

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 21 June 2018

Time: 7.00pm

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

Membership:

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

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 be made in the event of an emergency.</p>	

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 24 May 2018 (Minute Nos. 19 - 28) 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 11 June 2018 (Minute Nos. to follow).

To consider application 17/505796/FULL – Church Farm, Throwley Road, Throwley, ME13 0PF.

6. Deferred Item

To consider the following application:

17/500727/OUT – Manor Farm, Key Street, Sittingbourne

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

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 20 June 2018.

7. Report of the Head of Planning Services

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To consider the attached report (Parts 2 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 20 June 2018.

Issued on Tuesday, 12 June 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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PLANNING COMMITTEE – 21 JUNE 2018

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 17/500727/OUT			
APPLICATION PROPOSAL			
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017 and further amended by drawings received 9 November 2017			
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU			
RECOMMENDATION Approve			
SUMMARY OF REASONS FOR RECOMMENDATION			
Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and proposal is in accordance with national and local planning policy			
REASON FOR REFERRAL TO COMMITTEE			
Deferred following Planning Committee meeting of 17 th August 2017, as Members required clarification and further information in respect of brick earth extraction; a holding objection from KCC Highways and Transportation and Highways England; the indicative layout; scale of development; and air quality.			
WARD Borden And Grove Park	PARISH/TOWN Borden	COUNCIL	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 30/08/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
As noted on original report			

1.0 INTRODUCTION

- 1.01 Members will recall that this application was originally reported to the Planning Committee on 17th August 2017. After some discussion in which Members raised some concerns about the proposal, and requested further information, the item was deferred to allow Officers time to provide that information to a future meeting of the Committee. Please note that the original report is appended to this report as Appendix 1. The minute of the meeting is attached as Appendix 2.
- 1.02 Members requested further information with regard to any requirement for the site to provide a source of brick-earth, as the site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017. These matters have now been resolved, as will be further explained later in this report.

- 1.03 Members requested that Officers further examine and seek to address the holding objection received from Highways England, with regard to planned improvements regarding the Key Street roundabout, virtually adjacent to this site. This matter has also been resolved.
- 1.04 Members were also concerned with regard to the indicative layout which accompanied the application, on two grounds. Firstly, a number of local objections had been received with regard to the proposal, which suggested that there may be some issues of overlooking to existing properties; and secondly, Members were concerned that, although a Local Plan allocated site for thirty houses, the outline application is for up to fifty, and that there could be consequent adverse planning impacts.
- 1.05 Members also had concerns with regard to the air quality of the site and its vicinity (noting the proximity to the A249 and the A2), which will also be discussed later in this report.

2.0 THIS REPORT

- 2.01 This update report addresses the above issues, and presents new information for Members to assess when deciding this application. The new report should be read in conjunction with the original report, attached as Appendix 1, which describes the site, the proposed development, the policy context, and the consultation responses that had been received at the time of writing.

3.0 DISCUSSION

- 3.01 I will address each of the Members' concerns noted above in turn in this section.
- 3.02 Brickearth – The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017. Members noted that at the time of the Committee Meeting on 17th August, 2017, whilst the KCC Officer dealing with the brickearth issues on various sites in Swale had given the opinion that, as the brickearth deposits on this site were not abundant, he was of the opinion that an exception could be made for this site, and brickearth extraction from the site would not be necessary before development commenced. However, his Manager, the KCC Head of Planning was unavailable to authorise that decision at that time. Members determined that they wished to have confirmation from that KCC's Head of Planning before further consideration of the proposal.
- 3.03 That authorisation was received on 18th September 2017, in the form of a letter from KCC's Head of Planning which noted *'I am satisfied that an exemption from the presumption to safeguard the mineral from sterilisation has been demonstrated, criterion 1 of Policy DM 7 (Safeguarding Mineral Resources) of the Kent Minerals and Waste Local Plan 2013-30 has been met and the proposed non-mineral development can proceed without needlessly sterilising any economically important mineral resources. I hope that clarifies Kent County Council's position on this application.'*
- 3.04 Holding Objection from Highways England –The original holding objection from Highways England related to the need to bring forward an appropriate solution to increasing vehicle capacity at the Key Street A2/A249 junction. As a Local Planning Authority we had already collected S.106 obligation contributions from previous planning permissions towards an interim scheme for improvement to increase

capacity. Further traffic modelling has had to take place to bring forward a revised scheme aimed at increasing capacity further to meet housing generated demand arising from the Adopted Local Plan sites. A revised scheme has been agreed with KCC Highways and Transportation and with Highways England based on reconfiguration of the on-slip road to the A249 and the introduction of traffic light control and widening work of the off-slip approach to the roundabout and further minor widening and lane changes. The developers will be required to make a contribution of £111,744 towards the scheme and combined with existing and other contributions from other developments will see the interim scheme come forward. It should also be noted that the County Council in partnership with the Borough Council are also progressing a HIF bid scheme to support the costs of junction improvements to extend the life of the roundabout beyond the current Local Plan adopted time frame. If this bid is successful, noting the advanced stage we have reached in the bidding process, then the contributions gathered to date will contribute to the wider scheme improvements.

- 3.05 In an email dated the 1st June, with regard to the present application, Highways England confirmed that they raised no objection. In that email, the Officer notes that *'Highways England have now reached agreement with Kent County Council as the Local Highway Authority over proposals to provide an interim road improvement at the A249 / A2 Keycol Junction. The improvement is to be funded by strategic development that will have an impact on the volume of traffic using this junction. In this regard, Highways England are satisfied that the agreed improvement will cover the adverse impacts of this particular application and therefore subject to the council obtaining a suitable financial contribution from the applicant to be used towards those highway improvements Highways England is now content to lift its holding objection and offer no objection to the proposal. In this regard I attached our final substantive response on this application.'* (The letter refers to HE's formal response raising no objection).
- 3.06 Similarly, an email from KCC Highways and Transportation dated 6th June 2018 confirms that they have also removed their holding objection.
- 3.07 Indicative Layout - With regard to the indicative layout, I understand that the Agent has been in direct contact with the Objector who spoke at the Committee meeting on 17th August 2017, to ascertain the concerns of local residents. Having ascertained that those concerns related to issues of mutual overlooking, due to the elevated topography of the site, the Agent has submitted a new indicative layout plan (revision B, received 08/11/2018), which differs from that originally submitted as follows:
- The proposed play area has been moved to the northwest of the site, to create a 'buffer zone' between the existing and proposed housing and thus remove any possibility of mutual overlooking
 - The proposed properties on the north-eastern part of the boundary have been changed from two storey houses to single storey bungalows, to ensure there are no issues of overlooking from these properties to those existing in Cherryfields. Members will recall that local residents had expressed concerns, as this part of the site is approximately two to three metres higher than the rear gardens in Cherryfields.
 - The indicative drawing also shows an increased buffer zone, with a typical width of 18 metres, between the proposed site and Chestnut Street and the Key Street roundabout. Further landscaping would also be provided at these points.
- 3.08 I am therefore of the opinion that the most recent indicative layout plan has successfully addressed the understandable concerns of local residents, and now

represent a robust template for the established layout for the site, to be decided under a reserved matters application, should Members be minded to approve this Outline application.

- 3.09 As such, I am satisfied that the new amended indicative drawing has addressed these issues, although I would again remind Members that this is an indicative drawing only, as the proposal is submitted in Outline form only, with all matters other than access reserved for future consideration.
- 3.10 Scale of Development – Members expressed concern over why an application for up to fifty houses had been submitted, when the allocation within the Local Plan 2017(see Policy A21, which is set out in full at Paragraph 5.04 of the original report) suggested a minimum of thirty dwellings. That figure was an indication of what Officers considered to be a suitable minimum number of dwellings for the site based on their initial assessment of its constraints. As the Applicant wished to increase the number to fifty, the onus was on the Applicant to prove that such a number was both practicable and acceptable on this site, and could be achieved without unacceptable planning impacts. This is why the Applicant submitted an indicative layout plan, in the hope of proving that such a proposal was both practicable and acceptable, with no adverse effect on present neighbours or potential future occupiers of the proposed properties. On studying the latest version of this plan, my Officers are of the opinion that it has been proven that the number proposed is both practicable and acceptable, particularly when noting that the level of development would amount to 25 properties per hectare, which is somewhat lower than many modern housing developments, where a density level of 30 – 50 dwellings per hectare is quite usual.. As such, my Officers remain of the opinion that the level of up to fifty dwellings proposed can be achieved and without significant erosion of existing amenity, nor would lead to any other unacceptable impacts.
- 3.11 Air Quality – Members expressed concern with regard to air quality on the site and the potential implications for residential amenity given its position close to both the Key Street Roundabout and the A2 and A249. When this was matter was discussed with the Environmental Protection Team Leader, it was agreed that, as neither the site itself or the adjacent parts of the A249 and A2 are designated as AQMAs, there would be no grounds for refusing the application on grounds relating to air quality. The Council does not have data in respect of levels of air pollution at the site or in the vicinity of it. It was agreed that in the circumstances and mindful that air quality is not specified as an issue /matter to be addressed in the Local Plan 2017 policy relating to the site (Policy A21(2), the Environmental Protection Team would not request the imposition of a planning condition / s106 clause relating to air quality at the site. The Environmental Protection Team Leader notes that:
- ‘We do not have any current evidence of an exceedance of AQ guidelines here and hence are fairly relaxed from an AQ perspective, though the more development there is around here could change that opinion in time. We are planning to increase the level of AQ monitoring in and around this vicinity and nearby Wises Lane shortly in anticipation of future developments.’*
- 3.12 There are existing Air Quality Management Areas at Newington (approximately one mile west of the site); at St Paul’s Street, Sittingbourne (also approximately one mile away, but to the north-east); and East Street Sittingbourne (approximately one mile and a quarter to the east).

3.13 Ecology - With regard to any implications for the Special Protection Area, Members will note that a Habitat Regulations Assessment was carried out when the initial report was brought before this Committee on 17th August 2017, which is attached as an appendix to this report.

3.14 Developer Contributions – As a reminder to Members, the Developer Contributions requested are as follows:

- **£111,744.00** towards junction improvements to the Key Street junction
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
- Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - **£117,990.00**
- Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
- Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**
- Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
- Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
- **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
- **£18,000.00** towards expanding existing NHS facilities within the vicinity of the development.
- £281.00 per dwelling, or **£14,050** for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
- **£13,200.00** towards the resurfacing and improvement of public footpath KR117.

SUB TOTAL: £503,651.02

- An administration fee amounting to 5% (or £25,182.50) of the total value of the above amounts will also be payable.

TOTAL: £528,833.57

4.0 CONCLUSION

4.01 Having looked at the matters raised by Members at the meeting of this Committee on 17th August 2017, Officers believed that these issues have now been resolved, and again recommend that the proposal be delegated to Officers to approve, subject to the signing of a suitably worded s106 agreement, and the conditions noted below.

5.0 RECOMMENDATION – GRANT Subject to the signing of a suitably-worded Section 106 agreement and the following conditions:

CONDITIONS

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

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

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

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

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

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

- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev B and the illustrative proposed storey heights plan no. DHA/11507/04 Rev as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

- (6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (7) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including 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. 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. 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) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) 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 and comply with the National Planning Policy Framework.

- (10) 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.

- (11) 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.

