inside it.

2.0 PROPOSAL

- 2.01 The proposal is for the removal of Condition 4 of SW/13/1399, to allow for the use of the houses as open market housing. The condition in question reads;

(4) The occupation of the houses shall be limited to persons for whom their occupation of the properties is controlled by a Registered Social Landlord as affordable housing as defined in Annex 2 of the National Planning Policy Framework (2012).

Reason: As the dwellings were only approved outside of the established built-up area boundaries as they constitute a public benefit which outweighed the harm to the environment arising from their construction, and the Council is of the opinion that whilst the harm to the environment persists a public benefit should be maintained by restricting the use of the dwellings to affordable housing.

- 2.02 This proposal has been submitted as the changes to the established built-up area boundaries of Faversham have brought this site from outside the boundary line to inside it, making the principle of creating open market housing on this site acceptable.
- 2.03 The proposal is accompanied by a Planning Statement, which correctly identifies the policy issues surrounding this case, as follows:

'Kent Fire and Rescue has struggled to find an affordable housing provider willing to take on the management of the four properties at Faversham Fire Station with the only provider registering interest pulling out of negotiations on viability grounds.

In the interim, Swale Borough Council has adopted its new Local Plan which sees the fire station and the dwellings along Beaumont Davey Close now included within the settlement boundary, significantly changing the policy position surrounding the principle of development.

Kent Fire and Rescue Service are therefore currently in possession of four residential dwellings that are demonstrably unattractive as affordable units but could be made available as market housing were the occupancy condition to be lifted. This application therefore seeks the removal of Condition 4 of SW/13/1399 on the following grounds:

- *The inclusion of the fire station and associated properties within the settlement boundary in the Local Plan, negating the requirement for special justification for the dwellings as was required previously.*

- *Viability of the properties as affordable housing*
- *Demonstrable lack of interest in the properties from affordable housing providers*
- *The ability to boost the supply of market housing in Faversham in accordance with the NPPF'*

3.0 PLANNING CONSTRAINTS

3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST1 Delivery Sustainable Development in Swale) and ST3 (The Swale Settlement Strategy)

5.0 LOCAL REPRESENTATIONS

5.01 No local representations have been received.

6.0 CONSULTATIONS

6.01 Faversham Town Council objected to the proposal on 26th February 2018, saying;

Recommendation: Defer

Comment:

- 1) *Planning permission was given for housing for firefighters. If no longer required steps should be taken for the housing to be used for other key workers or the homeless.*
- 2) *The Town Council would like to know how the land came was acquired by the fire service and any cost involved.*
- 3) *Negotiations should be started for the houses to be transferred to Swale Borough Council or Community Land Trust before the condition is lifted.*

On 9th April 2018, after I had emailed the Town Council to explain the changed Local Plan position, the Town Council responded as follows;

Faversham Town Council refers Swale Borough Council to their previous statement:

- 1) *Planning permission was given for housing for firefighters. If no longer required steps should be taken for the housing to be used for other key workers or the homeless.*
- 2) *The Town Council would like to know how the land was acquired by the fire service and any cost involved.*
- 3) *Negotiations should be started for the houses to be transferred to Swale Borough Council or Community Land Trust before the condition is lifted.*

The Town Council does not consider this to be part of the built up area of Faversham, as stated by Swale and feel strongly that these properties should be made available to either the homeless or key workers.

Until these matters are satisfactorily addressed, the Town Council objects to the application.

7.0 APPRAISAL

- 7.01 The key issue here is the principle of development and whether the condition remains necessary.
- 7.02 Were this to be a new application for new homes on this site at this time, the principle of development would be acceptable, as the site is now situated within the adopted Local Plan defined built-up area boundary, where sustainable development is generally approved. As such, it would not be necessary to restrict the occupancy of the properties. This variation of condition application should therefore be assessed in the same way, asking whether or not the development without the condition would be acceptable in principle.
- 7.03 I acknowledge the desire of the Town Council to retain these properties for uses such as homes for homeless people and key workers, and I have every sympathy with that position, but this proposal should be decided in accordance with the new Local Plan, which now shows that the site is within the built-up area boundary, and that the proposal is fully in accordance with Policies ST1 and ST3 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

8.0 CONCLUSION

- 8.01 As a result of the recent adoption of the Local Plan, the planning status of the site of these houses has changed. This also applies to land on the opposite side of Ashford Road where planning permission was recently granted for nine new dwellings on site previously ruled out due to being outside the built up area of the town. The recently adopted policies within the Local Plan show that this is a site where sustainable development is acceptable in principle and, as such, I therefore recommend that the proposed removal of condition be approved

9.0 RECOMMENDATION – GRANT Subject to the following conditions

- (1) The area shown on Drawing No. 8360/AL(S)1 Ren. No. A (as submitted with application SW/89/0400), reserved for the parking or garaging of cars shall be used for or kept available for this purpose at all times and no permanent development whether or not permitted by The Town and County Planning (General Permitted Development) (England) Order 2015 shall be carried out on such land or in such a position as to preclude vehicular access thereto.

Reason: In the interests of highway safety.

- (2) The existing 90m x 4.5m x 90m visibility splays at the entrance of the site onto Ashford Road shall be maintained free from any obstruction to visibility above 1.05m above adjacent carriageway level at all times.

Reason: In the interests of highway safety.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive

manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this instance, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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



18/500667/FULL - 1-4 Beaumont, Davey Close, Faversham ME13 8XR
Scale: 1:1415
Printed on: 14/5/2018 at 15:38 PM by AngelaA



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2.6 REFERENCE NO - 18/500688/FULL			
APPLICATION PROPOSAL			
Removal of condition 6 of planning application 16/507275/FULL (Extension of existing private road with turning tee and the erection of two 2 storey detached dwellings with integral garages) - to allow houses to be made available as market housing.			
ADDRESS Land South Of 4 Beaumont Davey Close Faversham ME13 8XR			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
Proposal is in accordance with Bearing Fruits 2031: The Swale Borough Local Plan 2017			
REASON FOR REFERRAL TO COMMITTEE			
Town Council Objection			
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Kent Fire And Rescue Service AGENT Batcheller Monkhouse	
DECISION DUE DATE 06/04/18	PUBLICITY EXPIRY DATE 23/03/18	OFFICER SITE VISIT DATE 23.04.2018	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/500667/FULL	Removal of Condition 4 of planning permission SW/13/1399 (Removal of condition 8 of SW/89/0400, to allow occupation other than only by fire service personnel) - to allow 4no. houses to be made available as market housing.	Ongoing – included elsewhere on this agenda	
16/507275/FULL	Extension of existing private road with turning tee and the erection of two, two storey detached dwellings with integral garages	Approved	09/12/2016
SW/13/1399	Removal of Condition 8 of SW/89/0400	Approved	06/01/2014
SW/89/0400	Creation of six new houses for fire service personnel	Approved	22/03/1990

1.0 DESCRIPTION OF SITE

- 1.01 The site is open land adjacent to and south of four detached houses constructed in the early 1990s adjacent to Faversham Fire Station. The houses were constructed to house Fire Service personnel, and Condition 8 of planning reference SW/89/0400 of that permission required that the occupation of those houses was only to be for Fire Service personnel and their families, as the site was at that time outside of the Local Plan defined established built-up area of Faversham, where such development would not normally be permitted. Six houses were permitted on a site which includes the current application site, but only four were actually constructed. This application relates to the remainder of the approved development site.
- 1.02 In 2014, an application to remove Condition 8 of SW/89/0400 was approved, but Condition 4 of the new permission then stated that the houses would now only be

open for rented affordable housing through an established Housing Association, again due to their position outside the established built-up area boundary and to retain some community benefit from approval of the original development in a location where housing would not normally have been permitted.

- 1.03 Following discussions with officers an application to build the last two houses originally permitted under planning reference SW/89/0400 was approved under planning reference 16/507275/FULL in 2016. Condition 6 of the permission again restricted the use of the houses for affordable housing use only.
- 1.04 The new Local Plan 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' was adopted by the Council on 26th July 2017. Part of the many changes incorporated within the plan included a re-alignment of the built-up area boundary of the town which brought this particular site from outside the boundary to inside it.

2.0 PROPOSAL

- 2.01 The proposal is for the removal of Condition 6 of 16/507275/FULL to allow for the use of the houses as open market housing. Construction of the houses has not as yet commenced. The condition in question reads;

(6) The occupation of the houses shall be limited to persons for whom their occupation of the properties is controlled by a Registered Social Landlord as affordable housing as defined in Annex 2 of the National Planning Policy Framework (2012).

Reason: As the dwellings were only approved outside of the established built-up area boundaries as they constitute a public benefit which outweighed the harm to the environment arising from their construction, and the Council is of the opinion that whilst the harm to the environment persists a public benefit should be maintained by restricting the use of the dwellings to affordable housing.

- 2.02 This proposal has been submitted as the changes to the established built-up area boundaries of Faversham have brought this site from outside the boundary line to inside it, making the principle of creating open market housing on this site acceptable.
- 2.03 The proposal is accompanied by a Planning Statement, which correctly identifies the policy issues surrounding this case, as follows:

'Kent Fire and Rescue struggled to find an affordable housing provider willing to take on the management of the four properties at Faversham Fire Station with the only provider registering interest being West Kent Housing Association (WKHA). WKHA made their own application under reference SW/16/507275 to build the final two dwellings approved in SW/89/0400 but to a larger scale. This was approved in 2016 and remains extant. Unfortunately, the sale transaction with WKHA has fallen through.

In the interim, Swale Borough Council has adopted its new Local Plan which sees the fire station and the dwellings along Beaumont Davey Close now included within the settlement boundary, significantly changing the policy position surrounding the principle of development.

Kent Fire and Rescue Service are therefore currently in possession of four residential dwellings and an extant planning permission for two additional

dwellings that are demonstrably unattractive as affordable units but could be made available as market housing were the occupancy conditions to be lifted. This application therefore seeks the removal of Condition 6 of SW/16/507275 on the following grounds:

- *The inclusion of the fire station and associated properties within the settlement boundary in the Local Plan, negating the requirement for special justification for the dwellings as was required previously.*
- *Viability of the properties as affordable housing*
- *Demonstrable lack of interest in the properties from affordable housing Providers*
- *The ability to boost the supply of market housing in Faversham in accordance with the NPPF'*

3.0 PLANNING CONSTRAINTS

3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST1 (Delivery of Sustainable Development in Swale) and ST3 (The Swale Settlement Strategy)

5.0 LOCAL REPRESENTATIONS

5.01 No local representations have been received.

6.0 CONSULTATIONS

6.01 Faversham Town Council has asked for the application to be deferred, to be considered alongside their requests for information for the accompanying application (18/500667/FULL). Members will see the Town Council's response to that application elsewhere on this agenda, but essentially they object to this application because they do not consider that the site is in fact within the built up part of Faversham.

7.0 APPRAISAL

7.01 The key issue here is the principle of development and whether the condition remains necessary.

7.02 Were this to be a new application for new homes on this site at this time, the principle of development would be acceptable, as the site is now situated within the adopted Local Plan defined built-up area boundary, where sustainable development is generally approved. As such, it would not be necessary to restrict the occupancy of the properties. This variation of condition application should be assessed in the same way, asking whether or not the development without the condition would be acceptable in principle.

7.03 I acknowledge the desire of the Town Council to retain these properties for uses such as homes for homeless people and key workers, and I have every sympathy with that position, but this proposal must be decided in accordance with the new Local Plan, which now shows that the site is within the built-up area boundary, and that the

proposal is fully in accordance with Policies ST1 and ST3 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

8.0 CONCLUSION

8.01 As a result of the very recent adoption of the Local Plan, the planning status of this site has changed. This also applies to land on the opposite side of Ashford Road where planning permission was recently granted for nine new dwellings on site previously ruled out due to being outside the built up area of the town. The recently adopted policies within the Local Plan show that this is a site where sustainable development is acceptable in principle and, as such, I therefore recommend that the proposed removal of condition be approved.

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 approved drawings: 2016.WD.03, 2016.WD.04, 2016.WD.05, 2016.WD.06 and 2016.WD.07.

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

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

Reason: In the interest of promoting energy efficiency and sustainable development and to ensure that the details are correct before development commences.

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

Reason: In the interest of visual amenity and to ensure that the details are correct before development commences.