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

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

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

- (13) No building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (15) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be collected and disposed of via infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (17) Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds

- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
 - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
 - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

- (19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

- (21) The construction of the development hereby approved shall not commence before the completion of the vehicular access leading from Chestnut Street as shown on drawing reference DHA_11506-T-02. Thereafter, this access shall be maintained as such in perpetuity.

Reason: In the interest of highway safety and amenity

- (22) No development shall commence until the developer has submitted drawings showing the relocation of Public Right of Way ZR117 away from the proposed estate road, avoiding steep gradients and steps. No development shall take place until such

suitable drawings shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in complete accordance with these approved drawings and fully implemented before the first occupation of any of the properties hereby permitted.

Reason: In the interests of protecting the amenity value of the existing Public Rights of Way.

- (23) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority before any reserved matters application has been submitted; and
 - (2) following on from the evaluation, any safeguarding measures to ensure preservation in-situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in-situ or by record.

- (24) No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The most recent DEFRA Emissions Factor Toolkit should be utilised and the latest DEFRA IGCB Air Quality Damage Costs for pollutants considered, to calculate the resultant damage cost. The report should be submitted to and approved by the Local Planning Authority, prior to development, and any mitigation sums should be included within a suitably worded s106 agreement.

Reason: In the interests of air quality management.

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

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

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

Monday to Friday 0900 - 1700 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.

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

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (28) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- (29) Prior to the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

(A) Footways and/or footpaths shall be completed, with the exception of the wearing course;

(B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (1) highway drainage, including off-site works,
- (2) junction visibility splays,
- (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (30) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the Local Planning Authority for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity and 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 considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

INFORMATIVES:

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (2) 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).
- (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
- (4) KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.


- (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area

Case Officer: Andrew Spiers

- 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.



17/500727/OUT - Manor Farm, Key Street, Sittingbourne
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REPORT SUMMARY

REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017		
ADDRESS Manor Farm Key Street Sittingbourne Kent ME10 1YU		
RECOMMENDATION: Grant subject to the views of the Housing Services Manager; conditions as set out below; the signing of a suitably worded Section 106 Agreement; clarification in respect of open space management; and the resolution of the brick earth issue.		
SUMMARY OF REASONS FOR RECOMMENDATION: Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and proposal is in accordance with national and local planning policy		
REASON FOR REFERRAL TO COMMITTEE: Parish Council objection; local objections		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT
DECISION DUE DATE 13/06/17	PUBLICITY EXPIRY DATE 14/06/17	OFFICER SITE VISIT DATE Two separate site visits
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
SW/04/0095	Application for 27 new dwellings	Refused
SW/03/0224	Application for 39 new dwellings	Refused

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of an open field, which runs alongside the old A249 Chestnut Street, which leads from the Key Street Roundabout. To the north lies the main A2 London Road, with Sittingbourne town centre a little over a mile and a half to the east. To the south there is a sizeable electricity substation; to the immediate east and north are existing residential dwellings found within Cherryfields and Dental Close.
- 1.02 The field appears to have been fallow for some while; I understand that there were originally orchards on the field, which have since been removed. The field slopes downwards quite noticeably from east to west, with a sizeable difference in levels between the eastern and western sides of the field; the lowest point is the northwest corner which has a level of 26.5m AODN (Above Ordnance Datum Newlyn; Sea level); whilst the highest point is on the southern corner, which has a level of 37.3m AODN.
- 1.03 Two public rights of way are found on or adjacent to the field; one runs north/south along the eastern boundary of the field (ZR118), and would not be affected by the proposal. The other runs east/west towards the southern boundary (ZR117), and part of the proposal is the slight re-alignment of that footpath.

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2.0 PROPOSAL

- 2.01 As stated above, this is an outline application for up to fifty residential dwellings, with all matters save for access reserved for future consideration.
- 2.02 The application is accompanied by an indicative site layout which has since been amended; however, it is important in this case to remember that this is illustrative only, as the only matter, barring the principle of development, to be considered here is that of access. Nevertheless, the indicative drawings show a non-linear layout with a mix of dwelling types and sizes, all with private gardens and off-road parking
- 2.03 The dwellings are shown on the storey heights drawing as a mix of single, two and two & a half storey buildings, with illustrative drawings showing one (no.) single storey dwelling; forty-seven (no.) two storey dwellings; and two (no.) two-and-a-half storey dwellings. Fifteen would have two bedrooms; twenty-eight would have three bedrooms; and seven would have four bedrooms. Five dwellings would be allocated as affordable housing.
- 2.04 The proposed access is not the existing access to the field; that access being rather near to a bend in the road leading from Key Street towards Danaway, almost adjacent to the Key Street roundabout itself. The proposed access is situated 150 metres further southwest along Chestnut Street, to enable better sight lines from the site, which would give visibility splays of 2.4m by 53m in a northeasterly direction, and 2.4 m by 90 metres in a southwesterly direction.
- 2.05 The illustrative drawing shows 59 private open parking spaces, 25 private spaces in garages or car barns, and 10 allocated visitor parking spaces.
- 2.06 The site is situated within an area where brickearth extraction is generally required before development. This matter will be discussed later in this report.
- 2.07 The proposal is accompanied by the following documents:
 - Archaeological Assessment
 - Flood Risk Assessment
 - Landscape Assessment
 - Noise Assessment
 - Planning Statement
 - Transport Statement
 - Design and Access Statement
 - Ecology Assessment
 - Topographical Survey
 - Tree Survey

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	2.02	2.02	Nil
No. of Residential Units	Nil	Up to 50	Up to +50
No. of Affordable Units	Nil	Up to 5	Up to +5

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4.0 PLANNING CONSTRAINTS

- 4.01 Allocated Site – housing development (Policy A21 of the Swale Borough Local Plan 2017)
- 4.02 Site of archaeological interest

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 14 (Presumption in favour of sustainable development , 47 and 50 (Delivering a range of high quality housing), 57 (High quality design) and 143 (Minerals extraction).
- 5.02 The Swale Borough Local Plan 2017: Policies ST1 (Sustainable Development), ST2 (Development Targets for Homes), ST5 (Sittingbourne Area Strategy), CP3 (Delivering high quality housing), CP4 (Good design)A21 (Smaller allocation sites as extensions to settlements), DM6 (Transport demand and impact), DM7 (Vehicle parking), DM8 (Affordable housing), DM14 (Development criteria), DM17 (Open space provision), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM28 (Biodiversity) and DM31 (Agricultural land).
- 5.03 The Swale Landscape and Biodiversity Appraisal shows that the site is with the category of the Borden Mixed Farmlands. This suggests that the condition of the area is moderate, and the sensitivity of the land in question is moderate.
- 5.04 The site is allocated for housing under policy A21 of Bearing Fruits 2031:The Swale Borough Local Plan 2017. The requirements of the policy will be further discussed later within this report in the 'Appraisal' section.. Policy A21 reads as follows:
 - *“Lies close to the A2 Watling Street. Any planning application for development proposals on these sites will need to have considered the possibility of archaeological remains being on site.*
 - *Financial contributions include those toward primary education, health and junction improvements at Key Street A249/A2.*
 - *Through an integrated landscape strategy consider:*
 - *The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation of Sittingbourne with Bobbing.*
 - *The assessment and, where possible, the retention of remaining orchard trees (a UK BAP priority habitat).*
 - *Determine such matters as the presence of protected species, whilst retention of habitat as far as possible and mitigation will secure a net gain in biodiversity.”*
 - *The policy envisages a minimum of 30 dwellings on 2.3 hectares of land*
- 5.05 'Developer Contributions' Supplementary Planning Document (2009):.
- 5.06 Clauses 4, 6 and 7 of Policy DM7 of the Kent Minerals and Waste Local Plan.

6.0 LOCAL REPRESENTATIONS

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Twenty-six letters and emails of objection have been received from local residents. Their comments can be summarised as follows:

- *'There is a lot of information within all the supporting documents which is extremely time consuming to read, digest and understand. This makes it difficult to provide full comments for objections'*
- The land behind Cherryfields (which adjoins the northeastern corner of the site) is two to three metres higher; this would lead to overlooking and overshadowing
- Would lead to increase in traffic at the Key Street roundabout and on the A249
- Previous applications for less houses on this site were refused
- The proposal site is not in the Local Plan
- Massive increase in vehicle movements
- Increase in pollution from vehicles
- No new infrastructure: roads, schools and surgeries are at breaking point
- Bungalows and affordable homes are needed; not executive homes
- Loss of trees on boundary
- Flooding and subsidence problems
- Access too near to Key Street roundabout
- Bungalows on boundaries would be better
- Will set a precedent for development at Wises Lane
- Loss of countryside gap between Sittingbourne and Newington
- Brownfield sites are preferable for development
- Inaccuracies within the submitted Transport Statement
- Not enough parking or visitor spaces
- Loss of views
- Topography of site is very steep
- Proposed play area in dangerous position close to road
- Increase in use of public rights of way
- No safe cycle route across Key Street roundabout
- Loss of Grade I agricultural land
- Layout too dense – allocated for a minimum of 30 dwellings in Local Plan
- Adverse impact on wildlife
- Development will devalue my property
- Safety concerns regarding electricity station
- Bird and bat boxes are not as good as natural habitat

7.0 CONSULTATIONS

7.01 Borden Parish Council objects to the application and their comments read as follows:

'Lack of provision of Schools, particularly Primary Schools, accessible by sustainable transport.

Insufficient provision of Hospitals and GP services

The land itself is Grade 1 agricultural land and should be protected for Agricultural use. Uncertainty about the availability, price and quality of food within the UK arising from climate change, development of the Asian/Chinese economies and population growth has been exacerbated by the recent decision to leave the EU. Further loss of production capacity and the local economic development opportunity to construction would not be prudent.

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Environmental pollution: The number of vehicles currently using the Key street junction, A2 and old Maidstone Road create high pollution levels during peak hours. This occurs particularly on Chestnut Street and Danaway where earth banks created to separate the A249 from residential areas now create high pollution zones because of limited air movement and queuing traffic. The development is not sustainable with regard to transport or air quality, since it will lead to further congestion on the A2, A249 and rural lanes Traffic exiting this development onto Chestnut Street will cause further congestion to an already inadequate road system. There are Highways safety concerns arising from parked commuter vehicles and HGV's adjacent to the proposed junction between the new development and Chestnut Street. No figures are supplied for actual peak hours between 05.45 and 07.00 when commuters use the routes. The A249/A2 (Key Street) roundabout is unable to cope with existing traffic at peak times which will only worsen with the Iwade and Sheppey developments. Traffic from the main Sittingbourne town and the Northern residential areas of Sittingbourne i.e. Sonara Fields, Kemsley, Iwade etc. converge on Key Street Roundabout; many drivers use Chestnut Street to try and bypass the congested areas, leading to long delays at the Stockbury roundabout and reduced safety for residents along Maidstone road. Chestnut Street is also used in times of accidents on the A249. As a consequence the whole road systems becomes blocked due to the high volume of vehicles and use of wide vehicles. This is contrary to the statement on Page 21, 6.1.5 of the Transport Statement.

Any designed road exiting onto Chestnut Street will create a rat-run for traffic trying to avoid the current bottlenecks. As a consequence, there will be a detrimental impact on the safety and quality of life for residents/public. Improvements to the Key Street Roundabout and the Stockbury Roundabout should be undertaken before any further development takes place Insufficient parking spaces; appears to be one per property?

In the past KCC Minerals and Waste have raised objections to applications in this area.

The topography of the site means that the land sits much higher than current housing abutting the boundaries. The proposed two storey properties to the rear of existing housing will in fact be the equivalent of a three-storey building.

Loss of valuable wildlife habitat: Should the Borough Council be minded to approve this application we would ask that the following be taken into consideration: Bungalows should be built to the rear of existing properties in Cherryfields any other properties impacted; this will in effect due land being higher on the site appear as two-storey buildings and will not cut out light.

We would request that an archaeological survey be carried out prior to any development owing to the history of the area.'

- 7.02 The Environment Agency raises no objection.
- 7.03 UK Power Networks raises no objection.
- 7.04 Scotia Gas Networks raises no objection.
- 7.05 The Lower Medway Internal Drainage Board raises no objection.
- 7.06 Natural England raises no objection.
- 7.07 Southern Water raises no objection, subject to the inclusion of Informatives as noted below.

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- 7.08 Highways England acknowledges that the proposal might put pressure on the roundabout at Key Street, although they suggest that the impact would be limited. They encourage the developer to discuss the matter with KCC Highways and Transportation. Their comments are as follows:

‘Having examined the above application, while we accept that the development alone will have a limited impact on the Key Street junction (A2 / A249), evidence submitted to and agreed at the Swale Local Plan Examination concluded that at times the junction is operating over capacity and going forwards we are aware that there will be a severe cumulative impact on the junction due to committed, consented and emerging Local Plan development. Therefore now and in to the future there are SRN related safety, journey reliability and operational efficiency issues that need to be addressed.

While it would be open to any applicant to propose individual mitigation, we believe it would be more sensible for there to a single co-ordinated response of the right type delivered at the right time to mitigate the cumulative impacts of all likely development. A cumulative mitigation scheme is being developed by Kent County Council and Swale Borough Council.

We therefore look forward to hearing from the applicant as to which direction they wish to take. They may wish to make their decision based upon a conversation with KCC/SBC regarding the progress of the cumulative mitigation scheme.’

- 7.09 KCC Highways and Transportation comment in full as follows:

‘It is acknowledged that the proposed development does form one of the allocated sites within the Local Plan that has now been approved by the Planning Inspector and is due to be adopted within the coming days, so the principle of residential development in this location will be supported by the weight of that Plan. Consequently, the Highway Authority will work with the Applicant to agree what measures are required to accommodate the development and its impact on the local highway network.

I have reviewed the proposed trip rates used in the Transport Statement, and undertaken my own TRICS calculation using selection filters that I consider comparable to the location of this site. My calculations did derive a slightly higher generation of traffic, suggesting a further 6 movements during the AM peak and 3 more during the PM peak to give totals of 32 and 29 respectively. Over the period between 07:00 to 19:00, my analysis indicated a total of 264 vehicle movements. It is not considered that the difference between the two TRICS interrogations is a significant material difference when viewed against the existing traffic on the highway network.

The development is proposed to be accessed from a simple priority junction onto Chestnut Street, and I accept that this would be the correct design approach. The junction matrix in TD 42/95 of the Design Manual for Roads & Bridges recommends this type of road junction is used when accommodating the amount of vehicle numbers travelling along the main road and expected to be generated from the development. The position of the proposed access will be within the current national speed limit section of Chestnut Street, close to the transition point of the 30mph speed limit approaching Key Street roundabout. However, the Transport Statement suggests that the 30mph limit will be extended further south, past the proposed access, and visibility splays of 2.4m by 43m would be appropriate based on that speed. It should be noted that the extension of the 30mph limit will need to be the subject of a Traffic Regulation Order that requires consultation, and has to be considered in the road environment and other influencing factors. These are described in the DfT circular 01/2013, so it cannot be taken for granted that the proposed extension to the speed restriction will be allowed. I

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therefore believe that it would be more appropriate to provide sightlines at the proposed junction based on measured speeds at this location.

Notwithstanding the above uncertainty regarding vehicle speeds, it is demonstrated by the drawing provided in Appendix E (of the Transport Assessment) that visibility splays of at least 2.4m by 90m to the southwest, and 2.4m by 87m to the northeast of the junction are generally available, and splays far in excess of these are achievable due to the extent of the highway land that could be used to facilitate longer sightlines. I am therefore content that appropriate sightlines can ultimately be provided for the proposed access, and these can be secured through the technical approval process associated with the Section 278 Highway Agreement that will have to be entered into by the developer to permit construction of the new junction and any other off-site highway works required. The developer will also be expected to fund the costs of processing and implementation of the proposed Traffic Regulation Order.

The vehicle swept path analysis that has been submitted demonstrates that the site can be accessed by a refuse freighter and pantechnicon type removals lorry, although I note that these do utilise the full width of Chestnut Street to carry out their manoeuvres. This section of Chestnut Street does attract on-street parking from commuters and also customers of the nearby Tudor Rose public house, which restricts the width of carriageway. It will also be necessary to consider the introduction of waiting restrictions in this vicinity to protect the movement of vehicles through this section. As before, the cost of funding this Traffic Regulation Order will fall upon the developer.

Although a footway exists along the entire northern side of Chestnut Street, the provision along the southern side from Key Street roundabout stops short of the proposed access. The drawings submitted do appear to indicate that this footway will link all the way into the development, but is beyond the red line boundary and does not indicate whether this is intended to represent an extension to the existing footway. For clarity, it would be appropriate to secure this off-site highway work through a planning obligation, so that it is provided as part of the Section 278 Agreement works.

To accord with the emerging Local Plan, this site is expected to contribute towards improvements of the Key Street/A249 junction. Based on the levy that has been applied to other developments that will send traffic through this junction, it would be appropriate to seek a financial contribution of £51,667. The Section 106 Agreement will therefore need to include for that provision.

Whilst the planning application has been made in Outline, with only access to be considered at this time, I do note that an indicative site layout has been submitted, and reference is made within the Transport Statement to the parking provision within the development. As these are considerations for any subsequent Reserved Matters application, should the Local Planning Authority grant approval to the current application, then those aspects of the proposals will be assessed at that time. Please note that the response being provided by Kent County Council Highways and Transportation now should not be taken as any acceptance of the details submitted beyond those of Access only. However, I would suggest that the parking category that this development will fall in should be Suburban Edge, rather than the Suburban category referred to in the Transport Statement. When assessing those details at the Reserved Matters stage, the development layout and details will be expected to be in accordance with the appropriate design guidance. It should be noted that the parking guidance, IGN3, does not count garages towards the parking provision, and independently accessible parking spaces are sought instead of tandem arrangements. This is likely to influence the final design of the development layout.

In conclusion, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

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- *Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.*
 - *Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.*
 - *Provision of measures to prevent the discharge of surface water onto the highway.*
 - *Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.*
 - *Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.*
 - *Completion of the identified off-site highway works*
 - *Undertaking to progress the Traffic Regulation Order for the speed limit extension*
 - *Undertaking to progress the Traffic Regulation Order for waiting restrictions*
 - *Contribution of £51,667.00 towards junction improvements'*
- 7.10 KCC Development Contributions Team requests the following contributions (based on 50 dwellings being approved and built under a reserved matters application):
- Primary Education (towards enhancement of Borden Primary School) - **£166,200.00**
 - Secondary Education (towards Phase 3 of expansion of Westlands Secondary School - **£117,990.00**
 - Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - **£3,021.35**
 - Youth Service (towards additional youth facilities and equipment in Sittingbourne) - **£1,879.17**
 - Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - **£11,350.00**
 - Social Care (towards fit out costs of Sittingbourne Care Hub) - **£3,166.50**
 - The Contributions Team also request that one of the affordable homes on the site be suitable for wheelchair access; and that High Speed Fibre Optic Broadband connection be incorporated into any reserved matters proposal for the development.
- 7.11 The Greenspaces Manager requests a contribution of **£43,050.00** (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park. He also notes that, if the greenspace on site is to be maintained by SBC after completion, a ten year commuted sum will also be necessary. I will update Members at the meeting.
- 7.12 The NHS Swale Clinical Commissioning Group requests a financial contribution of **£18,000.00** towards expanding existing facilities within the vicinity of the development, in the form of funding for services and staff.
- 7.13 The Environmental Protection Team Leader requires a contribution of **£4,300.00** (£86.00 per dwelling for a refuse and a recycling bin).
- 7.14 No response has been received from the Housing Services Manager. I will update Members at the meeting, although I note that five dwellings or 10% of the total dwellings proposed are earmarked for affordable housing.
- 7.15 KCC Ecology raise no objection, subject to a landscaping condition included below.
- 7.16 KCC Flood and Water Management raise no objection, subject to conditions included below.

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8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and drawings relating to application 17/500727/OUT
- 8.02 Application papers and drawings relating to application SW/04/0095
- 8.03 Application papers and drawings relating to application SW/03/0224

9.0 APPRAISAL

9.01 The key issues to consider in this case are those of the principle of development; residential amenity; landscape and visual amenity; highway issues and infrastructure concerns; minerals issues; the use of agricultural land; and the density of development. I will deal with each of these matters in turn.

9.02 Principle of Development: A number of objectors have correctly noted that two previous planning applications have been refused on this site. Those refusals resulted from the fact that under both the 2002 and the 2008 Local Plans, this land was situated outside the built up area boundary and was not allocated for housing. However, under the auspices of the newly approved Bearing Fruit 2031: The Swale Borough Local 2017, the status of the land has changed, with the land being allocated for housing under Policy A21 of the Swale Borough Local Plan 2017. As such, with the status of the land changing, the principle of residential development on this land also changes, with such a principle now being acceptable and in accordance with Policy A21.

It should be noted that the site is allocated for a minimum of 30 dwellings; up to 50 are proposed in this application. However, the accompanying illustrative drawing would suggest up to 50 could be accommodated on this site, whilst still providing adequate public and private amenity space, parking and high levels of residential amenity. This matter will be further discussed later in this report.

9.03 Residential Amenity: In terms of residential amenity, I do agree with the concerns of residents in Cherryfields, which is located directly east of the northeast corner of the site. I have visited two of these residents and viewed the situation from their homes, and it is surprising to note how dramatically and rapidly the ground levels change between the existing rear gardens in Cherryfields and the eastern boundary of the proposal site, with a rapid rise in topography of between two and three metres. This would indeed result in issues of overlooking and possibly overshadowing to certain properties within Cherryfields.

The applicant has helpfully submitted indicative site layouts with the application, although access is the only issue to be decided under this outline application. A number of local residents correctly noted the possible issues which would result should this layout be confirmed. It must again be noted that layout is not an issue for decision in this application, but the applicant is advised to take note of Condition (5) below, recommending that when submitting a reserved matters application (should Members resolve to approve this outline application), the dwellings on the plots nearest to Cherryfields should be single storey, to minimise harm to the residents of Cherryfields.

I do am not of the opinion that the proposal would raise any other issues relating to an unacceptable erosion of residential amenity.