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

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Council's approach to this application

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

In this instance, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

HABITAT REGULATIONS ASSESSMENT

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

The application site is located approximately within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

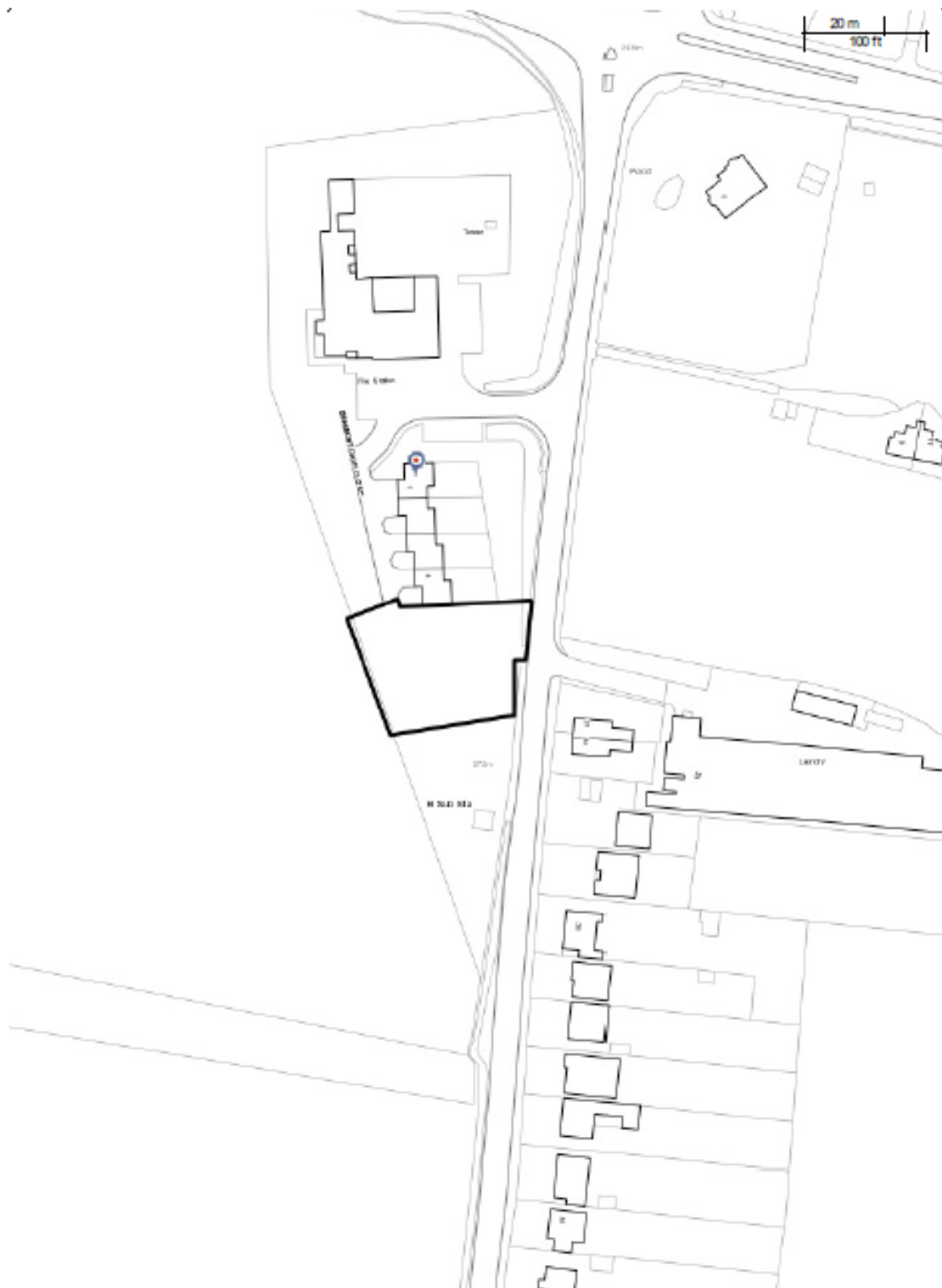
In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

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


In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above. For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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.



18/500688/FULL - Land South of 4 Beaumont, Davey Close, Faversham Me13 8XR
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2.7 REFERENCE NO - 18/500834/FULL			
APPLICATION PROPOSAL Change of use from A1 shops to micropub A4			
ADDRESS 193 High Street Sheerness Kent ME12 1UJ			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is acceptable in principle and would not be significantly harmful to residential amenity.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member.			
WARD Sheerness	PARISH/TOWN COUNCIL	APPLICANT Miss Amanda Williams AGENT	
DECISION DUE DATE 28/05/18	PUBLICITY EXPIRY DATE 26/03/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None relevant.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 193 High Street Sheerness is a two storey terrace that fronts the highway and is used for A1 purposes - currently a hairdresser salon with the first floor used for associated beauty treatments. This application only concerns the ground floor of the building.
- 1.02 There is a retail unit to the south east with associated residential accommodation above and a residential dwelling to the north west. On the opposite side of the street the pattern of development is similar with retail and commercial premises operating on the ground floor of the terraced buildings with residential accommodation above. There is a mixture of commercial and residential units in the immediate surrounding area.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the change of use from retail (A1) to a micro pub, which falls under Class A4 use.
- 2.02 This proposed micro pub, like others of its type intends to sell locally and traditionally brewed real ales and ciders straight from the cask. The applicant has stated that there will be no slot/gaming machines, video games or jukebox and no amplified music.

2.03 The micro pub is proposed to open Monday – Friday 11.00 – 00.00, Saturday 11.00 – 00.00 and Sunday 11.00 – 23.00.

2.04 This application does not propose any external building work. Internally, the ground floor will provide a bar area with storage, along with a seating area and a cellar and glass wash with a toilet to the rear. This would be carried out with minimal internal alterations.

3.0 PLANNING CONSTRAINTS

3.01 The site lies within Flood Zone 3

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: CP1, CP4, DM1, DM2, DM7, DM14 and DM15 of Bearing Fruits 2031: The Swale Borough Local Plan.

5.0 LOCAL REPRESENTATIONS

5.01 13 comments in support of the application were received. Their contents are summarised below:

- Encourages a sense of community
- Will enhance Sheerness
- Provides a meeting point for residents to gather and socialise
- Attracts respectful clientele so noise/disturbance will not be an issue.
- Conveniently sited close to a public car park
- Very effective alternative to the rather generic 'fruit machines and football' type of pubs already in existence in the immediate vicinity
- The proposal fits perfectly with the kind of alternative commercial establishments required to help ensure that Sheerness be a place to visit.
- Will allow those who appreciate fine ale an opportunity to sample the ales locally without having to drive.
- Micropubs offer a different environment to traditional pubs which are in decline

5.02 7 comments objecting to the application were received, as well as a letter with 14 signatures and a solicitor's letter. Their contents are summarised below:

- Proposed location not suitable
- Unwelcome noise, difficult parking and extra traffic and visitors, quite likely inconveniencing immediate residents.
- The presence of the pub opposite, could result in additional noise and disturbance.
- Detrimental effect on the residents of 191 High Street (next door) and the neighbouring flats and residential properties in the vicinity.
- Betting shops and pubs not attracting the best clientele.
- Already a pub in the area almost opposite
- Use of garden will cause invasion of privacy and passive smoking exposure.
- Noise intrusion at evenings and weekends to neighbours
- It is very near to a Zebra crossing which will make deliveries difficult

- 5.03 Councillor Angela Harrison raised concerns regarding the application and has called the application to Committee, stating that :
 "...it would be detrimental to the amenity of that side of the High Street in terms of noise, disturbance and nuisance. Particularly to the residential properties alongside and at the rear."

6.0 CONSULTATIONS

- 6.01 KCC Highways and Transportation offers no comments.
- 6.02 The Environmental Health Manager raises no objection, subject to a condition regarding soundproofing.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 18/500834/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site is within the built up area boundary and located within an area with a mixture of residential and commercial units, I therefore consider that the principle of the change of use would be acceptable subject to other considerations. In this instance the main consideration would be the impact on residential amenities as a result of this development.

Visual Impact

- 8.02 No external changes are proposed as part of the application, so the character and appearance of the building and wider street scene will not be affected. There may be some impact from any signage to be erected at the site, and this would need careful consideration, but that would be the subject of a separate application for advertisement consent so will not be assessed in this particular application.

Residential Amenity

- 8.03 It should be noted that many of the comments for support in this instance were received from individuals outside of the local area and are not considered immediate neighbours. Conversely some objecting comments were submitted more than once from the same objector. This may result in some of the representations not being a true reflection of the local community viewpoint.
- 8.04 Many of the surrounding properties are residential in nature, and therefore the impact that the micro pub may have on these properties could be potentially harmful. The closest residential dwelling is no. 191 which adjoins the application site in the row of terrace buildings. I note however that micro pubs are very small venues that do not generate the levels of activity you would associate with a more traditional pub. Both seating and space is usually very restricted (the public area and bar proposed in this application is just approximately 38sqm) and it is unlikely that significant numbers of drinkers would congregate at the site at any one time.
- 8.05 After consulting with the applicant it was confirmed that the establishment would be operating under the general rules micro pubs try to adhere to, which include not serving lager or alcopops, no amplified music and no gambling machines. All of

which will be secured in a condition below. This would naturally deter certain demographics from the establishment and minimise the risk of anti-social behaviour. Therefore I do not consider that this would offer significant disturbance to the local area or residents.

- 8.06 I acknowledge the concerns relating to the lack of sound proofing currently in place and the overall noise disturbance that it is believed that this micropub will cause, however, the applicant has confirmed that sound proofing will be implemented to protect residential amenity and as such I have secured this in a relevant condition below. I am satisfied that this will allow the residential amenities of no. 191 and other neighbours in the immediate area to be protected and as there is no living accommodation above the micropub, I consider this sufficient.
- 8.07 Some discussion was had with the applicant regarding the implementation of a small covered area to the rear garden to prevent smokers from smoking to the front of the micropub, on the street. However, I do not consider that this would be appropriate given the residential nature of the surrounding units as it would encourage congregation in external amenity space and thus potentially cause a disturbance. I believe that by not providing a specified area for smokers this is less likely to cause congregation and therefore significant disturbance is unlikely to occur. I have conditioned the use of the amenity space in a relevant condition below.

Highways

- 8.08 No parking is proposed as part of the application. I consider this is acceptable due to the small size of the building and the limited potential for high numbers of customers. The property lies close to the town centre of Sheerness and I also note that there is a bus stop just outside the site. KCC Highways and Transportation have no objections to the proposal. Taking the above into account, I consider the proposal acceptable in this regard.

Other Matters

- 8.09 Due to the small scale nature of the development and the fact that there are exits to both the front and rear, I do not consider that there will be significant risk with regards to flooding as a result of this application.

9.0 CONCLUSION

- 9.01 On the basis of the above, I do not consider this scheme will give rise to any serious harm to residential amenity sufficient to justify refusing planning permission.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

- 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 premises shall be used for the purposes of a micropub as set out within the application documents and for no other purposes, including any other purposes in

Class A4 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- 3) The micropub hereby approved shall not be open to the public outside the hours of 11.00 to 00.00 Monday – Friday, 11.00 to 00.00 Saturday and 11.00 to 23.00 Sunday.

Reason: In the interest of the residential amenities of the area.

- 4) There shall be no amplified music played at the application site.

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

- 5) A scheme of soundproofing for the building shall be submitted to and approved by the Local Planning Authority and upon approval shall be carried out in accordance with the approved details before the use hereby permitted is commenced.

Reason: In the interests of local amenity.

- 6) The amenity space to the rear of the micropub shall not be used as a public area.

Reason: In the interests of residential amenity.

INFORMATIVES

- 1) Please note that advertisement consent will be required for any external signage to be erected at the premises.
- 2) Please note that a licensing application is still required before operations can begin.

The Council's approach to this application:

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

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

In this instance:

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

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



2.8 REFERENCE NO - 16/508709/FULL			
APPLICATION PROPOSAL Erection of 10 no. dwellings with associated parking and landscaping as amended by drawings received on 7 th August 2017 and 12 th December and 13 th December 2017			
ADDRESS Former Oil Depot Abbey Wharf Standard Quay Faversham Kent ME13 7BS			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is in accordance with national and local planning policy			
REASON FOR REFERRAL TO COMMITTEE Local third party objections (see Paragraphs 5.01 to 5.03)			
WARD Abbey	PARISH/TOWN Faversham Town	COUNCIL	APPLICANT NOVA Kent Limited AGENT Angus Brown Architects
DECISION DUE DATE 10/05/17	PUBLICITY EXPIRY DATE 08/09/17	OFFICER SITE VISIT DATE numerous	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/505907	Works to reinstate dilapidated quay wall	APP	Oct 2017

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site – which measures 0.21 hectares - is located adjacent to Faversham Creek in the centre of the town and was formerly the site of an oil depot, and it is currently vacant.
- 1.02 To the west of the site are relatively modern 3 storey “Creekside” style residential properties on Belvedere Road whilst to the south are also residential properties some modern and some more historic. To the north-east, is the site of a former coach depot and is currently used as a hand car wash facility.
- 1.03 Vehicular access to the site is via Abbey Road whilst vehicular access is currently not available from Belvedere Road to the west.
- 1.04 Public Footpath No. ZF39 runs along the south-eastern edge of Belvedere Road, and provides a connection to Abbey Road. The application site lies within Faversham Conservation Area. The site is designated within Flood Zone 3A(i) where ground floor residential use is normally prohibited on flood risk grounds.
- 1.05 The site is located within Faversham Conservation Area, where particular regard is to be had to preserving and enhancing the special character of the area.