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- 9.04 Highway Issues: A number of concerns have been raised with regard to highways issues and the impacts upon same from the development. I note the response received from KCC Highways and Transportation, which I included in full earlier in this report, for Members' information. That response suggests that the impact of the proposal upon highway amenity would be limited, and this would be negated further by the proposed changes to the Key Street Roundabout. I am happy to accept the expert opinion of KCC Highways and Transportation; much thought has obviously gone into their response, and the concerns raised have been carefully addressed by their findings.
- 9.05 Infrastructure Issues: A number of concerns have also been raised with regard to infrastructure issues, with particular reference to schools places, medical services, etc. Whilst I understand these concerns, I note the requests for contributions towards schools and facilities, libraries, NHS services, highways improvements, greenspaces, etc. so would argue that suitable financial recompense would be obtained via a s.106 to improve services in the area. As such, I consider that the impact of the development would be substantially negated by these improvements paid for by the developer, and as such, I deem this objection to have been answered. The amounts required are as follows:
- £51,667.00 towards junction improvements'
 - Primary Education (towards enhancement of Borden Primary School) - £166,200.00
 - Secondary Education (towards Phase 3 of expansion of Westlands Secondary School) - £117,990.00
 - Community Learning (towards new equipment to support additional Adult Education in the new Sittingbourne Hub) - £3,021.35
 - Youth Service (towards additional youth facilities and equipment in Sittingbourne) - £1,879.17
 - Libraries (towards equipment and bookstock costs of new library in Sittingbourne Hub) - £11,350.00
 - Social Care (towards fit out costs of Sittingbourne Care Hub) - £3,166.50
 - £43,050.00 (£861.00 per dwelling) towards the provision of off site play equipment at Grove Park.
 - £18,000.00 towards expanding existing NHS facilities within the vicinity of the development.
 - £223.58 per dwelling, or £11,179.00 for 50 dwellings is required to mitigate potential impacts on the Swale Protection Area.
 - A 5% administration and monitoring fee.
- 9.06 Minerals Issues: The site is identified for brick earth extraction prior to development in the Kent Minerals and Waste Local Plan (KMWLP) Adopted April 2017, and the KCC Minerals Extraction Team have registered a holding objection. The developer has

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argued that the site should be exempt under Criterion 7 of Policy A21 of The Swale Borough Local Plan 2017, as follows:

'Policy DM 7 Safeguarding Mineral Resources states 'Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either 7. it constitutes development on a site allocated in the adopted development plan'.

Whilst we appreciate the Local Plan has not been adopted, it can be given significant weight as it is at an advanced stage. As the application site is included in the draft Local Plan in Policy A14- Sittingbourne 2. Manor Farm we believe the application can be permitted as it will adhere to #7 in Policy DM 7.

In addition to this, Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016 proposed a number of amendments. In 6.5 Proposed housing allocations there is no reference of concern relating to safeguarding minerals which might be present on site, therefore requiring a Minerals Assessment.

This has been recognised on other proposed housing sites (but importantly not on Manor Farm) where Main Modifications have been included, Minerals Assessments on the followings proposed housing allocations have been proposed:

Larger Allocations

*Stones Farm, Sittingbourne
Land at the Western Link, Faversham
Preston Fields, Faversham
Iwade Expansion
Land north of High Street, Newington*

Smaller Allocations

*Ham Road, Faversham
West of Brogdale Road, Faversham*

Due to the forthcoming allocation of the site for housing and no representations or main modifications being proposed relating to a Minerals Assessment being required, we believe the site meets exemption #7 in Policy DM 7 and can therefore be supported.'

- 9.07 Policy A14 doesn't specifically highlight mineral safeguarding as an issue on this site as it does others, nevertheless the LP makes it clear (Section 4, paras 4.1.65 – 4.1.67) that where reserves are identified on site allocated for development we will ensure the developer works with the Minerals Planning Authority to ensure timely working of the site, provided that there is a suitable and viable outlet for the resource and without it creating an unreasonable impact on the viability and therefore affecting the development coming forward.

Regarding the developers' interpretation that they would be exempt because the site would be within an adopted development plan, the County Council as Mineral Planning Authority does not share this interpretation and considers that it is contrary to national planning guidance, the KMWLP and runs counter to the views of the Inspector who found the KMWLP sound in 2016.

The National Planning Policy Framework (NPPF) makes clear that the responsibility for facilitating the sustainable use of minerals applies to all planning authorities. The

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NPPF is crystal clear that development needs to take account of minerals and not needlessly sterilise resources.

Specifically looking at this site – it is very small (50 dwellings) and therefore not likely to yield any amount of resource that would be practical or of economic value. Furthermore any extraction, given the small size, is likely to affect viability to such an extent as to render the whole scheme a non-starter. I would imagine that it why the LP Policy A14 doesn't explicitly specify a minerals assessment is needed. The developer has therefore been advised to have discussions with KCC without the need to do a minerals assessment.

The applicant's agent has heeded the above advice and discussed the matter at length with colleagues at KCC Minerals, who are in the process of preparing a response. I will update Members on this situation at the meeting.

- 9.08 Development on Agricultural Land: Policy DM 31 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that development on best and most versatile agricultural land (the land in question is Grade 1 Agricultural land) will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. An overriding need in this case is considered to be the housing need of this Borough. Policy DM 31 states that development on best and most versatile agricultural land will not be permitted unless the site is allocated by the local plan. In this case, the site is included as an allocation in the Local Plan. Paragraph 112 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. In this case I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as an allocation site is of overriding significance.
- 9.09 Landscape Impact and Visual Amenity: The Swale Landscape Character and Biodiversity Appraisal 2011 indicates that the surrounding landscape is of moderate quality with moderate sensitivity to change. The application site is not within a designated landscape area and is not noted for its special quality or character. I therefore conclude that the development of this site for housing would cause no significant harm to the character or appearance of the countryside/landscape and that any harm can be adequately mitigated against through retention and reinforcement of vegetation along the boundaries of the site.
- 9.10 Density of Development: It will be noted that Policy A21 of the Swale Borough Local Plan 2017 states that the site is allocated for a minimum of 30 properties. The present outline application allows for up to 50, which would amount to a density of 24.8 dwellings per hectare. However, the indicative layout drawings do appear to show that the site can accommodate fifty dwellings whilst allowing for public and private amenity areas and parking, as previously noted above. Although it must be remembered that details of layout would be dealt with under a Reserved Matters application, should Members be inclined to support this Outline application, the indicative layout has shown that the site could comfortably accommodate up to fifty dwellings, and I consider that level to be acceptable in principle.

Policy A21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 states that one issue to be addressed on this allocated site would be 'The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation

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of Sittingbourne with Bobbing.’ Having carefully studied the illustrative site layout, I am of the opinion that sufficient space along the western and southern borders has been provided to ensure that this is the case.

- 9.11 I note the points raised by objectors, but I believe that the matters noted above address those points.
- 9.12 In terms of surface and foul drainage, I note the comments of relevant consultees(see paragraphs 7.07 and 7.16 above) and have included conditions to ensure that any issues raised are adequately addressed.
- 9.13 With regard to any implications for the Special Protection Area, a contribution of £11, 179.00 is sought in mitigation.

10.0 CONCLUSION

10.01 As such, and on balance, I therefore recommend that this outline application be approved, subject to the conditions below.

11.0 RECOMMENDATION – GRANT Subject to clarification in respect of open space management; the views of the housing Services Manager, the resolution of the brick earth issue; the signing of a suitably worded Section 106 Agreement; and the following conditions:

CONDITIONS

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

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (4) Pursuant to Condition (1) above, the reserved matters application shall show no more than a total of 50 dwellings, and the dwellings shall be no more than 2.5 storeys in height

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Reason: In order to comply with Policy A21 of The Swale Borough Local Plan 2017 and in the interests of safeguarding the local landscape.

- (5) Pursuant to Condition (1) above, the reserved matters application shall show only single storey dwellings in the north east corner of the site (marked on the illustrative site layout drawing no. DHA/11507/06 Rev A and the illustrative proposed storey heights plan no. DHA/11507/04 Rev A as plot numbers 35 - 39 inclusive), adjacent to the existing properties in Cherryfields

Reason: In view of the rise in the topography of the land, which would result in issues of overlooking and overshadowing to existing properties in Cherryfields, if those new properties were to be of more than one storey

- (6) The details submitted pursuant to condition (1) above shall provide full details of how the residential part of the development will meet the principles of 'Secure by Design'. The development shall be implemented in accordance with the approved details.

Reason: In the interests of public amenity and safety.

- (7) The details submitted pursuant to condition (1) above shall include cross-sectional drawings through the site, of the existing and proposed site levels. The development shall then be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including 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. 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. 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) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority:
 - 1. A preliminary risk assessment which has identified:
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) Potentially unacceptable risks arising from contamination at the site.

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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 and comply with the National Planning Policy Framework.

- (10) 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.

- (11) 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.

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

- (12) Prior to the commencement of the development hereby approved full details of the method of disposal of foul and surface waters as part of a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. This detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site. The risk of ground instability associated with discharge

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of surface water into the underlying soils should be assessed and the infiltration rates confirmed with a suitable ground investigation.

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

- (13) No building hereby permitted shall be occupied until details of the implementation; maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

- (14) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (15) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be collected and disposed of via infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions, and to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (16) Development shall not begin until details are submitted to and approved in writing by Local Planning Authority (in consultation with the Environment Agency and the Lead Local Flood Authority) of measures within the drainage scheme that ensure silt and pollutants resulting from the site use can be adequately managed to ensure there is no resultant unacceptable risk to controlled waters as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

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

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vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- (17) Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

- (18) No development shall take place until:
- a) a site investigation has been carried out to determine the nature and extent of any reptile or bat population within or adjacent to the building in accordance with the advice of Natural England
 - b) a written report of the site investigation has been prepared by a competent person. The report shall include the investigation results and details of a scheme to ensure the long-term health and well being of any reptile or owl population within or adjacent to the building. The report shall be submitted to and approved by the Local Planning Authority in writing.
 - c) the development shall then be implemented in accordance with the approved scheme

Reason: In order to safeguard protected species that may be present within or adjacent to the building.

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- (19) The details submitted in pursuance of condition (1) shall show adequate land reserved for parking in accordance with the Approved County Parking Standards and, upon approval of the details this area shall be provided, surfaced and drained before any building is occupied and shall be retained for the use of the occupiers of, and visitors to, the dwellings. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

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

- (20) None of the dwellings shall be occupied until space has been laid out within the site in accordance with details to be submitted and approved in writing by the Local Planning Authority for cycles to be securely stored and sheltered.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits and to ensure that such matters are dealt with before development commences.

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

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner and to ensure that such matters are dealt with before development commences.

- (22) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0900 - 1700 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.

- (23) No demolition or construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-
Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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- (24) Prior to the commencement of development a programme for the suppression of dust during the construction of the development shall have been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity and to ensure that such matters are dealt with before development commences.

- (25) Prior to the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:
- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
 - (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

- (26) Within 6 months of construction commencing a detailed landscaping plan and management plan must be submitted to the LPA for written approval. The submitted information must include the following:

- A landscape plan incorporating the ecological enhancement measures detailed within chapter 9 of the Ecology Assessment, Ethos Ecology (December 2016)
- Details of how the proposed planting will be established
- A five year rolling management plan for the site
- When habitat monitoring will be carried out
- When management plan reviews will be carried out

The measures shall be implemented in full accordance with the submitted information prior to the occupation of development.

Reason: In the interests of preserving biodiversity and 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.

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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.

INFORMATIVES:

- (1) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
 - (2) 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).
 - (3) Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
 - (4) KCC wishes to make the applicant aware that Superfast Fibre Optic Broadband 'fibre to the premises' should be provided to each dwelling of adequate capacity (internal minimum speed of 100mb) for current and future use of the buildings.
 - (5) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area
- 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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APPENDIX: HABITATS REGULATIONS ASSESSMENT**Context**

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.*

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *"The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England Commissioned Report 2011).
- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas

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in terms of recreational pressure.

- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the Local Plan 2017.

Associated information

Natural England's email to SBC dated 6th April 2017 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Land at Manor Farm, Sittingbourne

The application site is located approximately 2km to the southeast of The Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within the site. Whilst these would no doubt supplement many day-to-day recreational activities, there would be some leakage to the SPA. However, the commitment of the applicant to contribute £223.58 per house to address SPA recreational disturbance towards through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA.

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At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.

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The Major Projects Officer drew attention to the tabled update which had previously been emailed to Members.

The Chairman, also a Ward Member, raised concern about the dilapidated state of the site and the access from Union Street.

Councillor Bryan Mulhern moved a motion for a site meeting. This was seconded by Councillor Bobbin. On being put to the vote the motion was agreed.

Resolved: That application 17/501755/FULL be deferred to allow the Planning Working Group to meet on site.

2.4 REFERENCE NO - 17/500727/OUT		
APPLICATION PROPOSAL		
Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved) as amended by drawings received 31/05/2017.		
ADDRESS Manor Farm, Key Street, Sittingbourne, Kent, ME10 1YU		
WARD Borden and Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Balmoral Land (UK) Ltd AGENT

The Major Projects Officer drew attention to the tabled paper, which had previously been emailed to Members, and which included responses from the Environmental Protection Team Leader (EPTL), the Kent County Council (KCC) Public Rights of Way Officer (PROW), the KCC Principal Archaeological Officer, KCC Minerals Planning, and the Housing Services Manager and Highways England (HE). The paper also made reference to an additional highway condition, the adoption of the open spaces on the site by the Council, and two corrections to the submitted report.

The Major Projects Officer reported that the Council's Green Spaces Officer had requested a ten-year commuted sum of £37,292 developer contribution for maintenance of the greenspace on the site.

Parish Councillor Clive Simms, representing Borden Parish Council, spoke against the application.

Mrs Patricia Knott, an Objector, spoke against the application.

Mr David Williams, the Agent, spoke in support of the application.

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

The Chairman asked Members if they had any questions.

In response to queries from Ward Members, the Major Projects Officer explained that the existing location of the footpath was a suggested route to show one way that the proposed 50 dwellings could be provided. The current layout plan was an

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illustration and Members should note the application was still at outline stage. At the reserved matters stage Members would be able to ensure the footpath was properly integrated into the estate. The Major Projects Officer explained that it was not practicable or appropriate to include full responses from all consultees within the Committee report, but he and the Case Officer had made an honest attempt to include the main points raised by HE. He stated that HE had no fundamental objections to the proposal but wanted to understand how the developer contribution of £51,000 would work with other developer contributions to fund improvement works at Key Street. He advised that he believed that officers could work together with HE to resolve these issues and ensure that the highway improvements were provided. With regard to air quality concerns, the Major Projects Officer explained that whilst close to the A249, the site was not within an Air Quality Management Area so no modelling of air quality had been carried out.

The Major Projects Officer referred to conditions (23) and (24) in the Committee report which related to restrictions on demolition and construction times at the site, and a programme of dust suppression and were requested by the EPTL. The vehicular access required the provision of a gap in the existing landscaping and would be set well away from the bend in the road.

In response to queries from Members, the Major Projects Officer advised that there was the option for the open space to be maintained by a management company, as an alternative to adoption by the Council. The affordable housing rate for Sittingbourne was 10% so the maximum of five units being provided was correct. The Major Projects Officer explained that the parking provided was on the indicative layout to demonstrate how 50; units could be provided on the site, but was not for approval under the current application.

Ward Members spoke against the application and raised comments which included: the Council's Local Plan recommended a minimum of 30 units and the developer was requesting up-to 50; an increase of 66%, does this mean the Local Plan was not worth the paper it was written on; this was not a suitable site; access onto Chestnut Street was completely inappropriate, it was often blocked on one side by parked vehicles which offered poor visibility so access onto it was not suitable; concern that the most pertinent points raised by HE were not included in the Committee report; how could the relevant mitigation measures be provided if the application was rushed through; it had not been proved that there would be no impact on air pollution; 50 units was far in excess of what was considered appropriate at the Public Examination of the Local Plan; was an isolated site; was a rural site so the affordable housing level should be 40%; concerns that if the footpath moved to the back of houses to the rear of Pine Lodge Care Centre, their security could be compromised and hoped that they would be consulted first; need to consider flood risks from the stream located under Key Street; and we have not received a response from KCC about brick earth and would be concerned about making a decision until this had been resolved.

Members raised points which included: The Council's Local Plan had approved a minimum of 30 units, for the developer to request 50 units was a serious issue and we should not allow; clear objections from HE; the developer should be made aware that the suggested arrangements for the PROWs were unacceptable and that we would require a high quality landscape scheme if approved; the developer

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APPENDIX 2

Planning Committee

17 August 2017

should be asked to provide a study on air quality; the site was not in Sittingbourne so the affordable housing rate of 10% did not apply; the increase in vehicle movements if approved would have a considerable impact on air quality; and appropriate mitigation measures were required following the realignment of the footpaths.

The Major Projects Officer noted concerns that the number of units was increased to 50, however the density would be 25 units per hectare which was still low compared to other developments in Swale and offered good space for soft landscaping to mitigate landscape and residential amenity impacts. A condition could be imposed to ensure a buffer could be provided between the development and the gardens of existing dwellings.

The Development Manager suggested that as there were a number of items and information not provided, Members may want to defer the application. This was agreed by Members.

A Member requested that this information included comments raised by Members, in relation to the increase to 50 units.

Resolved: That application 17/500727/OUT be deferred to allow information on outstanding issues to be provided.

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

21 JUNE 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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PART 2

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2.2 Pg 48 – 54	18/501004/FULL	MINSTER	69 Queens Road
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2.3 Pg 55 – 65	18/501862/FULL	MINSTER	45 Lynmouth Drive
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2.4 Pg 66 – 75	18/501878/FULL	EASTCHURCH	Land adjoining 1 Sunnyhill, Warden Road
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PLANNING COMMITTEE – 21 JUNE 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/502472/PNOCLA			
APPLICATION PROPOSAL			
<p>Prior notification for the change of use of offices to 75 residential apartment units. For the Council's prior approval to:</p> <ul style="list-style-type: none"> - Transport and Highways impacts of the development; - Contamination risks on the site; - Flooding risks on the site; and - Impacts of noise from commercial premises on the intended occupiers of the development. 			
ADDRESS Eastgate House, 25-29 London Road, Sittingbourne, Kent, ME10 1NQ.			
RECOMMENDATION Grant, subject to the views of KCC Highways & Transportation, Highways England, and any further comments from third parties (closing date 21 st June 2018).			
SUMMARY OF REASONS FOR RECOMMENDATION			
The proposal meets the requirements of Part O of the Town & Country Planning (general Permitted Development) (England) Order 2015 (as amended).			
REASON FOR REFERRAL TO COMMITTEE			
Called in by Councillor Truelove.			
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT AA Homes	
		AGENT Indigo Planning	
DECISION DUE DATE 29/06/18	PUBLICITY EXPIRY DATE 21/06/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/506024/PNOCLA	Prior approval for conversion from offices to 22 residential flats.	Prior approval not required	15.01.18
The proposed development met the requirements of Class O without giving rise to any serious concerns in respect of highways, flooding, pollution, or noise, and the Council's prior approval was therefore not required.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 Application site is a three-storey office block situated along the A2 close to the town centre (roughly 420m to the top of the High Street). It is constructed of brick with large sections of glazing along the front and rear elevations. Vehicle access is via an underpass into a car park area to the rear, which serves this building and a number of surrounding commercial / light industrial units. This building has 48 allocated spaces within the car park.
- 1.02 There are residential properties adjacent to the site, fronting on to the A2, and around the sides of the wider trading estate. Members will note that 31, London Road – located immediately to the west – has the benefit of planning permission (reference 16/507181/FULL and 17/505232/FULL) for re-development to provide a total of ten dwellings.
- 1.03 The building was originally granted planning permission in 1977 (ref. SW/77/0959 and 1039). The permitted development rights of the building were not affected by that permission.
- 1.04 The site is located in Flood Zone 1, an area of low flood risk.

2.0 PROPOSAL

- 2.01 The application seeks to determine whether the Council's prior approval (under Class O of the GPDO 2015 as amended) is required for change of use of the property from offices to 75 one-bed residential flats, with the following issues to be considered:
- Transport and highways impacts;
 - Contamination risks;
 - Flood risk; and
 - Impact of noise from commercial premises on the intended occupiers.
- 2.02 It is proposed to convert the ground floor to provide 20 flats; first floor to 13 flats; second floor to 21 flats; and the third floor to 21 flats. These will be arranged off the central access corridor, with stairway access at either end of the building.
- 2.03 The proposed flats will vary from approximately 26sqm to 89sqm. No details of the precise internal layout of each flat have been provided (nor are they required to be by the legislation) but it is evident that each flat will be roughly rectangular / square and, for the upper floors of the building, capable of conversion resulting in a logical, usable layout. With regard to the ground floor, the proposed layout lacks a corridor to allow access to some of the flats. An amended plan has been requested and I will update Members at the meeting.
- 2.04 The agent's covering letter comments:

"This application follows the recent prior approval application for the building's conversion to provide 22 x residential flats (LPA reference 17/506024/PNOCLA). In determining this previous application, the Council has confirmed that the site is eligible for a permitted development change of use under Class O and has assessed it against the relevant planning considerations (transport, flooding, contamination and noise)."

3.0 SUMMARY INFORMATION

	Proposed
No. of Storeys	3
Parking Spaces	48
No. of Residential Units	75
No. of Affordable Units	0

4.0 PLANNING CONSTRAINTS

- 4.01 The site is within an area of potential archaeological importance, and trees to the front of the building are covered by TPO (ref. 7973 and 7974), but neither of these designations are affected by the current proposals.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The key considerations are those set out by Class O and paragraph W of Part 3 of Schedule 2 to the General Permitted Development (England) Order 2015 (as amended).
- 5.02 Class O sets out that *“change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule”* is permitted development, provided that the proposal first meets certain requirements (a) to (g), which include the building having last been in office use, the site not being within a conservation area, not being a listed building, etc.
- 5.03 Class O sets out the conditions of permitted development provided that the applicant submit details in respect of certain issues:

“Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

- (a) transport and highways impacts of the development;*
- (b) contamination risks on the site;*
- (c) flooding risks on the site; and*
- (d) impacts of noise from commercial premises on the intended occupiers of the development.”*

6.0 LOCAL REPRESENTATIONS

- 6.01 A letter of objection has been received from a nearby residents, raising the following summarised issues:
- Local parking is restricted to permit holders only;
 - Local parking is over-subscribed; and
 - The Council shouldn't issue any permits to residents of this development, and that should be made a condition of the planning permission.
- 6.02 The deadline for comments is, as noted above, 21 June 2018, and if further responses are received, I will update Members at the meeting.

7.0 CONSULTATIONS

- 7.01 I await comments from KCC Highways & Transportation and Highways England and will update Members at the meeting.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application ref. 17/506024/PNOCLA is relevant in that it granted consent for conversion of the building, under Class O permitted development rights, to 22 self-contained residential flats.
- 8.02 The current application is supported by relevant plans and drawings.