2.0 PROPOSAL

- 2.01 The application is for the demolition of the existing gantry, office and building on the site and the construction of 10, 3.5-storey dwellings, arranged in a terraced block of 4 dwellings (which would have a floor area of 21.6 metres in length by 11.6 metres in depth) and a terraced block of 6 dwellings (which would have a floor area of 32.6 metres in length by 11.6 metres in depth). Each block has an eaves height of 8m and the main ridge height is 12m. The projecting gabled bay on the Creekside (north) elevation of Block 2, however, does project above the ridge by an additional metre.
- 2.02 Each property is arranged over four floors including the use of the roof space for bedrooms; bedrooms and bathrooms would also be located on the second floor. The main living areas are to be provided on the first floor, with a balcony to the rear overlooking Faversham Creek. The ground floor provides the entrance to the house, a car port and bin store, and a rear garden room/store, cloakroom and utility room.
- 2.03 The ground floor is to be clad in facing brickwork and the remainder of the blocks to be clad in horizontal feather edged boarding, all fenestration and door sets are to be provided in timber. The roof is to be slate with terracotta half-round ridge tiles and all rainwater goods to be cast iron, the balconies are to be made of metalwork.
- 2.04 Private amenity space is provided to the rear of the properties adjacent to Faversham Creek in the form of a courtyard garden with access onto the Creekside walkway.
- 2.05 A Creekside walkway is to be provided along the front of the site with public access and seating provided and post and rail fencing immediately adjacent to the Creek. The walkway is able to be provided following planning permission being granted in October 2017 under reference 16/505907/FUL for: *Works to reinstate dilapidated quay and form Creekside Footway, as amended by drawing 387/11.15.1 Rev D received on 18th July 2017 and drawing 387/11.15.2 Rev A received on 27th July 2017.* Which assured the structural stability of the quay wall to enable to walkway to be provided. It is intended that the walkway would form part of the England Coastal Path in due course.
- 2.06 Vehicular access to the properties will be provided via a resurfaced, new private access drive providing access from Belvedere Road with additional off street parking provided to the front of each dwelling next to private green space. Trade and refuse lorries and emergency vehicles and will be able to access the site from Abbey Street/Standard Square via electronically operated bollards placed at the Abbey Road end.
- 2.07 The density of development is 46 dwellings per hectare.
- 2.08 There has been on-going dialogue with officers and as such a number of design amendments have been submitted throughout the process.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance
Conservation Area Faversham
Environment Agency Flood Zone 2
Environment Agency Flood Zone 3 139698
Environment Agency Flood Zone 3A (i) 135664

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): paras 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 19 (economy), 32 (sustainable transport), 34, 47 (delivering a wide choice of high quality homes), 49, 50, 56, 58 (good design), 69, 75 (healthy communities), 100, 103 (flooding) 118, 119, 120, 121, 123, 125, 129, 131, 132, 133 (heritage assets), 159 (housing), 162 (infrastructure), 185 (neighbourhood plans), 186 (decision taking), 187, 196 (determining applications); 197, (determining applications).

“Bearing Fruits 2031” Swale Borough Local Plan 2017– ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST7 (Faversham and Kent Downs strategy), CP2 sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP8 (conserving and enhancing the historic environment), DM2 (main town centre uses), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM14 (general development criteria), DM21 (water, flooding and drainage), DM28 (biodiversity and geological conservation), DM33 (Conservation Areas) IMP1 (implementation and delivery plan).

Supplementary Planning Documents: Conservation Areas

Faversham Creek Neighbourhood Plan (NP) provides **16 Objectives by which** to assess development proposals in the Neighbourhood Plan area.

For this site particular regard is to be paid to the following:

Objective 2 – manage the threat of flood by safeguarding functional flood plain and ensuring that such measures necessary to protect the area are undertaken.

Objective 10 – enable development potential to be realised by addressing capacity issues on the local sewerage and surface water network.

Objective 11 – provide a range of housing types and tenures as part of mixed use environments, to support delivery of area wide objectives and to re-develop sites no longer suitable for other purposes.

Objective 13 – create living and working environments that respond to the Creek’s rich and outstanding maritime heritage, the demands for high performing standards of sustainable development, while supporting existing businesses and their aspirations.

Objective 14 – maintain and enhance the surrounding townscape setting of the Creek, its roofscape and higher ground, allotments, waterways, landmark buildings and urban marsh land areas.

Objective 15 – open up pedestrian/cycle/visual connections to adjacent marshland landscapes by creating a Creek edge route.

Policies within the Plan cover, the Historic Environment and Heritage Assets, Design Quality, Community, Leisure and Recreation, amongst other things.

The application site is identified as Site 6 - Former Oil Depot - with the Former Coach Depot adjoining to the north, identified as Site 75B.18 Paragraph 4.16 comments:

"Sites further north (Sites 6 and 7) should form an appropriate transition between the more recent developments along Belvedere Road and the looser historical cluster at Standard Quay."

The Neighbourhood Plan advises, under the heading of SITE 06 FORMER OIL DEPOT:

Suggested Redevelopments, Designs and Land Uses:

- *suitable development forms include the residential development of up to 3 storeys in height, set back from the waterfront arranged in terraces to form a small courtyard.*
- *New development should be constructed in traditional materials including some weatherboarding and stock brickwork with tile roofs.*
- *landscaping and car parking on the site must be of good quality to improve the built environment of the area.*
- *a public walkway linking the site to the Coach Depot and to Provender Walk is required as part of a continuous Creekside Path.*
- *Moorings to the frontage should be provided to add visual interest and add to the number available for residents and visitors."*

It continues: *" the policies for this site set a general design and planning principles to which the development must respond in order to be successful. However the Neighbourhood Plan places responsibility firmly upon any applicant to demonstrate the appropriateness and suitability of their proposed designs and uses through the formal planning application process. This demonstration must be made with regard to the range of policies in this neighbourhood plan, not just the site specific ones."*

The **former Oil Depot Site/Abbey Wharf Specific Policies** are as follows:

OD1 – *Use classes; the site should be developed for residential purposes (Class C3).*

OD2 – *a walkway shall be provided along the frontage, with access through the site and to sites with regard to the Faversham Creek Streetscape Strategy. For access onto Provender Walk, this would require negotiation with the management company.*

OD3 – *moorings shall be provided to the Creek frontage and inlet suitable for a variety of vessels of different sizes.*

5.0 LOCAL REPRESENTATIONS

5.01 Responses from local residents a summary of their responses is as follows:

- Nice design and will enhance the area but 4 height levels is too high and would restrict views
- Happier if the height was limited to a 3 level height for these dwellings.
- All the developments on the creek including Faversham Reach are 2 and 3 storeys high
- The planned four storey properties would overshadow nearby properties
- Proposal shows two large blocks of four storeys, which are too high and too close to the waterfront.
- The proposal shows a uniform height which compares poorly to the Belvedere waterfront properties further up the Creek opposite Crab Island - it is much more interesting to have different levels

- Generally the proposed building conforms with the emerging Neighbourhood Plan, but to fulfil all the objectives of the plan the proposed promenade or footpath needs to be clarified and complete details included in the application
- The proposals appear to be an over-development of the site
- The number of dwellings on the site appears to be too high.
- What consideration has been given to make the site safe before building commences considering its former use as an oil depot
- The application does not include areas for children to play
- The frontages are all similar and out of keeping with the more attractive Provender Wharf properties adjoining them.
- At least two designs on the frontages would break-up the ugly block effect of these 10 dwellings
- Added to the existing adjacent block on Belvedere, it ignores the Creek which it treats as a street, and combined with the development on the opposite bank, it extends the mediocre 'could be anywhere' architecture and therefore perpetuates the decline of the Creek as a maritime leisure asset for the town
- Object to the proposed road access from Belvedere Road which is a narrow carriageway, which serves as access to local housing but is not a thoroughfare, and which currently provides parking at the end adjacent to the site (ie a dead end).
- The application shows a Creekside promenade but the means of access to it, and its status, are not clear.
- Dangerous access from Abbey Road
- There are more suitable sites for housing in Faversham
- The proposed access drive, car ports/parking driveway shown would almost certainly cause noise disturbance with the coming and going of multiple vehicle movements at potentially all hours.
- Parking provision is inadequate
- Addition of the traffic generated by 20 vehicles would further add to the already high levels of traffic congestion in Abbey Street, the only vehicular access route to the site [As set out above, the vehicular access to the development would be via Belvedere Road, and not Abbey Street]
- Belvedere Road has already reached its full capacity regarding parking and we know that Abbey Street is the same
- Concern that the driveways will form part of a through road linking Belvedere Road through to Abbey Street [Members will note that this would not be the case.]
- The deposited plan does not show a connection of the promenade back to Belvedere Road, ZF 39, and it would therefore be a cul-de-sac which is not a satisfactory situation concerning opening up our footpath to public access at Provender Walk
- Should be considered as Life Time homes; with regard to Part M of the Building Regulations, I can see no disabled access or alternative access
- No consideration appears to have been given to provision either of any variety of dwelling size or of accommodation type, such as affordable housing, which could also provide variety in the massing and appearance of the development overall, as well as a perhaps more sympathetic relationship to neighbouring boundaries.
- The former Oil Depot site therefore offers the opportunity to develop some much-needed maritime-related facilities, along with residential development at an appropriate scale.
- I would object to being overlooked by residents in the proposed development
- We therefore have some concerns about this proposal to build more houses on a site which is known to be prone to flooding

- I think that the overall scheme is very attractive, and the project would fit in very well with the surrounding area

5.02 Following revised details being submitted in August 2017 and a re-consultation process local residents commented as follows:

- 10 houses are too many for the site and 4 storey is far too high for the scale of existing buildings behind the development and adjoining the creek.
- A mix of 2 and 3 storey would be more in keeping, totalling no more than 6 dwellings.
- The original buildings on Standard Quay will be dwarfed by this development
- Although the development is now shown as no higher than the immediately adjacent properties, the updated Section drawing still describes the development as being over 12m (40ft+) high, but no comparison is made to the height of or impact on other any adjoining properties, for example at Standard Square and Lammas Gate, nor of the former bus depot site to the North East,
- No consideration appears yet to have been made of the relationship and impact of such high buildings on these adjacent developments, on the Creek frontage and across the Creek.
- The development appears therefore still to be presented largely in isolation, with little consideration of its context.
- The new design will result in a dominating “mass of housing” close to the Creek, totally out of keeping with its surroundings, and that would seriously compromise this area of Faversham Creek. The proposal fails to take account of the form of the existing buildings a long Provender Walk, which are 2-storey and 3-storey houses, or of the lower, historical structures on Standard Quay.
- The plans appear to deliver a cramped site and the roof line is monotonous compared to the more varied development next door at Belvedere.
- 3-storey houses along Provender Walk, with their pointed roofs, mean that there is visible sky between the roofs. This achieves a sense of space the roof-scape of the proposed 4-storey buildings will not add such a dimension
- Not sufficient parking on the site likely to lead to on street parking.
- My property will look out on to the development and I will be affected by the increase in traffic and parking
- Does not explain why the proposed access is to be from Belvedere Road
- No detail is given about how trade, refuse lorries and emergency vehicles will leave the proposed development although access appears to be from Abbey Street.
- My concern still remains that a circuit will be created, if only for the residents, with the opening up of Belvedere Road and the likelihood that the bollards will go wrong and it will become a an alternative route to avoid congestion
- We consider that the current plans are not in accordance with the agreed policies of the Faversham Creek Neighbourhood Plan [Members will note that the key requirements of the NP are summarised above]
- Ask that the bin store is of sufficient size to take 2 full size wheely bins much of Faversham is blighted by the presence of the various coloured wheels bins at the front of houses

5.03 Additional comments were received from local residents in December 2017:

- These houses are far too high and dominating for those of us who live in Lammas Gate
- Unless there is to be a one-way system combining Belvedere Road with Abbey Street, it is impossible to over estimate the problems that would be caused by all

of the additional traffic that this application would generate. Residents have a continuous struggle getting to and from their properties as it is and there should be a full traffic evaluation before any more development is allowed at the quayside.

- That this amendment is sought at this time ie right before Christmas makes me wonder if the applicants were hoping that it would slip through unnoticed.
- The application does not conform to the Faversham Creek Neighbourhood Plan.
- It would be over-development of a small site.
- It would also be over-dominant, especially as the proposal has changed from three- storey dwellings (in the Heritage Statement) to four-storey (in the plans).
- The Heritage Statement states the dwellings would be "appropriate for family life". However, all the rooms are small and there is minimal outside space. The "mini gardens" of the Heritage Statement show as "Courtyard Gardens" on the plans and most are barely large enough for more than a table and chairs.
- There are only three car parking spaces per dwelling, and they are in tandem which would bring manoeuvrability issues. There would be further parking pressure on neighbouring roads.
- The development would further aggravate the existing traffic problems in Abbey Street and Belvedere Road.
- Abbey Street, which is narrow street prone to frequent gridlock.
- The volume of traffic is already a danger to pedestrians. Yet more traffic would increase the potential danger to local residents and to the pupils of Queen Elizabeth's School, some of whom cycle to school.
- A major traffic evaluation of the area should be sought before any more developments are approved.
- The Statement also states "There is a real need for new housing in Faversham". However, the actual need is for affordable housing for local people, not for luxury housing strung along the edge of the Creek.
- The site is in an area of flood risk.
- It would put more pressure on local services and resources, many of which lack capacity.
- The access to Standard Quay is narrow with poor sight lines and without a pedestrian walkway.
- Full public access must be maintained along the Creek

5.04 **The Faversham Society** (Mar 17) comment that:

- i). The principle of housing on this site and the number of houses is in accordance with the Neighbourhood Plan. The Design and Access Statement refers to the Standard Quay site rather than the Former Oil Depot site, Abbey Wharf.
- ii). The proposal does not show how the site is to be accessed. The access should be from Standard Quay. The Belvedere Road end should be closed off.
- iii). We note that KCC Highways have objected to tandem parking and would require seven additional parking spaces. There is also no indication on the drawing of any access for Service Vehicles. We note that Kent Police also comment that the Design and Access Statement makes no reference to crime and point out that the security to Plot #10 is not adequate and that there should be a side gate.
- iv). The inclusion of a Creekside Promenade is welcome and this is also part of the requirement of the Neighbourhood Plan. However, it is not indicated how the footpath would connect with the existing path at Provender Walk.
- v). At the adjoining Coach Depot the Promenade stops at a dead-end. The existing footpath outside the Coach Depot meets the site boundary on a junction where a bridge or walkway should connect these two sites.

- vi). The provision of four-storey buildings on this site is inappropriate and out-of-scale with its surroundings, and the Faversham Society would prefer not to see terraces.

Following the submission of amended drawings in August 2017 they additionally commented that any public footpath or walkway beside the creek be a registered public right of way and not merely permissive.

- 5.05 **Swale Footpaths Group:** (Feb 17) commented that the fenced track linking the north end of Belvedere Road to Abbey Road appears on the Definitive Map as ZF 39. It is shown within the red line on "map" as marking the perimeter of the application site, though the applicant did answer "No" to the question whether any diversions or extinguishments were to be sought.
- 5.06 **Faversham Footpaths Group:** (Feb 17) commented that the application shows a Creekside promenade but the means of access to it and its status are not clear. In conformity with the draft Faversham Creek Neighbourhood Plan, it is essential that this promenade should be a public right of way and that suitable public access to it should be provided.

The Group believes that the best solution would be to provide access from both Standard Quay and Provender Walk. The Group urges that the planning authority should encourage the applicant to continue the promenade/path through to Standard Quay, not least because any development of the neighbouring former coach depot site would also require a Creekside public footpath. There is already a path of sorts along this route and very little work would be required to provide a continuous public footpath.

In the case of Provender Walk, it is expected that Natural England will propose shortly that the England Coast Path on this side of the Creek should run along the Creekside from the Posillipo Italian restaurant to the end of Provender Walk before turning away to Belvedere Road and along public footpath ZF39 to Abbey Road. The Group considers that, if a path is provided along the Creekside at the former oil and coach depot sites, it should form part of the England Coast Path, either at the outset or subsequently by an Order to vary the route. It therefore urges the parties concerned to ensure that access is also provided from Provender Walk.

The Group considers that it is important to ensure that any proposed development of this site should have a ground level that enables the path to be easily linked up at both ends without having to construct ramps.

Finally, the Group would request that footpath ZF39, which seems to be included in the footprint of the application, should be at least 1.5 metres wide and suitably surfaced.

Following amended drawings being received in August 2017 they commented that the Group is concerned that the revised proposals are in danger of creating a cul-de-sac instead of a continuous Creekside path. We remain convinced that the best solution would be for the applicant to continue the Creekside path through to Standard Quay. That would then provide the opportunity for Natural England to make a variation order to move the route of the England Coast Path onto that route and to remove the wall blocking access between the Oil Depot site and Provender Walk. It is of course essential that the paths concerned should be designated as public rights of way and added to the Definitive Map.

6.0 CONSULTATIONS

6.01 Faversham Town Council (Feb 17)

The Town Council raised concern in the initial response over the height of four storey buildings and felt that 2 or 3 storeys are adequate in the area to avoid a “trenching affect” of the Creek. They requested further clarification regarding the promenade and whether it provides a footpath which would be fully accessible to the public from Standard Quay to Provender Walk. The Draft Neighbourhood Plan mentions a courtyard for the site, but this is not clear on the plan. Confirmation on the width of ZF39 is also requested. The Town Council considered it to be vital that a continuous PROW is maintained along the Creekside. Once clarification on these points are received, the Town Council will comment again.

(August 17) Following the submission of revised drawings, the Town Council recommended no objection with additional comments. To ensure the height alignment of the properties is no higher than those in Provender Walk Moorings should be maintained together with the structure of the quayside. To ensure a Creekside walk with full access from Standard Quay to Provender Walk is provided as part of the coastal path route. Alternatively, moving the current access path from the west to the east side would be more beneficial.

6.02 Environment Agency: (Mar 17) raised objection to the proposed development as they considered there was insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable. Additionally they objected as no assessment of the risks to nature conservation have been provided.

In May 17 they commented that they maintained their objection to the proposed development on Biodiversity grounds. However, having reviewed the submitted Phase 1 Contamination Risk Assessment, we can remove our objection on Groundwater and Contaminated Land grounds. We understand that foul drainage will discharge to mains, and surface water drainage will discharge to an existing watercourse. We have no objection to these proposals in principle, but must be re-consulted if there is a change to the proposed strategy.

In Nov 2017 following the submission from Ground and Environmental Services Limited (20 October 2017 ref: 11792) which deals with risks to human health for any contamination in the small number of samples taken on the foreshore. They removed their objection.

6.03 Natural England: (Feb 17) The new dwellings are within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.

6.04 UK Power Networks: (Feb 17) Please be advised that my Company has no objections to the proposed works

- 6.05 **SGN:** (Feb 17) commented that on the mains record a low/medium/intermediate pressure gas main is near the site and as such there should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. They advise where required confirm the position using hand dug trial holes and that damage to their pipes can be extremely dangerous for both employees and the general public. The cost to repair their pipelines following direct or consequential damage will be charged to the applicant's organisation.
- 6.06 **Lower Medway IDB:** (Mar 17) confirm that this site is outside of the IDB's district and the proposal is unlikely to affect IDB interests.
- 6.07 **Southern Water:** (Mar 17) Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer. They also suggested an informative should be attached to any permission.

They considered that the Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse. It is the responsibility of the developer to make suitable provision for the disposal of surface water.

Southern Water requested planning conditions to ensure that appropriate means of surface water disposal are proposed for each development and they requested that details of foul and surface water sewerage disposal should be submitted to the Local Planning Authority, in consultation with Southern Water.

They concluded that due to changes in legislation regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

- 6.08 **Kent Police:** (Feb 17) and following revised details in Aug 17 they commented that the applicant/agent consider using the Secured By Design (SBD) Police Crime Prevention Initiative (PCPI) for this proposed development. In its present layout, there is no reason that the site could not achieve SBD Silver accreditation provided all items installed comply to SBD specifications as detailed in the SBD Homes 2016 guide.

They recommended that:

1. A side gate be installed to the side of plot 10 (as far forward to the building line as possible) in order to protect the side passage, if not already the case.
2. Another side gate be installed between plots 4 and 5, as far forward to the building line of plot 5 as possible, in order to prevent unauthorised access along the passageway between these two plots.
3. Door sets and windows should be PAS24:2012 certified as an added layer of security, particularly those at ground floor level, along with any vulnerable balcony doorsets and windows or easily accessible doors and windows. Or those easily accessible from the rear, given the public promenade area, which may offer opportunities for crime and attack from the rear, unless appropriate boundary treatments are incorporated into the design.

4. public benches installed at various points along the public promenade to the rear of the properties on the promenade. It is very important that the benches should not provide easy climbing aids into the rear gardens.
5. The rear garden gates onto the promenade should also be of sufficient height and construction so as to deter/prevent opportunities for crime and these gates should be fitted with appropriate locks.
6. The car ports should be carefully designed as they may attract further opportunities for crime, they should be well lit and painted in a light colour. The fitting of garage doors would provide an additional layer of security.

6.09 **KCC Highways and Transportation** (Feb 17): Parking for the site should be considered based on Kent residential parking standards (IGN3) for an edge of centre location and 18 independently accessible parking spaces are recommended.

As the proposals include tandem parking (in front of car ports) additional spaces need to be provided at a rate of 0.7 visitor parking spaces per dwelling they also required details regarding servicing for the site, eg to demonstrate that a refuse collection vehicle can safely enter and exit the site in a forward gear without reversing onto the public highway and whether or not the access road is proposed for adoption.

Following the submission of further details the revised drawings demonstrate that 16 independently accessible parking spaces are proposed in addition to the 10 car ports and based on the sites sustainable location this is deemed sufficient and is in accordance with Kent parking standards.

Also required were conditions to address the provision and permanent retention of the vehicle and cycle parking spaces and of the vehicle loading/unloading and turning facilities, the submission of a construction management plan, and confirmed that the footpath at the southern edge of the site is proposed for public use and although they do not have objections to its use as a public footpath, the highway authority would not wish to adopt this.

6.10 **KCC SUDS Team:** (FEB 17) commented that neither the accompanying Flood Risk Assessment nor its associated Supplementary Statement go into a great deal of detail on the proposed means of surface water management from this development site. The application form states that the runoff will be directed to the adjacent watercourse, and the FRA states that existing connections will be used (subject to the approval of the Environment Agency and Southern Water). In light of the above, they recommended that a condition is attached to require the submission of a detailed surface water drainage design to be submitted and approved prior to the commencement of construction.

6.11 **KCC PROW Officer:** (Mar 17): Acknowledged public footpath ZF39 passes through the south east side of the site with a recorded width of 1.5 metres. The public frontage onto the creek suggests that creek side public access is intended and is welcomed and it may be opportune to seek a connection through to Standard Quay. We would advise a minimum width of 2.0 metres for any Creekside access. He confirmed that should the England Coast Path continue along the side of Faversham Creek then KCC would accept the path as a public right of way so long as the route can be connected to existing highways

With regard to public footpath ZF39 he advised that no furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority. Furthermore, there must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.

6.12 The **Environmental Protection Team Leader** raises no objection.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 16/508709/FULL

8.0 APPRAISAL

Principle of Development

8.01 The NPPF promotes sustainable development and defines this as achieving economic, social and environmental objectives in a balanced way. The presumption in favour of sustainable development that underpins the NPPF includes approving development that is in accordance with the development plan unless there are adverse impacts that outweigh any benefits, or are precluded by the NPPF.

8.02 Under Policy OD1, this site was included within the Faversham Creek Neighbourhood Plan. In turn, the NP was adopted into Swale Borough Council Local Plan Bearing Fruits 2031 in July 2017 which stated that the site shall be developed for residential purposes. As such, an assessment has already taken place to determine this is an acceptable site for such a use. However, a determination as to whether this specific proposal is acceptable still needs to be undertaken.

Visual Impact

8.03 The layout, design and detailing of the proposal is not only important with regard to the character of the immediate area but particularly as the site is located within Faversham Conservation Area, where particular regard is to be had to preserving and enhancing the special character of the area.

8.04 In responding to the question about the number of storeys that the two blocks within the scheme would have in relation to the Design Quality Policies set out in the adopted Faversham Creek Neighbourhood Plan, I would suggest that whilst the proposal does show a technical breach of one element of Policy DQ1, the fact that no actual maximum height for buildings is specified does leave some space for flexibility of approach in relation to this policy. In this case, the overall form of the two blocks is considered to be appropriate.

8.05 The proposed new blocks would relate well to the other existing surrounding development, and it is proposed that they would make use of the suggested (appropriate) facing and roofing materials, in line with other Design Quality policies. It is only the number of storeys that presents a conflict. However, in view of the fact that the design for these blocks incorporates a relatively (but not inappropriately) shallow roof pitch and yet manages to achieve an extra level of accommodation in the roof space, such that the overall height of the buildings would be the same as the existing nearby three-storey houses (with their more steeply pitched roof design) at Provender Walk (off Belvedere Road), I consider the case has been made to make

use of the proposed 3.5 storey design at this particular site as an exception to the rule.

- 8.06 Clearly any future proposed variations of the storey height requirement set out in DQ1 will have to be considered on individual merit, and there may well be sites where we will necessarily need to seek schemes of 2.5 storeys and less.
- 8.07 The application is supported by a Heritage Statement, which has been fully considered by officers and no objection is made to the amended scheme in relation to the preservation or enhancement of the special character and appearance of the Faversham Conservation Area, subject to the imposition of conditions.
- 8.08 I note that a number of the objectors have raised concern about the impact of the development, in particular the size of the blocks and the resulting impact on the special character and appearance of the Conservation Area. I am of the view that due to the design proposed and considering the proposal in the context of the surrounding area it would not have a significant detrimental impact on the Conservation Area. In fact, I consider that the two blocks will relate well to the existing built environment and enhance the character and appearance of the Faversham Conservation Area at the location in question.
- 8.09 Furthermore, the proposal is in line with other Design Quality Policies of the Neighbourhood Plan including the public access to the waterfront, the town centre and the surrounding areas, the appropriate context of the development to the Creek and the wider Faversham area and as such renders the scheme acceptable.
- 8.10 Whilst a number of elements of the design have been amended during the application process, I do remain focused on the replacement of the glass-fronted balcony design for a metal rail fronted design, this modest but nevertheless important change to the design of the building is welcome, although it is disappointing that a bespoke rail design is not being proposed. However, the detailing of the metal rail and associated handrail to the balcony are subject to the submission of detailed planning condition, which would then allow scope for a higher design standard to be secured.
- 8.11 The garden and parking areas to the front and rear of the housing units are important parts of the design as they will be highly visible from the footway running along the edge of the Creek and from Belvedere Road.

Residential Amenity

- 8.12 This is a matter that has already been considered in general terms when the site was evaluated and then included within the Faversham Neighbourhood Plan as a site suitable for residential development. However, it is clear that there will be some impact on the residents of Belvedere Road and Abbey Street in terms of traffic movements. However, I note KCC Highways and Transportation consider this will fall within acceptable limits.
- 8.13 In general terms, any potential harmful impact on residential amenities would be most felt by the properties to the south and south-east of the site in Lammas Gate and Standard Square, many of whom have written raising concerns about the development given the loss of their view across the Creek. However, the distance from the proposed new dwellings to the rear of these properties is in excess of 25m – and the 21-metre standard typically applied -which is on a par with the distances the existing dwellings, of a similar height in Belvedere Road, are from the Lammas

Gate/Belvedere Close properties and I consider there would not be any overlooking to a detrimental degree. It should also be noted that some views of the Creek would be provided between the two blocks and I remain of the opinion that this arrangement is appropriate given the character of the area.

- 8.14 With regards to the residential amenity of future occupiers of the development I am content that given the provision within the site and the design and layout of the private amenity areas facing onto the Creek that this is sufficient space in this town centre location.