9.0 APPRAISAL

- 9.01 The scope of what can be considered under Class O is very limited, and I am therefore not able to take into account matters like provision of outdoor amenity space, or the internal layout. As set out at 5.03 above: what can be considered under this type of application is set out by the GPDO:
- (a) transport and highways impacts of the development;
 - (b) contamination risks on the site;
 - (c) flooding risks on the site; and
 - (d) impacts of noise from commercial premises on the intended occupiers of the development.

Transport and highways impacts

- 9.02 The application proposes 75 flats within the existing building, with 48 designated parking spaces to the rear. Current adopted Kent Vehicle Parking Standards set out that for one-bed flats in sustainable urban locations such as this, a maximum provision of one parking space per dwelling is acceptable. In that regard the scheme accords with the adopted standards. I also note that the site is within walking distance of the town centre, and that the road to the front is subject to double yellow lines and zig-zag lines, which would prevent anti-social parking on the highway. Any anti-social parking within the car park to the rear of the building would be a private matter for the owners of those properties.
- 9.03 It should also be noted that parking demand for a proposed residential use has to be balanced against potential vehicle movements and parking if the building were to be put back into office use. The adopted Kent Parking Standards suggest that an office block of this size would require 74 parking spaces (1 per 25sqm), in which regard the current proposal generates a lower parking demand.
- 9.04 In this regard I consider the highways impacts to be acceptable.
- 9.05 I am, however, as noted above, awaiting comments from KCC Highways and Transportation and Highways England, particularly in respect of the volume of additional traffic likely to be generated by the conversion and the potential impact upon the wider highway network. I will update Members at the meeting and it may be the case that my recommendation changes, subject to the comments received.

Contamination risks

- 9.06 The site is not considered to be contaminated and no ground works are proposed. Prior approval is therefore not required in this respect.

Flooding risks

- 9.07 The site is located in Flood Zone 1, and sits at the top of a hill where flooding is unlikely to occur. Prior approval is therefore not required in this respect.

Impacts of noise from commercial premises on the intended occupiers

- 9.08 The site is largely surrounded by residential properties. There are a number of small commercial / light industrial units within the trading estate but these do not generate significant levels of noise and disturbance, and would require planning permission to change to uses that would do so. There is unlikely to be any significant noise impacts on the intended occupiers, and prior approval is therefore not required in this respect.

Other matters

- 9.09 I am concerned about the number and size of units to be provided. Whilst they are generally of a usable scale (though many are on the small side) and layout in themselves, the provision of 75 small flats without any outdoor amenity space could give rise to very poor quality accommodation. Unfortunately, however, officers and Members are not able to take this into consideration under the guidelines of Class O, which is a failing of the legislation in my opinion.
- 9.10 I note local objection, but there is no scope for consideration of local objections within the permitted development change of use process.

10.0 CONCLUSION


- 10.01 This application seeks the Council's prior approval for conversion of an office block to 75 residential flats. The development meets the criteria as set out in Class O of the General Permitted Development (England) Order 2015 (as amended), and no other matters can be considered under such an application. I am, however, awaiting comments from KCC Highways and Transportation and Highways England in respect of highways impacts.
- 10.02 Subject to receipt of comments from KCC Highways and Transportation and Highways England, I recommend that prior approval is not required.

11.0 RECOMMENDATION – Prior Approval not required:

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



18/502472/PNOCLA - Eastgate House, 25-29 London Road, Sittingbourne
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2.2 REFERENCE NO - 18/501004/FULL			
APPLICATION PROPOSAL Demolition of existing detached garage and erection of proposed annexe.			
ADDRESS 69 Queens Road Minster-on-sea Sheerness Kent ME12 2EX			
RECOMMENDATION Grant subject to outstanding representations (closing date 13 June 2018), to receipt of amended drawings and to conditions.			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed development would constitute an annexe reliant on the main dwelling and would not give rise to unacceptable harm to residential or visual amenity.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Jonathan Ward AGENT Anderson Design	
DECISION DUE DATE 11/05/18	PUBLICITY EXPIRY DATE 13/06/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/503010/FULL	Erection of single storey front extension with the insertion of rooflights and erection of front porch.	APPROVED	03.08.15
SW/13/1172	Erection of first floor rear extension above existing flat-roofed extension, and erection of two-storey front extension.	APPROVED	20.11.13
SW/98/0655	Dormers and roof extension to existing chalet.	APPROVED	29.08.98

1.0 DESCRIPTION OF SITE

- 1.01 69 Minster Road is a chalet bungalow located on a corner plot within the built up area of Minster-on-Sea. There is amenity space to the front, facing Baldwin Road and to the side facing Queens Road, with private amenity space to the rear, facing the flank of 5-7 Baldwin Road. There is a detached garage situated at the end of the garden to the rear, which is accessed via Baldwin Road. Two parking spaces are provided to the front of the garage.
- 1.02 The property is in a mature residential area surrounded by dwellings of various scales and designs.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the garage at the property and the construction of an annexe in its place.

- 2.02 The originally submitted drawings proposed an annexe that had a width of 6m and a length of 5.6m, approximately the same footprint as the existing garage. The ridge height of the annexe would be 4.8m, 2.2m taller than the existing garage which would facilitate the creation of a mezzanine floor. The front elevation of the annexe will have windows that face onto Baldwin Road. Access to the annexe will be provided by a door in the southern flank wall of the development. Windows and bi-fold glazed doors will also be situated in the northern flank wall of the annexe, providing access to the rear garden of No. 69. The development as first proposed would provide a bedroom, bathroom, living room and kitchen on the ground floor, and a second bedroom on the mezzanine floor. The application form states the annexe will be constructed using weather boarding and brick work, and will have a slate roof. The two existing parking spaces to the front of the garage will be retained.
- 2.03 I considered the scale of the annexe as first submitted was excessive for a development of this type. Although the annexe could be considered to have a close relationship with the main dwelling, the level of accommodation provided could be considered to amount to a separate dwelling from the host dwelling No. 69. The agent was informed of this, and subsequently amended drawings were submitted that removed the kitchen and mezzanine floor from the proposal.
- 2.04 The proposal includes a flue in the annexe and consequently the Environmental Health Manager was consulted on the application. Concern was raised about the termination of the flue at this height close to the adjacent dwellings (see below) and I have therefore requested that the plans be amended omitting it. I am awaiting these and will update Members at the Meeting.
- 2.05 The description of the application originally read 'Conversion of double garage into self-contained annex', which was inaccurate as the existing garage is to be demolished and the proposed annexe erected. The description was altered to reflect this, and neighbours and the Parish Council were subsequently reconsulted on the application. The closing date for all comments is 13th June 2018, and this report is therefore subject to the receipt of any additional comments which will be reported at the meeting.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Policies CP4, CP7, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan.
- 4.03 Supplementary Planning Guidance (SPG) entitled 'Designing an Extension: A Guide for Householders'

5.0 LOCAL REPRESENTATIONS

- 5.01 Minster-on-Sea Parish Council objects to the proposal, and provide the following comments:

“This is over-intensive development of the site. Parking will be inadequate for the existing and proposed if the proposed goes ahead. It will also result in a reduction in amenity area for the proposal.”

- 5.02 When the description of the proposal changed, the Parish Council were subsequently reconsulted, where they then provided the following comments:

“Minster-on-Sea Parish Council’s original objection submitted 6th April 2018 stands particularly in terms of parking.”

6.0 CONSULTATIONS

- 6.01 The Environmental Health Manager was consulted on the application and provided the following comments:

“Having looked at the proposal, I am of the opinion that the termination of the flue serving the heating appliance in the proposed annex is low relative to the adjoining property in Baldwin Road (Flats 5/6). There is significant potential for fume, odour or smoke nuisance to residents from this flue particularly if the intended appliance is a wood burning stove. I have some considerable reservations about approval of this application.”

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 18/501004/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area boundary where the principle of development is accepted, subject to the relevant policy considerations. The main considerations in this case concern the impact to visual and residential amenity, the use of the proposal as an annexe and the impact of the loss of the garage as a parking space.

Visual Impact

- 8.02 The proposed annexe will be clearly visible in the streetscene, so its design is important. I consider the proposed design of the annexe is acceptable, due to the mixed design of the surrounding properties. I also take the view the proposed materials (cement fibre weather boarding on blockwork and slate roof tiles) are acceptable due to the diverse materials present in the streetscene.

Residential Amenity

- 8.03 The annexe will be situated 1.5m from neighbouring property No. 5-7 Baldwin Road. The annexe will have the same footprint as the existing garage; it will however be taller, which could have an increased impact upon residential amenity at No. 5-7. I note there are windows in the side elevation of this neighbouring property; however these are secondary windows so I do not consider any potential overshadowing impacts will be unacceptable. A single door and a small window which will serve the

bathroom are proposed in the south elevation of the annexe, which could overlook the aforementioned side windows at No. 5-7. To mitigate this issue, I will condition the door and window to use obscure glazed glass.

- 8.04 The proposed windows in the front elevation of the annexe will look onto the streetscape and would be located approximately 21m from the properties on the eastern side of Baldwin Road. Taking into account this distance, I do not consider the windows will give rise to any unacceptable overlooking at any neighbouring property.
- 8.05 The proposal will include a window and patio doors in the north elevation which will look onto the rear elevation of the host dwelling. There is a minimum of 9m between the annexe and rear wall of No. 69, which is a relatively small distance that could give rise to mutual overlooking, however when taking into account the relationship between the buildings, namely the fact the annexe will be ancillary to No. 69, I consider any overlooking will be acceptable.
- 8.06 In their objection, the Parish Council stated that the proposal will result in a reduction in amenity area for the proposal. As the development is to be an annexe ancillary to the main dwelling, the private amenity space for No. 69 will be shared with the annexe, and the proposal does not change the scale of this amenity space.
- 8.07 As set out above, the Environmental Health Manager has raised concern that the proposed flue has the potential to harm residential amenity by virtue of smoke and fumes. I have requested that the drawings be amended accordingly, and I am awaiting these and will update Members at the Meeting.

Use as an annexe

- 8.08 Following amendment, the proposed annexe will contain a bedroom, en-suite and living room and would constitute an annexe dependant on or ancillary to the main house. I consider that the amount of accommodation being proposed is at such a level that it will be dependent on the main dwelling, and as such cannot be considered to amount to a separate dwelling in its own right.
- 8.09 I consider that the use of this structure as an annexe is acceptable and recommend imposing condition (5) below which restricts the use of the building to purposes ancillary and/or incidental to the use of the dwelling.

Parking

- 8.10 The loss of the garage as a parking space needs to be considered. I note to the front of the garage there is block paving that provides parking for two vehicles and these spaces will be retained as part of this application. I note these spaces are not in accordance with standard KCC requirements, as the length of the spaces are 4m as opposed to the preferred 5m, however when I conducted the site visit, two cars were parked on the driveway. As such, I consider it would be to unacceptable to refuse this application due to undersized parking spaces.
- 8.11 The property is currently a three bedroom house, and according to the Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking, two car parking spaces are required for a house of this size in this location. The parking requirements for the site do not increase with the addition of the proposed annex and as such I do not consider that there would be harm to highway safety or convenience as the result of the development proposed.

9.0 CONCLUSION

9.01 On the basis of the above, I consider that the proposal is acceptable in terms of its impact upon the visual and residential amenities of the area. Subject to the receipt of amended plans deleting the proposed flue, I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

(2) The materials to be used in the construction of the external surfaces of the annexe hereby permitted shall match those listed on the application form.