Highways

- 8.15 KCC Highways and Transportation have raised no objection to the proposal and they have suggested a number of conditions in relation to the provision and permanent retention of the vehicle and cycle parking spaces and of the vehicle loading/unloading and turning facilities, and the submission of a construction management plan all of which I consider appropriate.
- 8.16 I note many locals residents have objected to the scheme on the basis of the increase in traffic on Belvedere and/or Abbey Street. However, KCC Highways and Transportation have commented that the addition of 10 new dwellings is unlikely to lead to a noticeable increase in vehicle movements in the area. A TRIC's analysis has been carried out which identifies a potential trip generation of 4 additional movements in the AM peak (08:00-09:00) and 5 additional movements in the PM peak (17:00-18:00) hour based on the provision of 10 new dwellings.
- 8.17 They also raise no objection to the access to the site being from Belvedere Road, and they note that the section of Abbey Road leading to the site does not appear to be public highway, and is not shown within the applicant's red line boundary. This means that the only connection to the public highway is via Belvedere Road which, - based on the submitted plans - the site can be easily accessed from.
- 8.18 The application provides dedicated car parking for each residential unit through a car port and parking space. In addition, six off-road parking spaces are provided for visitor/shared parking to which KCC Highways & Transportation consider this an appropriate level of car parking in this location.

Landscaping

- 8.19 Given the Creekside location the landscaping, both hard and soft needs to be appropriate to the specific site conditions. As such, careful consideration needs to be given to both the areas to the rear of the site, adjacent to the Creek ,plus the areas of private garden amenity spaces for each property and also the access/parking areas to the front of the dwellings.
- 8.20 I do have an outstanding concern regarding the landscaping of the scheme which has not been fully addressed. However, I have included a planning condition requiring the submission of a landscaping scheme, which would show some necessary changes to the layout as currently proposed.

In this respect, it is essentially the area of the site between the new buildings and the creek that is the cause of concern, with the combination of different boundary treatments and planting areas resulting in an overly complicated layout that would be likely to result in future maintenance problems, and is likely to result in a decline in

the overall appearance of the scheme. I am, however, confident this can be overcome under the requirements of the attached conditions.

Other Matters

- 8.21 The application proposals provide for a new section of Creekside Walkway across the full width of the application site and thus will provide public access to this part of the Creek, which is not currently available. The provision of public access to the Creek frontage of the Oil Depot Site is in line with the aims of the Faversham Creek Streetscape Strategy by providing part of the 'missing link' for pedestrian access to the Creek on this southern side of the Creek.
- 8.22 However, I am aware that the proposed England Coastal Path championed by Natural England shows the trail to follow the existing Public Footpath route from Standard Quay via Standard Square and Belvedere Road and then runs towards the Creek (to the south of the application site) and passes along the Creekside at the Provender Walk development. However, para 2.1.25 of "England Coastal Path: Whitstable to Iwade" does acknowledge that *"the implementation of the (draft) Faversham Neighbourhood Plan may, through planning agreements, provide further opportunities for access along the Creekside. In such circumstances the alignment of the England Coastal Path would be reviewed and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State"* Additionally should the England Coast Path continue along the side of Faversham Creek then KCC would accept the path as a public right of way
- 8.23 As such, I consider it to be important that whilst acknowledging the applicant's commitment to the provision of a walkway along the Creekside that a condition is attached to the permission to requires its provision and retention and that it be suitably linked to the adjoining sites.
- 8.24 Members will note that in line with Policy OD3 of the FCNP, and as requirement of condition (15) below moorings are to be provided to the Creek frontage.
- 8.25 With respect to surface water drainage, I can confirm that neither the KCC SUDS Team or the Environment Agency raise objection to this application, subject to imposition of suitable planning conditions. Similarly, with regard to foul drainage, please note the comments of Southern Water Services, who also raise no objection. Appropriate conditions are included below, and the development is considered to be acceptable from a drainage point of view.
- 8.26 A tree is proposed at the bend in the Creekside footpath, at the front of the site. Whilst there is arguably a case to place a focal feature at this location, I am less convinced that a tree is the appropriate form for such a focal point, and I would suggest that consideration be given to placing a maritime related object such as a capstan, buoy or anchor at this location. If a suitable disused version of one of these items (or similar) could not be sourced, then an artists interpretation of one such item, or even perhaps a sculptured image of a local character associated with the creek might provide an appropriate focal point at this location. The provision of what would in effect be a public art installation related to the development scheme.
- 8.27 With regard to the mitigation of potential impacts on the Special Protection Areas, and further to Paragraph 6.03 above, a payment of £281 per dwelling is required in order to ensure that potential recreational impacts on the 'Thames Estuary and

Marshes', 'Medway Estuary and Marshes', and 'The Swale' Special Protection Areas (SPAs). Members will note condition (16) below.

9.0 CONCLUSION

- 9.01 National Policy states that sustainable development should be approved when it is in accordance with the development plan, unless there are adverse impacts that outweigh any benefits, or are restricted by the NPPF.
- 9.02 As set out in the Faversham Creek Neighbourhood Plan the site is designated for residential development and adopted into Swale Borough Council's Local Plan, Bearing Fruits 2031. Significant weight should therefore be given to the acceptability of the proposal in policy terms. The proposed development would be in line with the aims of the housing policies and would help the Council towards meeting a five-year supply of sites. No significant impact would be caused to visual and residential amenities of neighbouring properties, and the surrounding developments as a result of the proposed development. I further consider that the two blocks will relate well to the existing built environment and enhance the character and appearance of the Faversham Conservation Area at the location in question.
- 9.03 I am aware there has been local opposition to the proposal. However, following consideration of National and local policy along with the amendments to the scheme and input from statutory consultees, I consider the scheme to be acceptable
- 9.04 To conclude, I consider that the scheme as it now stands still retains some outstanding design concerns but that these concerns can be dealt with by means of one or more of the planning conditions. I therefore recommended that planning permission be granted subject to the conditions as set out below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

- (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 approved shall be carried out in accordance with the following approved drawings: 2491/PL/20 rev C, 2491/PL/21 Rev D, 2491/PL/22, 2491/PL/23 Rev A, 2491/PL/24 Rev B, 2491/PL/25 Rev C, 2491/PL/26 Rev B, 2491/PL/27 Rev B, 2491/PL/MP1, 2491/PL/MP02

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

Pre Commencement Conditions

- (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, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development

- (4) No development beyond the construction of foundations shall take place until details of the proposed means of foul and surface water drainage have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In order to prevent pollution of water supplies

- (5) No development beyond the construction of foundations shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To prevent pollution of controlled waters

- (6) No development beyond the construction of foundations shall take place until samples of all facing and roofing materials including the specific rainwater goods to be used – including the hopper design to be used on the development hereby permitted 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, and the character and appearance of the Conservation Area.

- (7) No development beyond the construction of foundations shall take place until a sample board of all hard-surfacing materials to be used on the development hereby permitted 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, and the character and appearance of the Conservation Area.

- (8) No development beyond the construction of foundations shall take place until, notwithstanding the notation shown on the approved proposed site block plan and proposed site and ground floor plan (2491/PL/20 Rev C, 2491/PL/21 Rev D), 1:5 part elevational detail of each of the different boundary treatments to be used, to be

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 interests of visual amenity, and the character and appearance of the Conservation Area.

- (9) No development beyond the construction of foundations shall take place until details of the colour finishes for all external joinery (including weatherboarding) to be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details and houses to remain in the approved colours thereafter unless otherwise expressly permitted by the Local Planning Authority.

Reason: In the interest of visual amenity, and the character and appearance of the Conservation Area.

- (10) No development beyond the construction of foundations shall take place until the 1:10 elevation detail and 1:1 or 1:2 part vertical and part plan section of each window and door type to be used in the scheme to be submitted to and agreed in writing by the Local Authority. Furthermore, all windows to be used to use hidden trickle vent design.

Reason: In the interest of visual amenity, and the character and appearance of the Conservation Area.

- (11) No development beyond the construction of foundations shall take place until, Notwithstanding the details shown on the approved elevational drawings, 1:10 elevational detail and 1:1 or 1:2 section of the following construction elements to be submitted to and approved in writing by the Local Planning Authority, and works shall then be implemented in accordance with the approved details:
- a. Eaves detail
 - b. Verge detail
 - c. Balcony detail (to show handrail, railing design and supporting base)
 - d. Painted timber roof feature

Reason: In the interest of visual amenity, and the character and appearance of the conservation Area.

- (12) No development beyond the construction of foundations shall take place until full details of soft landscape works and boundary treatment 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 a detailed planting scheme for raised planter and an implementation programme.

Reasons: In the interests of the visual amenities of the area and the character and appearance of the Conservation Area.

- (13) Notwithstanding the notation shown on the approved proposed site block plan and proposed site and ground floor plan (2491/PL/20 Rev C, 2491/PL/21 Rev D), a 1:5 part elevational detail of each of the different boundary treatments to be used, to be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reasons: In the interests of the visual amenities of the area and the character and appearance of the Conservation Area.

- (14) No development beyond the construction of foundations shall take place until full details of how the Creekside walkway, including site levels, will link as a flat walkway to the adjoining sites have been submitted to and approved in writing by the Local Planning Authority, and the works shall be implemented in accordance with the approved details and shall not be altered nor access to the walkway restricted in perpetuity.

Reason: In the interests of the amenities of the locality

- (15) No development beyond the construction of foundations shall take place until full details including the locations of the Creekside furniture, lampposts and moorings have been submitted to and approved in writing by the Local Planning Authority, and the works shall be implemented in accordance with the approved details and shall not be altered in perpetuity.

Reason: In the interests of the amenities of the locality, and the character and appearance of the Conservation Area.

- (16) No development shall take place until details of an obligation to contribute to mitigation measures (consisting of a payment of £281 per dwelling) to offset the potential impact of the recreational needs arising from the approved development on the integrity of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites) has been submitted to and approved, in writing, by the Local Planning Authority. The obligation shall have been completed before the development is commenced.

Reason: In order to offset the impact of the development on SPAs and Ramsar sites and in order to provide sufficient refuse bins for the dwellings.

Construction

- (17) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons: To prevent pollution of controlled waters and comply with the NPPF.

- (18) 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.

- (19) 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.

- (20) All external windows and doors to scheme to be constructed of sustainably sourced hardwood and retained/maintained as such thereafter.

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

- (21) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron.

Reason: In order to preserve the character and appearance of the Conservation Area.

Post Construction

- (22) Upon completion, no further development, whether permitted by Classes A, B, C, D, E, or F of Part 1 or Class A, C or of Part 2 or Class A of Part 14 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of the amenities of the Conservation Area

- (23) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To prevent pollution of controlled waters and comply with the NPPF.

- (24) 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.

- (25) The car ports 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) Order 1995 (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 of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

- (26) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as visitor/shared parking parking/driveway and private access drive 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) Order 1995 (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 dwellings hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity

- (27) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as vertical cycle store shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (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 access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity

- 28) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as vehicle loading/unloading and turning facilities and through routes shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (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 access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity

INFORMATIVES

Please note that artificial slate nor fake composite weatherboarding will not be accepted

The Local Planning Authority expects to see an appropriately variable height brick wall design to serve as the boundary treatment along party boundaries between properties within the garden areas.

The Local Planning Authority would expect to see a bespoke design that might perhaps incorporate a creek-inspired logo, e.g. the simple outline shape of a Thames barge on the balcony railings

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate

connection point for the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

Waste to be taken off site Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer.

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

Any planning consent given confers no consent or right to disturb or divert any Public Right of Way at any time without the express permission of the Highway Authority.

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 changes required to the application and these were agreed.

The applicant/agent was provided formal pre-application advice.

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

Habitat Regulations

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

The application site is located within 6km of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the

Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

The proposal therefore has potential to affect said site's features of interest.

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

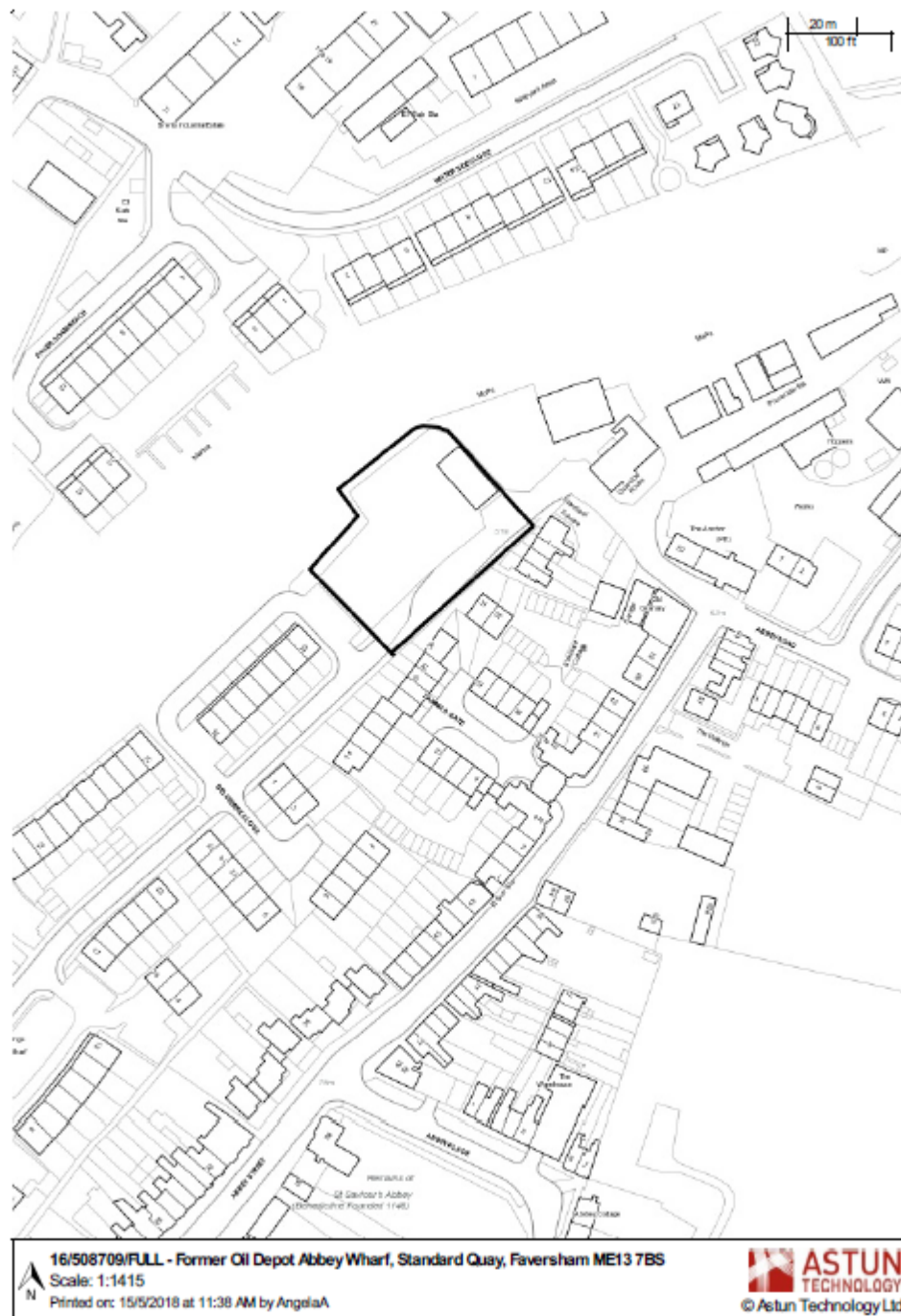
In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- The Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and therefore a threshold of 10 or more dwellings has been introduced. In order that the individual and cumulative impacts of this scheme will be mitigated a condition is included above to ensure that the appropriate mitigation payment, namely £281 per dwelling, is secured.

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

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

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



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PLANNING COMMITTEE – 24 May 2018

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 17/505796/FULL			
APPLICATION PROPOSAL Conversion of a barn to create a 2 bedroom house and conversion of an adjacent shed to provide a farm office and an additional bedroom for a bed and breakfast business along with the replacement of a large atcost shed with a smaller shed to house a workshop and animal pens.			
ADDRESS Church Farm Throwley Road Throwley ME13 0PF			
RECOMMENDATION REFUSE			
SUMMARY OF REASONS FOR REFUSAL The creation of a new residential dwelling outside the built up area boundary would be contrary to the provisions of the Local Plan			
REASON FOR REFERRAL TO COMMITTEE Contrary representations from Parish Council and local residents; call-in request from Cllr Prescott			
WARD East Downs	PARISH/TOWN COUNCIL Throwley	APPLICANT Mr & Mrs Scutt AGENT Lee Evans Planning	
DECISION DUE DATE 09/01/18	PUBLICITY EXPIRY DATE 19/12/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None relevant			

1.0 DESCRIPTION OF SITE

- 1.01 The site comprises of a small, traditional farmstead. There are four existing buildings on site: a small, low, traditional barn; a much larger C20 Atcost barn; and two smaller C20 agricultural buildings; none of which are in use any longer. None of the buildings on site appear to be in a good state of repair, and the site has an air of abandonment about it. The site is approached via a short existing access trackway, leading up from the roadway, which is on a slightly lower topographical level than the site itself. This access also serves as a public footpath that passes through the centre of the site
- 1.02 The site is situated adjacent to the Grade I listed St Michael and All Angels Church at Throwley, in a very isolated rural location, some considerable distance outside any built-up area boundary and within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.03 Church Farm is not in a conservation area and none of the buildings in the development site are listed. However, as noted above the development is in close proximity to the grade I listed church and one of the barn buildings is of C18

construction and should be considered to be a non designated heritage asset under the terms of the NPPF. The proposal is also close to the grade II listed Church House, but this building is a little further away with other buildings between it and the development site.

2.0 PROPOSAL

- 2.01 The proposal is to convert the small barn to a two-bedroom residential dwelling, to convert one of the smaller C20 buildings to use as storage, a farm office, and a self-contained guest suite. As part of the justification for the conversion it is also proposed to remove the Atcost barn from the site and replace it with a smaller building for animal pens and storage.
- 2.02 The Atcost Barn is by some way the largest building on site and, like all such buildings, though it is very obviously an agricultural building, is not of a pleasing design. The proposed replacement building, which will store agricultural equipment and small animal pens, will be of a much smaller scale and much better design, further away from the boundary with the listed church.
- 2.03 The smaller, traditional barn is proposed for conversion to a two-bedroom permanent dwelling. This part of the proposal would involve external and internal repair, internal works, and the addition of fenestration necessary to effect the change of use. It is intended that the proposed dwelling be the home of a soon to be retired tenant farming couple, who wishes to stay in the area after retirement.
- 2.04 The adjacent smaller 'Tyler Barn' would be re-clad, provided with suitable fenestration, and converted to use as a garage/store, with a small farm office and a guest suite. The abovementioned tenants have experience in Bed and Breakfast businesses, and it is envisaged that with the use of this building, that practice may continue
- 2.05 The application is accompanied by the appropriate supporting documents, including a Planning Design and Access Statement, and a Financial Viability Analysis report, which suggests that other commercial uses for the building have been considered and deemed commercially unviable. These reports recognise the adverse planning policy context for conversion of a rural building to residential use, but do not offer any evidence of marketing the building to demonstrate lack of alternative use options.
- 2.06 What the applicants do explain in some detail is the rationale for the application, one that I have since explored with them in some detail. In essence the applicants are currently tenants of The Duchy of Cornwall and occupy a large farmhouse at Leaveland. The applicant is due to retire and could legitimately stay in the farmhouse but the Duchy are offering him the freehold of the site so that he can vacate the farmhouse and remain living locally where he retains some farmland, and continue offering bed and breakfast accommodation (in the Tyler barn).

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.32	0.32	-
Parking Spaces	N/A	3	+3
No. of Residential Units	N/A	1	+1
No. of Holiday Let Units	N/A	1	+1

4.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Outside established built-up area boundary

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (sustainable development), 55 (sustainable development within the rural area) and 132 (Listed buildings)

5.02 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3 The Swale settlement strategy), ST7 (The Faversham area and Kent Downs Strategy), CP1 (Building a strong economy), CP4 (Design), DM3 (the rural economy), DM14 (development criteria), DM24 (valued landscapes) and DM32 (Listed Buildings)

6.0 LOCAL REPRESENTATIONS

6.01 Throwley Church Council supports the proposal, noting that the proposal would have a positive impact on the setting of the church and the enjoyment of walkers.

6.02 The Swale Footpaths Group raises no objection.

7.0 CONSULTATIONS

7.01 Throwley Parish Council supports the proposal saying;

“The council discussed this application at the last council meeting and councillors were unanimous in their support of this application.

The council is of the view that these redundant farm buildings should be used to provide housing for long term parish residents who wish to remain in the parish near their friends and family. Furthermore this conversion would serve to enhance the local landscape and environment.”

7.02 Kent Highways and Transportation raise no objection.

7.03 The KCC Public Rights of Way Officer raises no objection.

7.04 Historic England raises no objection.

7.05 The Council’s Tourism Officer supports the application saying;

“Swale is well placed to offer residents and visitors memorable and unique experiences and the value and importance of the visitor economy to the area is widely recognised. This application is sited in an area of outstanding landscape and popular with visitors. There needs to be changing and new quality offers to meet increasing visitor demands. The accommodation will give a welcome boost to the accommodation stock provided that there is supporting marketing and promotion to visitors to ensure good occupancy levels.”

8.0 APPRAISAL

- 8.01 This is an unusual case as there are both positive and negative aspects to the proposal. The removal of the existing Atcost barn is an obvious positive aspect of the proposal, as it would have a positive impact on the character and setting of the adjacent church and the AONB. Equally, the proposed designs submitted are acceptable, with the proviso that timber joinery would be preferable to powder coated aluminium.
- 8.02 I would also acknowledge that the use of the 'Tyler' barn as a farm office and as guest accommodation may be acceptable in principle, although I would have been reassured to have seen a business plan accompanying the application. No such business plan has been submitted.
- 8.03 However, in policy terms, the situation is clear. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states in point 5 that;

"At locations in the open countryside, outside the built-up area boundaries shown on the proposals map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities."

I would contend that the proposal fails to fully meet these criteria. Similarly policy DM3 states that;

"Planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area. Planning permission for residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable."

No such evidence has been submitted, although the applicant has indicated that he does not feel that any alternative use will be viable.

Furthermore, whilst the removal of the Atcost barn is welcome, the application proposes the erection of a new smaller building on the same spot. I have discussed with the applicant repositioning this building closer to the remaining buildings to reduce its impact on long distance views to the church, but he has declined to amend the application accordingly.

- 8.04 In similar terms to that required by policy ST3, with regard to sustainability, the National Planning Policy Framework (NPPF) at para 55 states that:

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

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

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

Whilst I acknowledge that the proposal would result in removal of the Atcost building, I do not consider that a residential use of the smaller barn will enhance its setting, or that of the church, I would note that the proposal fails to meet other criteria.

- 8.05 It is therefore key to consider whether the scheme meets the principles of sustainable development as described within the NPPF. It states at para 7:

“There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- ***an economic role*** – *contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- ***a social role*** – *supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
- ***an environmental role*** – *contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”*

In this case, the NPPF seeks to emphasise sustainable development; to protect the countryside for its own sake; and to prevent isolated new dwellings in the countryside. I would contend that the proposal would not play either an environmental role, and any economic role would be fairly limited, if approved, and as such these criteria are also not met.

- 8.06 I note that the proposal is to accommodate a local tenant farmer in his retirement, and I appreciate the sentiment shown towards the gentleman by the landowner. However, their responsibilities to their tenant are not planning matters and if they wish to regain control of the farmhouse they will need to look at other methods of compensation if this proposal does not go ahead. I do not agree that a desire for the applicant to be near his family during his retirement is a valid reason to decide against planning policy and approve the proposal, especially as he appears to have secure tenancy of the farmhouse and does not need to move out unless he chooses to.

- 8.07 Officers have met the applicant's agents at their offices in Canterbury to discuss alternative approaches to the site, such as the Duchy retaining the barn for affordable rented housing, but they have declined this suggestion as they see this barn as a solution to their tenant's future and are not interested in seeing it serving wider local needs. A number of possibly mitigating circumstances, including moving the proposed building on the site of the existing Atcost Barn to the north of the existing building proposed for residential use were discussed, but the applicant did not wish to agree to these measures.
- 8.08 The NPPF also emphasises that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. Relevant policies of the development plan accord with the aims of the NPPF, and as the new Local Plan was adopted as recently as 26th July, it can be considered as being truly up to date. At the present time, the Council has a 5.3 year housing land supply, which is in excess of the five year supply required by the government. As such, there is no need to approve isolated housing within the countryside on a site not allocated for development.
- 8.09 This position is very similar to a recent application which was refused by the Council and dismissed at appeal under planning reference APP/V2255/W/17/3188008 on 28th March 2018, at Gate House, Uplees, near Oare; a decision which was reported to the last meeting. That proposal was for the conversion of an agricultural building in the countryside to a residential dwelling, including a small commercial workshop. The Inspector, in dismissing the appeal, concluded as follows:

'Whilst I have found that the proposal would not be harmful to the character and appearance of the countryside, this is outweighed by the harm that would result from the siting of a new residential dwelling in this particular location. The limited information provided in respect of the workshop element does not demonstrate any rural enterprise of significance and does not mitigate the circumstances.'

'Even if the council could not demonstrate a five year land supply the contribution of one additional residential unit would be very small. In the circumstances I see no reason why the proposal should not be determined in full accordance with the development plan.'

9.0 CONCLUSION

- 9.01 I acknowledge the fact that there would be positive aspects arising from the proposal, if approved, but I do not consider that these would outweigh the harm of unsustainable development situated outside the built up area boundary. I therefore recommend that the proposal be refused.

10.0 RECOMMENDATION – REFUSE for the following reason:

REASON

- (1) The conversion of the barn would create a new dwelling situated outside any built-up area boundary in the countryside and in a remote and wholly unsustainable location, and would represent an undesirable encroachment of development in the countryside in a manner harmful to the character and amenities of the area. It would also remove any opportunity for alternative economic uses of the building. Therefore, the proposal would be contrary to

policies ST3, DM3, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; and paragraphs 7 and 55 of the National Planning Policy Framework (NPPF). The Council has considered the potential benefits of the proposal in terms of the setting of the adjacent listed church but the benefits of this, bearing in mind the proposal to erect a new building in this position, do not outweigh the harm arising from the proposed conversion.

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, pre-application advice was given on two separate occasions, both stating that such a proposal could not be supported. However, an application was nonetheless submitted. Officers, in recognition of the circumstances of the applicant's position, met with the applicant's agents to discuss the application to ascertain if any mitigating measures could be affected, but none were agreed, and as the proposal was unacceptable in principle, no minor amendments would have rendered it acceptable.

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.



17/505796/FULL - Church Farm, Throwley Road, Throwley ME13 0PF
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PLANNING COMMITTEE – 24 MAY 2018

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 21 Iris Drive Sittingbourne
APPEAL DISMISSED**

DELEGATED REFUSAL

Observations

Full support for the Council's decision..

- **Item 5.2 – Building at Sweepstake Farm, Lower Hartlip Road, Hartlip
APPEAL ALLOWED**

DELEGATED REFUSAL

Observations

The Inspector has found that, despite it being previously used for commercial purposes (within the last decade, by the applicant), and despite the building as it stands today having been unlawfully converted from a steel framed open building, that conversion to a dwelling is acceptable, and that there was no realistic prospect of it being put to use for commercial purposes.