Reason: In the interests of visual amenity.

(3) The development hereby approved shall be carried out in accordance with the following approved drawing: 01/03/18 Rev D.

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

(4) Before the development hereby permitted is first used, the proposed window and door in the south elevation of the annexe shall be obscure glazed and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

(5) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as 69 Queens Road.

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

The Council's approach to this application:

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

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

In this instance:

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

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

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



18/501004/FULL - 69 Queens Road, Minster
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2.3 REFERENCE NO - 18/501862/FULL			
APPLICATION PROPOSAL Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/505728/FULL).			
ADDRESS 45 Lynmouth Drive Minster-on-sea Sheerness Kent ME12 2HT			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The site lies within the built area boundary and accords with the relevant policies of the Swale Borough Local Plan Bearing Fruits 2031 (adopted July 2017).			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member and Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mrs C Randall AGENT Oakwell Design Ltd	
DECISION DUE DATE 03/07/18	PUBLICITY EXPIRY DATE 29/05/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/505728/FULL	Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/503602/FULL).	APPROVED	10.01.2018
The above application was approved at Planning Committee on 04.01.18 and remains unimplemented.			
17/503602/FULL	Rear single storey extension and rear first floor extension.	WITHDRAWN	12.07.2017
SW/86/1390	Proposed first floor extension.	APPROVED	17.02.1987

1.0 DESCRIPTION OF SITE

- 1.01 45 Lynmouth Drive is a two storey detached dwelling located within the built up area boundary of Minster-on-Sea.
- 1.02 The dwelling is set within quite large grounds, with hardstanding to the front of the property and private amenity space to the rear. The surrounding street scene is primarily residential in nature, although the dwellings are of varying scales and designs.
- 1.03 The property was originally a private dwelling but has recently been converted to a House in Multiple Occupation (HMO).

2.0 PROPOSAL

- 2.01 This application is a re-submission of 17/505728/FULL, which Members will recall was approved at Planning Committee on the 4th January 2018. The previous Committee Report is attached at Appendix 1. The only change between the

applications is this current application proposes an obscure glazed window beneath the high level window in the first floor of the gable end extension. It will measure 1.8m in width and 0.8m in height. A new application for planning permission is required for this additional window as the following condition was placed upon approved application 17/505728/FULL:

“Condition (4) The southeast facing gable windows and the rooflights in the first floor elevation to the extension shall be obscure glazed and incapable of being opened unless they are a minimum of 1.7m above the finished floor level. They shall be maintained as such and notwithstanding the provisions of Classes A, B or C of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 no windows, roof windows, dormer windows or doors shall be inserted or enlarged in the first floor of the extension hereby approved.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.”

- 2.02 All other aspects of the proposed rear single storey extension and the rear first floor extension remain the same as that approved under 17/505728/FULL.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP4, DM7, DM14 and DM16
- 4.03 The Council’s adopted Supplementary Planning Guidance (SPG) entitled ‘Designing an Extension – A Guide for Householders’.

5.0 LOCAL REPRESENTATIONS

- 5.01 Four objections were received from neighbours. Their comments are summarised below:

- The property is used as a HMO and is therefore a business.
- There is no car parking for the current tenants and cars end up parked in Scarborough Drive as there is no parking in Lynmouth Drive.
- There have been complaints made to the council about noise and rubbish etc. caused by the tenants.
- No other properties have been converted into bedsit type accommodation in the area and therefore it’s out of character for a residential area.
- The proposed window does not adhere to the condition restricting additional windows on approved application 17/505728/FULL.
- Was not made clear on the application forms that the property is a HMO.
- Since the applicant got denied planning permission for a balcony, she has now proposed a flat roof with a full length window leading out onto it, which will no doubt be used as access to the roof.

- The property has a high turnover of tenants who do not fit in with the area, i.e. make no effort with neighbouring properties, the extra room might lead to an even higher turnover of people who do not contribute to the community.
- Will the additional toilet affect the drainage?
- Concerned that at a later date, the obscure glazed window could be changed to clear glass that will totally overlook our property, giving us no privacy.

5.02 One comment was received from a neighbour neither objecting nor supporting the application. Their comments are summarised below:

- We never have any problems parking outside our house due to the residents at No. 45. In fact there is ample parking for at least 5 cars on her driveway.
- The front of No. 45 is always kept clean and tidy.
- Noise has never been a problem even when No. 45 has had their windows open.

5.03 A comment was received from the daughter of the applicant, which attempts to address the concern raised by the objectors. Her comments are summarised below:

- The applicant has lived at No. 45 for 33 years and there has never been an issue with parking, noise, litter or neighbour disputes.
- No. 45 has 5 parking spaces, only 2 of the tenants drive, leaving plenty of room for the applicant and visitors.
- Noise has never been an issue, one of the tenants works nights shifts so the house is respectfully peaceful and mindful of this.
- The outside of No. 45 has always been clean, clear and well maintained.
- Drainage will not be impacted as the additional room is for the applicant, not a new tenant.
- Window will be obscure glazed to protect all neighbours and applicants own privacy, and will remain obscure glazed for this very reason.

5.04 Cllr Andy Booth, one of the Ward Members for Minster Cliffs called the application in to be heard at Planning Committee.

6.0 CONSULTATIONS

6.01 Minster-on-Sea Parish Council objects to the application, stating the following:

“Minster-on-Sea Parish Council can find no justification why the conditions applied the first-time round (under 17/505728/FULL) should be altered. This proposal despite the advice provided within the set conditions of that application will increase the impact of the House of Multiple Occupation on neighbours’ amenities not negate it particularly in respect of overlooking and loss of privacy.”

6.02 Natural England – No comments

7.0 BACKGROUND PAPERS AND PLANS

7.01 All plans and documents relating to 17/505728/FULL and 18/501862/FULL

8.0 APPRAISAL

Principle of Development

- 8.01 The principle of development was established under the previously approved application 17/505728/FULL. The attached Report at Appendix 1 sets out why the proposed extensions are acceptable. The only change to the approved plans, the addition of an obscure glazed window which will be situated underneath the approved high-level window on the first floor of the gable end extension will be considered with respect to the impact it may have upon residential and visual amenities.

Visual Impact

- 8.02 The proposed window will be situated on the rear of the property, so will not be visible in the street scene. It is of a standard design that will blend in with the existing windows on the property. As such, it will not harm the character or appearance of the existing dwelling or the wider street scene.

Residential Amenity

- 8.03 Regarding impact to residential amenity, I note the window will be obscure glazed, to prevent any overlooking of the neighbouring properties and associated gardens. As such, I do not consider the addition of the window to the extension will give rise to an unacceptable degree of overlooking. I include condition (4) below to ensure the window will be obscure glazed and non-opening below 1.7m from the floor, and will be maintained as such. I acknowledge the concern raised by neighbouring and the Parish Council regarding the potential overlooking and loss of privacy, however I consider the aforementioned condition will ensure any potential overlooking is minimal.

Other Matters

- 8.04 Concerns were raised by neighbours regarding the use of the house as a HMO; however this is a lawful use of the property and therefore is acceptable. Concern was also raised regarding the parking provision at the property, however this was deemed adequate under 17/505728/FULL. With regards to the flat roof being used as a balcony, condition (5) below will prevent this use.

9.0 CONCLUSION

- 9.01 On the basis of the above, I consider the addition of the obscure glazed window will not give rise to unacceptable overlooking at any neighbouring properties, nor will it impact visual amenities. As such, I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved drawing no: PL01, PL04, PL05 Rev A and PL06.

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

- (3) The materials used in the extensions shall match exactly in type, colour and texture those of the existing property unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity.

- (4) The southeast facing gable windows and the rooflights in the first floor elevation to the extension shall be obscure glazed and incapable of being opened unless they are a minimum of 1.7m above the finished floor level. They shall be maintained as such and notwithstanding the provisions of Classes A, B or C of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 no windows, roof windows, dormer windows or doors shall be inserted or enlarged in the first floor of the extension hereby approved.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- (5) The flat roof area identified on approved drawing PL 04 shall not be used at any time as a terrace or balcony.

Reason: To safeguard the privacy of neighbouring occupiers.

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 has the opportunity to speak to the Committee and promote the application.

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



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ITEM 2.2

2.2 REFERENCE NO - 17/505728/FULL			
APPLICATION PROPOSAL Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/503602/FULL)			
ADDRESS 45 Lynmouth Drive Minster-on-sea Sheerness Kent ME12 2HT			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The site lies within the built area boundary and accords with the relevant policies of the Swale Borough Local Plan Bearing Fruits 2031 (adopted July 2017).			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mrs C Randall AGENT Oakwell Design Ltd	
DECISION DUE DATE 27/12/17	PUBLICITY EXPIRY DATE 01/12/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/503602	Rear single storey extension and rear first floor extension	WITHDRAWN	12.10.17

1.0 DESCRIPTION OF SITE

- 1.01 45 Lynmouth Drive is a detached building situated within the built up area boundary of Minster.
- 1.02 The site is set within quite large grounds to rear. The street scene is primarily residential although the dwellings are of varying designs and sizes.
- 1.03 The property was originally a private dwelling but has recently been converted to a House in Multiple Occupation (HMO).

2.0 PROPOSAL

- 2.01 This application proposes a rear single storey extension measuring 2.05m in depth to extend the sun room, together with a rear first floor extension to provide an extra bedroom with en-suite facilities. This will be the same depth as the existing ground floor.

3.0 PLANNING CONSTRAINTS

None

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4.0 POLICY AND OTHER CONSIDERATIONS

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

5.0 LOCAL REPRESENTATIONS

5.01 One letter from a neighbour states; *'note that the balconies, has been removed from the plans, this was our only objection to the original plans, but the high windows are still in the plans, but at sometime in the future this could be changed to doors leading to the flat roof, that could be use for a balcony, this would cause us some concern, could the owners of the property need any permission to carry out such an event.'*

5.02 A second letter states *'I have seen the changes to the above property plan and with my untrained eye, it looks to me the only difference is, there is no balcony. The only thing that worries me is, would it be possible and legal to add a balcony in the future? As that was the objection in the first place.'*

5.03 A third letter states *'I have no objection to the re-submitted plans – provided they meet fully with the proposed development i.e. there are no alterations to the high level glazing to the rear gable and that at no time with the flat roof area outside of the bathroom, becomes a balcony area.'*

6.0 CONSULTATIONS

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

Minster on Sea PC's objection dated 9th October [to a previously withdrawn application] stands. Except for the removal of the balconies, the remainder of the issues have yet to be resolved. The Parish Council also asks that consideration to be given to neighbours' comments to ensure that their concerns are taken it to consideration when determining the application.

The Parish Council previously raised objection on the following basis:

"[This is a commercial enterprise in a clearly residential area. There will be overlooking and loss of privacy issues for what is clearly a House of Multiple Occupation (HMO). The issue of parking will also need to be closely examined. Approval will be detrimental to the residential amenities of neighbours.] The revisions do not address these concerns. A HMO presents as totally out of character in this area and should not be permitted in this part of Minster-on-Sea."

7.0 BACKGROUND PAPERS AND PLANS

7.01 All plans and documents relating to 17/505728/FULL and 17/503602/FULL

8.0 APPRAISAL

8.01 The main considerations in the determination of this planning application concern the impact of the rear single storey extension and the first floor extension on the visual amenities of the building and the surrounding area, and the impact on residential amenity.