- **Item 5.3– Milstead Manor Farm, Manor Road, Milstead
APPEAL DISMISSED**

DELEGATED REFUSAL

Observations

Full support for the Council's decision and Local Plan.

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Appeal Decision

Site visit made on 29 March 2018

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2018

Appeal Ref: APP/V2255/D/17/3192070

21 Iris Drive, Sittingbourne, Kent, ME10 4RR.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin Breakspear against the decision of Swale Borough Council.
 - The application ref: 17/503858/FULL, dated 23 July 2017, was refused by notice dated 25 September 2017.
 - The development proposed is garage conversion.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the loss of the two off-street car parking spaces provided by the garage would give rise to an increase in the demand for kerbside parking.

Reasons

3. 21 Iris Drive is a modern detached house within an extensive residential estate to the southeast of the town of Sittingbourne. Within the rear garden of no. 21 and with access to a shared garage court is a detached double garage of brick construction under a pitched and tiled roof.
4. The scheme before me proposes the conversion of the double garage to a small residential annexe comprising living room/kitchen, bedroom and bathroom/w.c. Access to this accommodation would be from the rear private garden of no. 21, with the bedroom and bathroom windows facing towards the shared garage court.
5. The shared garage court also serves a block of three single garages, each of which has a designated parking bay located immediately to the front of the garage doors. No such demarcated parking bays are provided to the front of the garage belonging to no. 21.
6. National policy in the Framework¹ contains a presumption in favour of sustainable development. Paragraph 14 explains that Local Planning Authorities

¹ The National Planning Policy Framework.

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should approve development proposals unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

7. Policy DM 7 of the Local Plan² states that extant Kent County Council vehicle parking standards will be applied to new development proposals until such time as a local Swale Borough Supplementary Planning Document (SPD) can be adopted. For residential developments the car parking standards will take into account the type, size and mix of dwellings and the need for visitor parking. The vehicle parking standards in respect of 21 Iris Drive as it currently exists require the provision of two spaces.
8. Policy DM 14 sets out development control criteria for all new developments. Amongst other matters these require that development will be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location and that it will cause no significant harm to amenity and other sensitive uses or areas. Proposals should achieve safe vehicular access, together with parking and servicing facilities in accordance with the County Council's standards (Criterion 10).
9. I have noted from the Officer's Report that the original plans of the estate did not indicate any approved parking spaces in front of the garage serving no. 21 but that the ownership documents provided show the appellant owns a small, irregular shaped area of space in front of the garage. The Officer formed the view that this is sufficient for the parking of one vehicle only.
10. Following the site visit I have been provided with a copy of the plan attached to the registered title, which indicates that the appellant owns part of the garage court. This, however, includes land forming part of the access to the garages belonging to neighbouring occupiers, over which they would presumably enjoy a right of way.
11. On behalf of the appellant, it is contended that two cars can be parked in front of the garage upon land within his ownership, such that the Council's vehicle parking standards would be met. At the time of my site visit two family cars were, indeed, parked in front of the garage within the communal garage court. Their presence created a slight reduction in the ability for other users of the court (presumably 23-27 Iris Drive) to access their garages and car parking spaces.
12. The appellant currently uses the double garage for storage purposes. For this reason, it is argued that there would be no loss of car parking were the garage to be converted to a residential annexe for use by the appellant's parents or to provide additional accommodation as he and his wife are planning to extend their family.
13. Whilst I can appreciate the benefits to the appellant of creating additional living space, it is nevertheless necessary for me to have regard to the wider parking needs of the estate in my consideration of the appeal proposals.
14. The dense layout of this extensive residential estate, with its narrow roads and accesses, provides very limited opportunities for kerbside parking. As such, the permanent loss of this double garage to its intended use could add to the incidence of on-street parking, albeit that two less satisfactory spaces are

² Bearing Fruits 2031: The Swale Borough Local Plan 2017.

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available in front of the garage to no. 21 on land that was originally intended to form part of the access and turning area serving the communal garage court.

15. I am concerned that the additional residential accommodation to be provided could bring with it a demand for car parking by the occupants of the converted garage at some time in the future. Furthermore, the grant of planning permission in this case would set a dangerous precedent for the conversion of other similar garages, further adding to parking pressure within the estate.
16. For all of these reasons I have found upon the main issue that development as proposed, which would result in the permanent loss of two off-street parking spaces provided by the garage, would give rise to an increase in the demand for kerbside parking contrary to the requirements of Policies DM 7 and DM 14 of the Local Plan.

Other matters

17. I have noted the objection by the owners of 23 Iris Drive, who are concerned as to the loss of the two parking spaces provided by the garage and the effect of the development upon their privacy.
18. The Planning Officer is satisfied that development as proposed would not bring about any loss of privacy to the occupants of 23 Iris Drive. I agree with that assessment. Nevertheless, the two parking spaces currently utilised by the appellant are sited very close to the living room window of no 23 and their use is somewhat unneighbourly.

Conclusion

19. For the reasons given above, I conclude that the appeal should fail.

R. J. Maile

INSPECTOR

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Appeal Decision

Site visit made on 9 April 2018

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th April 2018

Appeal Ref: APP/V2255/W/17/3186835

Building at Sweepstake Farm, Lower Hartlip Road, Hartlip, Kent ME9 7TU

- 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 Gary Knight against the decision of Swale Borough Council.
 - The application Ref 17/501327/FULL, dated 5 March 2017, was refused by notice dated 30 June 2017.
 - The development proposed is the conversion of detached building into three bedroomed dwelling with provision of a single storey attached garage and change of use of associated land for residential garden.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of detached building into three bedroomed dwelling with provision of a single storey attached garage and change of use of associated land for residential garden at building at Sweepstake Farm, Lower Hartlip Road, Hartlip, Kent ME9 7TU in accordance with the terms of the application, Ref 17/501327/FULL, dated 5 March 2017 subject to the conditions set out in the schedule to this decision notice.

Procedural matter

2. The Council adopted the Bearing Fruits 2031: The Swale Borough Local Plan on 26 July 2017 (LP). This supersedes the policies from the 2008 Local Plan referred to in its decision notice. I have therefore determined the appeal with reference to the LP.
3. The Council refers to conflict with Policy DM10 of the LP within its reason for refusal. In its statement though, it confirms that this is an error and it should refer to conflict with Policy DM14 of the LP. I have determined the appeal on this basis.

Main Issue

4. Having regard to the Council's stated reason for refusal, the main issue relates to whether or not the building the subject of the appeal has been marketed in an acceptable manner.

Reasons

5. The appeal building forms a detached barn set back from the road within a small cluster of houses. It is two storey and mainly clad in dark wood.
-

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Openings are limited to a door and glazed areas to the east elevation and a large roller shutter door to the west elevation. At the time of my site visit, the ground floor of the premises was being used for the storage of building materials on behalf of the owner of the neighbouring house, where construction work is underway.

6. The proposal is to change the use of the barn to a house. Policy DM3 of the LP regarding supporting the rural economy, states that planning permission for residential development within the rural area will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the building is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable. Paragraph 7.1.19 of the LP explains that even if the building is currently vacant, evidence will need to show that it is neither viable nor likely to become viable and that alternative employment uses have been robustly tested. This will also include the applicant having marketed the enterprise or the property for its commercial/community use for a reasonable period in a manner and at a price that reflects that use.
7. The property has not been marketed since 2011 when it was purchased by the appellant. Nevertheless, the appellant in support of his appeal has submitted a report from Harrisons, a local agent specialising in commercial and retail property. The report considers the likely demand and viability of a number of different uses within the barn.
8. It concludes that the wide range of uses considered would be unlikely to be viable. As a consequence, should the appeal be unsuccessful there would be little benefit from Harrisons placing the property on the market, in its opinion, due to the limited demand for other uses. This would be for a variety of reasons, but primarily due to its relatively isolated location and poor accessibility, particularly in winter months. The barn is accessed via narrow country lanes, with no footways or cycle paths and is some distance from the nearest settlement. Therefore, I share the concerns raised by Harrisons.
9. The Council considers that as the barn has been previously used for commercial storage then it could be again. However, the appellant states that the use of the barn has only ever been for the storage of cars on a non-commercial basis. Conflicting evidence is presented in the Council's draft application report regarding a current application for Lawful Development Certificate for alterations to the barn and regularisation of the use class (17/504544/LDCEX). Even if it were the case that the barn has been used for a commercial purpose in the past, the Council offers no substantive evidence to dispute the findings of the Harrisons report in terms of likely feasible future commercial or community use.
10. In addition I note that the Council's application report regarding the conversion of the buildings to the immediate north east of the appeal site to residential use (15/508567/FULL) concluded, based on the contents of an email from a reputable agent that the location and position of the buildings make them entirely unlikely to attract any form of business / employment / community use. While this is not determinative in itself, it reinforces the findings reached by the independent expert regarding the barn on the appeal site.
11. While the submitted evidence is not as comprehensive as that suggested by the explanatory text to Policy DM3, I am satisfied based on the information submitted by the appellant from a local agent that it has been adequately

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demonstrated that other uses for the building would not be viable and therefore there would be no conflict with Policy DM3 of the LP. As Policy DM14 of the LP requires that development should accord with the policies and proposals of the adopted Development Plan unless material considerations indicate otherwise, then it follows that there would also be no conflict with this Policy.

Other matters

12. Notwithstanding the sole reason for refusal set out on its Decision Notice, the Council consider that the building does not benefit from planning permission as the appellant cannot demonstrate that the building has been in any form of non-agricultural use for at least ten years. In addition, it is argued that the external works to the building to facilitate that non-agricultural use, are also unlawful despite having been carried out more than four years ago, as established in *Murfit v Secretary of State for the Environment 1980*. Consequently, the Council is currently considering the service of an enforcement notice against the building.
13. Whatever the case may be in this regard, even had I dealt with the proposal as being for the change of use of an agricultural barn, which was the original use of the building, to a dwelling, then in terms of the principle of the use proposed, based on the Council's reason for refusal, it is clear from my reasoning above, I would still have reached the same conclusion.
14. The alterations already carried out to the building can be considered as part of the scheme before me. The dark cladding matches that on the adjacent dwelling. Furthermore, I am mindful that the Council in its application report states that subject to changes to the proposed materials for the windows, door and rainwater goods, the proposed conversion works would be of a good standard of design that would mean the dwelling would sit comfortably within the Hartlip Conservation Area and the wider countryside.
15. I saw nothing on my site visit that would lead me to disagree with this view. I would agree that the use of timber and traditional materials for the windows, doors and rainwater goods would be more appropriate and would ensure that the proposal at least preserves the character and appearance of the conservation area. I note in his submission that the appellant has agreed to this approach. Such details could be secured through the imposition of a suitably worded condition should the appeal be allowed.
16. From the evidence before me it is apparent that the barn the subject of this appeal is near to the grade II listed buildings known as Sweepstakes Farm and its former outbuildings. I note from the comments of the Council's Design and Conservation Consultant he did not consider that the proposal would have a harmful impact on the setting of the listed buildings. From the evidence before me and my observations on site I see no reason to disagree with this view, and am satisfied that there would be no harm to their special interest which, from my observations on site, derives mainly from their historic form and particular architectural features.

Conclusion

17. For the reasons above, and having regard to all other matters raised, I conclude on balance that the appeal should be allowed.

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Conditions

18. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
19. Conditions requiring the submission of details of materials, and the provision of hard and soft landscape works are necessary to protect the character and appearance of the area. Construction hours need to be restricted to protect the living conditions of neighbouring residents.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan, EXT 01 Proposed Block Plan, EXT 01 Proposed Ground Floor, EXT 02, EXT 03, Ext 05, EXT 06, EXT 10 Proposed elevations, EXT 10 Existing Block Plan.
- 3) Other than site clearance and preparation works no works shall commence on the approved development until samples of external finishing materials including details of external windows, door units and rainwater goods have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Other than site clearance and preparation works no works shall commence on the approved development until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscape works. The scheme shall include indications of all existing trees and shrubs, planting schedules of plants, plant species, sizes and numbers, means of enclosure, hard surfacing materials and an implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) All hard landscape works shall be implemented on site in accordance with the approved details prior to the occupation of the dwelling.

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- 7) Construction work in connection with the development shall take place only between the following hours:
0730 - 1900 Mondays - Fridays
0730-1300 Saturdays
and shall not take place at any time on Sundays or on Bank or Public Holidays.

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Appeal Decision

Site visit made on 9 April 2018

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Tuesday 1st May 2018.**

Appeal Ref: APP/V2255/W/17/3183462

Milstead Manor Farm, Manor Road, Milstead ME9 0SE

- 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 The Executors of the Estate of Hugh Comyn Boucher against the decision of Swale Borough Council.
 - The application Ref 17/502135/FULL, dated 13 April 2017, was refused by notice dated 27 July 2017.
 - The development proposed is demolition of the existing buildings and erection of nine residential dwellings (including two low cost/affordable dwellings) and one commercial unit, together with associated access, parking, drainage and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council adopted the Bearing Fruits 2031: The Swale Borough Local Plan on 26 July 2017 (LP). This supersedes the policies from the 2008 Local Plan referred to in its decision notice. I have therefore determined the appeal with reference to the LP.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area with particular regard to trees and the Kent Downs Area of Outstanding natural Beauty (AONB)
 - whether or not the appeal site is a suitable location for the proposed development having regard to the Council's settlement strategy

Reasons

Character and appearance

4. The appellants Landscape and Visual Impact Assessment (LVIA) states that the appeal site is within Natural England's National Character Area of the North Downs, and within the northern part of the 'Bicknor: Mid Kent Downs' character area as identified by Kent County Council. Furthermore, the Council's Swale Landscape Character and Biodiversity Appraisal' Supplementary Planning

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Document 2012 places the site within the 'Dry Valleys and Downs' landscape type, and in character area 38, the 'Milstead and Kingsdown Mixed Farmlands'. The stated characteristics of these various designations include wide arable fields with traditional small, nucleated villages, scattered farms and large houses with timber framing, flint walls and Wealden brick detailing. Twisting sunken lanes are often aligned along ancient drove roads, cut across the scarp and are a feature of much of the dip slope. I saw most of these characteristics to be evident at my site visit, with the appeal site being located within the open and gently undulating countryside of the AONB. Agricultural fields with hedgerows and some trees make up the landscape, interspersed with small scale settlements accessed by narrow lanes with relatively high hedges.

5. In this instance the appeal site is within the open countryside but is developed, containing buildings which are primarily agricultural in nature. I have noted the comments made by the appellant and third parties, regarding the condition and appearance of the buildings on the site. Nevertheless, while some of the buildings are in need of repair, they do not have a significant height or mass and are set back from the road. Furthermore, most are of a design that would be expected from agricultural buildings. Limited screening of the buildings is present, except for along parts of the north and west boundaries of the site where mature trees and hedges contribute positively to the rural character and appearance of the area. Therefore, despite their condition and visibility, the majority of the buildings on the appeal site would not be unexpected within the open countryside and as a result, do not detract significantly from the natural beauty of the rural landscape of the AONB.
6. The new commercial building would be of a simple design of corrugated metal panelling which would be of a muted colour suitable for its surroundings. The Council, while accepting that the proposed construction materials for the houses are acceptable, allege that their design would not be vernacular, and therefore would be harmful to the AONB. However, it offers no further explanation of the harmful elements of the overall design. The houses would not all be of the same design and hence while limited, there would be variety to the appearance of the buildings.
7. The houses would be laid out in the form of two rows of development along an internal road. Those properties to the north of the site would have their main frontage to the existing road, with a path way from the front door to the road. Such development, set back from and along the road frontage would reflect the similar location of existing houses within Milstead. However, I saw very limited examples of development to the rear of the existing houses, arranged in a cul-de-sac as proposed on the appeal site. Therefore, while the proposal would result in a reduction in the amount of floorspace and hardstanding, it would not reflect the existing pattern of residential development in Milstead.
8. Furthermore, while the houses would be located outside of the root protection areas of the existing trees, particularly those along the front of the site adjacent to Manor Road, they would only do so, in some cases, by a very limited extent. I saw on site that the canopies of trees T1 and T7 extended a considerable distance into the site, and would extend over much of the gardens, and be close to the houses on plots 1 and 8. The garden areas are not shown as the main private garden space, and the future occupiers would be aware of the proximity of the trees when purchasing the property. Nevertheless, it is not unreasonable to assume that due to the proximity of the

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trees to the houses, dissatisfaction with shade, falling leaves and debris could well grow with experience. If the development were to be allowed therefore, there would be a significant risk of that leading to the substantial reduction or complete felling of some of the trees. As a consequence, the site would become more urbanized and the nature of the rural lane would be significantly altered to the detriment of the character and appearance of the AONB.

9. I observed at my site visit that the line of existing conifers to the eastern boundary of the site, although noted for retention, had been considerably reduced in height. Furthermore, the southern boundary of the site contains minimal planting. Although hedge and tree planting is proposed along this boundary, the proximity of the proposed houses, together with the use of the areas as private garden space, means it is unlikely that there would be significant planting of large species of trees.
10. As a result, notwithstanding the comments within the LIVA it is likely that the appeal site would be relatively open, with views of the houses available across the open countryside and within Manor Road. Consequently, the dwellings on the appeal site would create a large group of domestic buildings which would be surrounded on three sides by open countryside. There would be a significant gap between them and the nearest dwelling within the built up area of the village contrary, to the pattern of traditional small, nucleated villages.
11. Therefore, while near to the settlement, the group of houses together with the new commercial building would appear separate to Milstead reading as a discordant, incongruent intrusion into the countryside. This would be reinforced through the introduction of further residential paraphernalia in association with the dwellings such as washing lines, car parking and refuse bins. I am not persuaded therefore, that even if I accepted that the removal of the existing buildings on the site would be of benefit, that their replacement with those proposed would not cause material harm to the rural character and appearance of the area, and the natural beauty of the AONB.
12. For the reasons above I conclude that the proposal would be harmful to the character and appearance of the area with particular regard to trees and the AONB. As a result it would be contrary to Policies DM14, DM24 and DM26 of the LP and paragraphs 7 and 64 of the National Planning Policy Framework (the Framework). Together these require that the development should be of good design that protects and enhances the natural environment. In addition, the scale, design, appearance and detail of development should be sympathetic and appropriate to its location and should conserve and enhance the special qualities and distinctive character of the AONB. Furthermore, development should not significantly harm the character of rural lanes.

Settlement strategy

13. There is no dispute that the appeal site is located outside of any settlement built up area boundary, and therefore is classed as being in the open countryside. Policy ST3 of the LP outlines the settlement strategy for the Borough with development focused on urban centres and within built up areas of smaller settlements. Development within the open countryside is restricted unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

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14. The appeal site is located to the east of the built up area of Milstead. There is however, a considerable gap between the appeal site and the edge of the built form of the settlement formed by open countryside. As a result the dwellings would be physically separate and apart from the settlement, which would be reinforced by the lack of any segregated footway from the appeal site to the village.
15. Furthermore, Milstead is not recognised within the LP as being a sustainable location for new development. I saw at my site visit that it has limited facilities that would be unlikely to cater for the day to day needs of the future occupiers of the houses. Instead occupiers would need to travel further afield to settlements which would be, according to the appellant, about 3km and over away, where a wider range of services would be available.
16. I saw that the obvious routes to these settlements would be mostly along narrow unlit country lanes with no or limited footway or cycleway. The distances involved and the specific conditions I have identified means they are unlikely to be attractive or realistic for pedestrians or cyclists. In addition, the Council confirms that no bus services run through Milstead, and this has not been disputed by the appellant.
17. Therefore, I consider it more likely that future occupants would be reliant on the car for most of their journeys. Whilst I recognise that there is generally a greater reliance on the private car in more remote rural areas, and the car journeys may be relatively short, it remains the case that there would be a lack of sustainable transport choices available to enable future residents to conveniently access services and facilities. The appeal proposal would therefore undermine the aims of paragraphs 7 and 17 of the Framework of locating new dwellings in rural areas close to services and facilities as a means of reducing unnecessary travel by car, with its associated carbon emissions, as one measure to cumulatively limit the effects of climate change.
18. The appellant's Transport Statement states that the proposal would lead to an overall reduction in traffic visiting the site, of about 24 trips per 12 hour weekday. Furthermore, the number of larger vehicle and HGV movements would be reduced which would be of benefit on the narrow country roads. However, the total number of existing trips is not significant, and would only be experienced during the peak season rather than all through the year. Furthermore, I have not been advised that there is a considerable problem associated with traffic accessing the site. Moreover, the number of trips generated by the houses at the weekend has not been assessed. I am not persuaded therefore that any reduction in traffic movement would be of significant benefit.
19. In addition the proposed houses would not be for any type defined by paragraph 55 of the Framework, nor, given its location has there been a convincing case presented that any development would enhance or maintain the vitality of the rural community.
20. Although the appeal site is not allocated for housing, the appellant refers to the requirement in the LP to provide 387 windfall dwellings in the wider rural area and the support for small windfall sites within the Government's White Paper 'Fixing our Broken Housing Market' 2017. Policy CP3 of the LP supports the use of windfall sites except where the character of the site, its local context or environmental value determines otherwise. Furthermore, paragraph 5.3.6 of

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the LP supports the provision of new housing on appropriate windfall sites, where the scale and location of proposals are generally in accordance with the role and function of the settlement in question, and that the intrinsic character and beauty of the countryside is taken into account. In this instance, I have already found that the local context of the site would not be acceptable given the lack of facilities and services available in Milstead. In addition, I have found that the proposal would be harmful to the character and appearance of the area. Accordingly, the proposal would be in conflict with Policy CP3.

21. The appeal site contains a number of buildings used for both agricultural and commercial purposes. The latter granted planning permission under reference 92/0769. There is some dispute between the parties as to whether the site therefore would be classified as previously developed land. Even if I were to accept the appellant's argument, supported by caselaw⁴, that the site could constitute previously developed land, Policy ST3 states that the settlement strategy will be delivered through the use of previously developed land within defined built up area boundaries and on allocated sites. The appeal site meets neither of these definitions.
22. I appreciate that paragraph 17 of the Framework encourages the effective use of land by reusing land that has been previously developed. However, this would not in itself be sufficient to overcome the unacceptable harm I have found caused by the location of the site.
23. Paragraph 4.3.23 states that the primary objective of Policy ST3 will be to protect the open countryside from isolated and/or large scales of development. It goes on to say that some minor development may though be essential for the social, economic or environmental health of a community, but are not necessary to meet the Local Plan housing target. In so doing, they will be required to protect and, where required, enhance, the intrinsic value, character, beauty, wildlife value, tranquillity and undeveloped nature of the countryside and its communities and buildings. Even if the proposal was to be considered as minor development, I have already found that it would be harmful to the character and appearance of the area. I therefore conclude that for the reasons above the appeal site is not a suitable location for the proposed development having regard to the Council's settlement strategy. The proposal would therefore be contrary to Policy ST3 and paragraphs 7, 17 and 55 of the Framework.

Other matters

24. The appellant makes reference to the tests to be applied to development within Green Belts. However, the appeal site is not within a Green Belt and therefore the tests do not apply. Furthermore, the draft revised National Planning Policy Framework is a consultation document and not extant government policy and its content could therefore change. Within that context I give its contents limited weight.

⁴ *Lee Valley Regional Park Authority v Broxbourne Borough Council and Britannia Nurseries* [2015] EWHC 185 (Admin)

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25. The Council, in its application report refer to the presence of the Milstead Conservation Area (CA) to the west of the appeal site. Furthermore, the appellant in the Heritage Statement refers to the presence of several listed buildings and considers the appeal site to be within the setting of both those and the CA.
26. The Council has not though refused the application on grounds relating to the harmful effect of the proposal on the setting of heritage assets. Even if I were to agree with this view, it would not be a benefit of the scheme but is neutral within any planning balance.

Balancing and conclusion

27. The proposal would deliver social and economic benefits by providing nine new homes. In this respect, the development would make a modest contribution to meeting housing requirements and choice in the Borough whilst supporting local services and businesses. There would also be temporary economic benefits arising from the construction activity required to deliver the development. However, given that the economic benefits related to construction would be temporary and that I have found that it is likely that residents would be largely reliant on the car to access services outwith the village, it is likely that many of the economic benefits would be received outside of Milstead.
28. Although the site is not currently needed in order to ensure an adequate supply of deliverable housing sites, there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. I note the appellant's comments regarding the Council's past under delivery of housing, but I have seen no substantive evidence to suggest that the Council cannot evidence a five year supply of housing.
29. The appeal proposal would also deliver a commercial unit, which the appellant suggests will enable a local family run business to remain and expand on-site in more suitable premises, thus safeguarding the long term viability of the business and the rural employment which the business provides. I have not though seen any evidence to suggest that the business would not be viable in the long term should the appeal proposals not go ahead and therefore attach limited weight to these benefits.
30. I note that the appellant is prepared to enter into a planning obligation pursuant to Section 106 of The Town and Country Planning Act 1990, to ensure that two of the properties would be low cost, more affordable dwellings which will allow either first time buyers or local people the potential to remain in the village. However, at the time of writing this decision, a completed and executed unilateral undertaking was not before me as the most recently submitted copy is an undated and uncertified copy.
31. Furthermore, the Planning Policy Guidance makes it clear that planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation as such a condition would be unlikely to meet the test of enforceability. It goes on to state that only in exceptional circumstances would a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence be appropriate, such as more complex and

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strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk

32. I am not persuaded, given the scale of the proposal before me that it would be complex or strategically important development. Furthermore, the Framework states that low cost market housing may not be considered as affordable housing for planning purposes. This part of the proposal therefore attracts limited weight. In this context therefore I attach limited to moderate weight to the social and economic benefits identified based on the scale of development proposed and the limitations as outlined above.
33. There would be limited environmental benefits from the ecological enhancement of the site as outlined in the appellant's Ecological Report. The use of sustainable construction measures and provision of adaptable living and flexible working space are a pre-requisite of good design.
34. The proposal would conflict with the approach to the settlement strategy for the location and supply of housing and the protection of the countryside in Policies ST3, DM14, DM24 and DM26 of the LP and would not therefore be in accordance with the development plan.
35. In such circumstances, paragraph 11 of the Framework indicates that planning permission should not be granted unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan policies I have referred to, and the considerable resultant harm would not be outweighed by other material considerations.
36. The appellant refers me to appeal decision APP/J1860/W/16/3144810 where the Inspector found that even though the Council was able to demonstrate a five year housing land supply the appeal proposal was found to be sustainable development and the appeal was allowed. However I note in the appeal referred to, the Inspector found that the proposal was not harmful to the character and appearance of the area. Furthermore, 40% of the houses would be affordable, secured by a S106 legal agreement. I am satisfied therefore that the case is not sufficiently comparable to the one before me now in order for me to reach a similar decision. In any case I have determined the appeal based on its own merits.
37. For the reasons set out above, and having regard to all other matters raised, including the support of some local residents, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR

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By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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