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Principle of Development

- 8.02 The application site is within the built up area boundary where the principle of extensions and alterations are acceptable subject to proposals meeting the Councils Policies.
- 8.03 Policy DM16 of the Local Plan specifies that development should be of appropriate design and quality which responds positively to the style and character of the building being extended. Development should be appropriately scaled in relation to the building and its surroundings, and protect residential amenity.

Visual Impact

- 8.04 The extensions are on the rear elevation of the dwelling so would not harm the character and appearance of the existing dwelling or the wider streetscene.

Residential Amenity

- 8.05 The proposed single storey rear extension is shown to project from the rear of the property by 2.05m. The depth of the first floor extension is 5.9m. However this part of the house does not have an immediate neighbouring dwelling next to it – it is located next to the end of gardens that back onto the application site. As such, I do not consider a projection beyond the guidance would necessarily be unacceptable.
- 8.06 The property to the rear of the site, 'Woodstock' is in excess of 21 metres from the proposed extension, and I do not consider there would be an unacceptable impact on this neighbour's amenity due to the distance involved.
- 8.07 The dwelling at 156 Scarborough Drive would face towards the side of the proposed first floor extension, with an intervening distance of around 10 metres. Whilst this would result in a greater mass of built form facing this property, it would comply with the 25° BRE light guidelines. I also note that the eaves and ridge of the first floor extension would be lower than the main house, and that the roof would pitch away from No 156. On this basis, I consider the impact on this property to be acceptable.
- 8.08 With regards overlooking, if the gable windows and the rooflights on the roof slopes of the first floor extension are obscure glazed and fixed shut, as shown on the submitted drawings, there is unlikely to be a significant degree of overlooking. These windows are proposed to serve a bedroom, and I would normally consider such an arrangement to be detrimental to the amenities of the occupiers of this dwelling. I am though mindful that the room is also served by a window looking out over the flat roof extension. I am therefore satisfied that the bedroom does have an adequate outlook..

Highways

- 8.08 There are approximately three car parking spaces to the front of the dwelling which accords with adopted Kent Council Highways and Transportation standards for a dwelling with 4+ bedrooms. There would be no resulting harm to highway safety and convenience.

Other Matters

- 8.09 The Parish Council raised concern on the withdrawn application 17/503602/FULL regarding the application site being a House in Multiple Occupation (HMO) and has raised the same concerns for this application. The agent/applicant has confirmed that

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it is a small HMO. This is a permitted change of use and is not a material consideration here.

9.0 CONCLUSION

9.01 This application for a rear single storey extension and rear first floor extension to provide a bedroom with en-suite 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 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 not be carried out otherwise than in complete accordance with the approved drawing nos: PL01, PL04, PL05 and PL06.

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

(3) The materials used in the extensions shall match exactly in type, colour and texture those of the existing property unless otherwise agreed, in writing, by the Local Planning Authority.

Grounds: In the interests of visual amenity.

(4) The southeast facing gable windows and the rooflights in the first floor elevation to the extension shall be obscure glazed and incapable of being opened unless they are a minimum of 1.7m above the finished floor level. They shall be maintained as such and notwithstanding the provisions of Classes A, B or C of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 no windows, roof windows or dormer windows shall be inserted or enlarged in the first floor of the extension hereby approved.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

(5) The flat roof area identified on the plan shall not be used at any time as a terrace or balcony.

Reason: To safeguard the privacy of neighbouring occupiers.

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:

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

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

In this instance

The application was acceptable after amended drawings were submitted and no further assistance was given.

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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2.4 REFERENCE NO - 18/501878/FULL			
APPLICATION PROPOSAL Change of use of land and siting of 2 static caravans for holiday use.			
ADDRESS Land Adjoining 1 Sunnyhill Warden Road Eastchurch Kent ME12 4ES			
RECOMMENDATION GRANT, subject to receipt of amended drawings to resolve Kent Highways objections, and comments from the County ecologist.			
SUMMARY OF REASONS FOR RECOMMENDATION Site lies within an area designated for holiday park use, and proposed caravans would not give rise to serious amenity issues.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey East	PARISH/TOWN Eastchurch	COUNCIL	APPLICANT Nicola Culwick AGENT Alpha Design Studio Limited
DECISION DUE DATE 04/06/18	PUBLICITY EXPIRY DATE 31/05/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/13/1432	Outline application for erection of two detached bungalows.	Refused	2013
Permission for to residential bungalows was refused on standard grounds of rural restraint, noting the site's location outside of any defined built up area boundary.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is a flat, rectangular parcel of land situated on Warden Road, Eastchurch. It sits between two residential bungalows, with Hazeldene Chalet Park to the rear, and open countryside across Warden Road to the front, and measures approximately 29m wide x 26m deep. Mature trees run along the front boundary, and the site is largely overgrown with brambles and scrub.

2.0 PROPOSAL

2.01 The application seeks planning permission for the stationing of two holiday static caravans on the site. The land would be divided in half, and one static would be placed on each side, with a shared central access and turning head, and one parking space per unit.

2.02 The static caravans will be of a standard design, measuring 14m deep x 6m wide x 4m high, with a pitched roof. A garden area will be provided around each caravan, and a 1.8m high fence will be erected around the perimeter of the site. The existing boundary trees will be retained.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	754sqm
Approximate Ridge Height	4m
Approximate Depth	14m
Approximate Width	6m
Parking Spaces	2

4.0 PLANNING CONSTRAINTS

4.01 The site lies within an area designated for holiday park use by policy DM4 of the adopted Swale Borough Local Plan

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) generally support economic and tourism development, including the provision of new tourist / holiday accommodation, subject to general amenity considerations.

5.02 As above, policy DM4 of the adopted Swale Borough Local Plan 2017 allocates this site for holiday park use, commenting:

“Where new or improved facilities are proposed within the existing boundaries of the Holiday Park areas, as shown on the Proposals Map, planning permission will be granted provided they are:

- a. of a type and scale appropriate to the site or park they are intended to serve;*
- b. where feasible, made available for use by the local resident population;*
and
- c. in accordance with Policy DM5.”*

5.02 Aside from DM4, policies ST1 (sustainable development), ST6 (Sheppey strategy), CP1 (competitive economy), DM3 (rural economy), DM7 (parking), and DM14 (general criteria) of the Local plan are relevant.

6.0 LOCAL REPRESENTATIONS

6.01 Two letters of objection have been submitted by local residents, raising the following summarised concerns:

- Visual appearance;
- A brick built bungalow would be better, and would be in keeping with the neighbouring properties;
- Many holiday parks in the area already; and
- There is space on existing parks for more caravans.

7.0 CONSULTATIONS

7.01 Eastchurch Parish Council *“objects to the application because the application lacks information. Is the site intended for commercial use? If so what regulations would be*

adhered to as the site is in the middle of permanent residences and is not part of a designated holiday site?"

- 7.02 Natural England has no objection.
- 7.03 Kent Highways have requested a number of minor amendments to secure proper visibility and vehicle access. I have requested amended drawings from the applicant and will update Members at the meeting.
- 7.04 The Council's Environmental protection manager has no objections.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The above-noted historic application is of relevance, and the current application is supported by relevant plans and drawings.

9.0 APPRAISAL

- 9.01 It should firstly be reiterated that the application site lies within the land allocated for holiday park use by policy DM4 of the adopted Local Plan. Holiday park use is therefore acceptable in principle.
- 9.02 Furthermore the site lies within an area very much characterised by holiday park uses, and in that respect the proposed static caravans would not appear entirely out of context with the area, in my opinion, despite sitting between two brick and mortar bungalows. The retention of the existing trees along the frontage and side boundary would also help to screen views of the site and minimise any potential visual intrusion.
- 9.03 I note local comments suggesting that residential bungalows would be more appropriate. As above, however, I do not consider that static caravans would, in themselves, appear out of place here. Furthermore whilst holiday accommodation is acceptable here unrestricted dwellings would not be acceptable due to the site's location within the countryside, where local and national policy aim to restrict residential development. This has been demonstrated by the refusal of permission for residential bungalows on the site in 2013, and also by a string of appeal decisions where the Council has successfully defended refusing permission for residential dwellings in this area. Therefore whilst I understand resident's reasoning behind this suggestion, I do not support it.
- 9.04 The Parish Council has questioned whether the caravans would be for holiday or residential use, and whether any restrictions would be imposed. It would be appropriate to impose a standard occupancy condition to ensure the units are for holiday use only, and the condition and Schedule set out below would ensure operation in accordance with the Council's agreed procedure for holiday parks (i.e. 10 months occupation, and not to be used as a permanent or postal address). Subject to the imposition of these standard restrictions, in combination with the holiday park designation of the land, I have no serious concerns over the use of the caravans.
- 9.05 The proposed caravans would be of a standard design, with three bedrooms and associated living space, and they would provide a good standard of amenity for guests. The site also allows good sized garden areas, and has space for additional landscaping.
- 9.06 The site can generally accommodate parking and turning in accordance with the adopted Kent Vehicle Parking Standards, and I have no serious concerns in this

regard. Kent Highways have requested amendments to secure visibility sight lines and safe access / egress, which can easily be accommodated within the development. I await amended drawings in this regard, and will update Members accordingly.

9.07 Because the site is very overgrown it has considerable wildlife and ecological potential. This is not a complete barrier to development, but is a consideration when clearing the site in terms of ensuring any protected species are not disturbed unnecessarily (as set out by the NPPF and the Wildlife & Countryside Act). I await comments from the Kent County Council ecologist and will update Members at the meeting.

9.08 The Habitat Regulations Assessment appended below screens the development out of having to provide SAMMS contributions, in accordance with the Council's agreed protocol.

10.0 CONCLUSION

10.01 This application proposes the stationing of two holiday static caravans on land designated for holiday park use. I note local objections but do not consider them to amount to a justifiable reason for refusal. I therefore recommend that, subject to receipt of amended drawings to resolve Kent Highways concerns, receipt of comments from the County ecologist, and any conditions recommended by those officers, planning permission should be granted.

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) No development shall take place other than in accordance with the following drawings: 1451/2, and 1451/3.

Reason: For the avoidance of doubt.

3) 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.

4) 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.

- 5) 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.

- 6) 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.

- 7) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

- 8) The car parking and turning spaces shown on the approved drawings 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 caravans hereby permitted.

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

- 9) The disposition of uses within the site shall be in accordance with the details shown on the submitted drawings and no static holiday caravans shall be placed outside the area allocated for them on these drawings nor shall any touring caravans or tents be placed outside the areas shown for these purposes.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area

- 10) The static caravans hereby permitted to be stationed on the site shall not be used for human habitation between the 2nd January and the 1st March in any year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet and caravan owners within the application site, stating that:

- (a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- (b) No caravan shall be used as a postal address; and
- (c) No caravan shall be used as an address for registering, claiming or receipt of any state benefit; and
- (d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- (e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Reason: As the site lies outside any area in which permanent residential use of the caravans would be permitted, and to prevent the caravans from being used as a permanent place of residence.

- 11) Any caravan that is not the subject of a signed agreement pursuant to condition 10 shall not be occupied at any time.

Reason: In order to prevent the chalets and caravans from being used as a permanent place of residence.

INFORMATIVES

(1) SCHEDULE

The Park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and

7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

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 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.

Habitat Regulations Assessment.

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

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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 63 and 64 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.

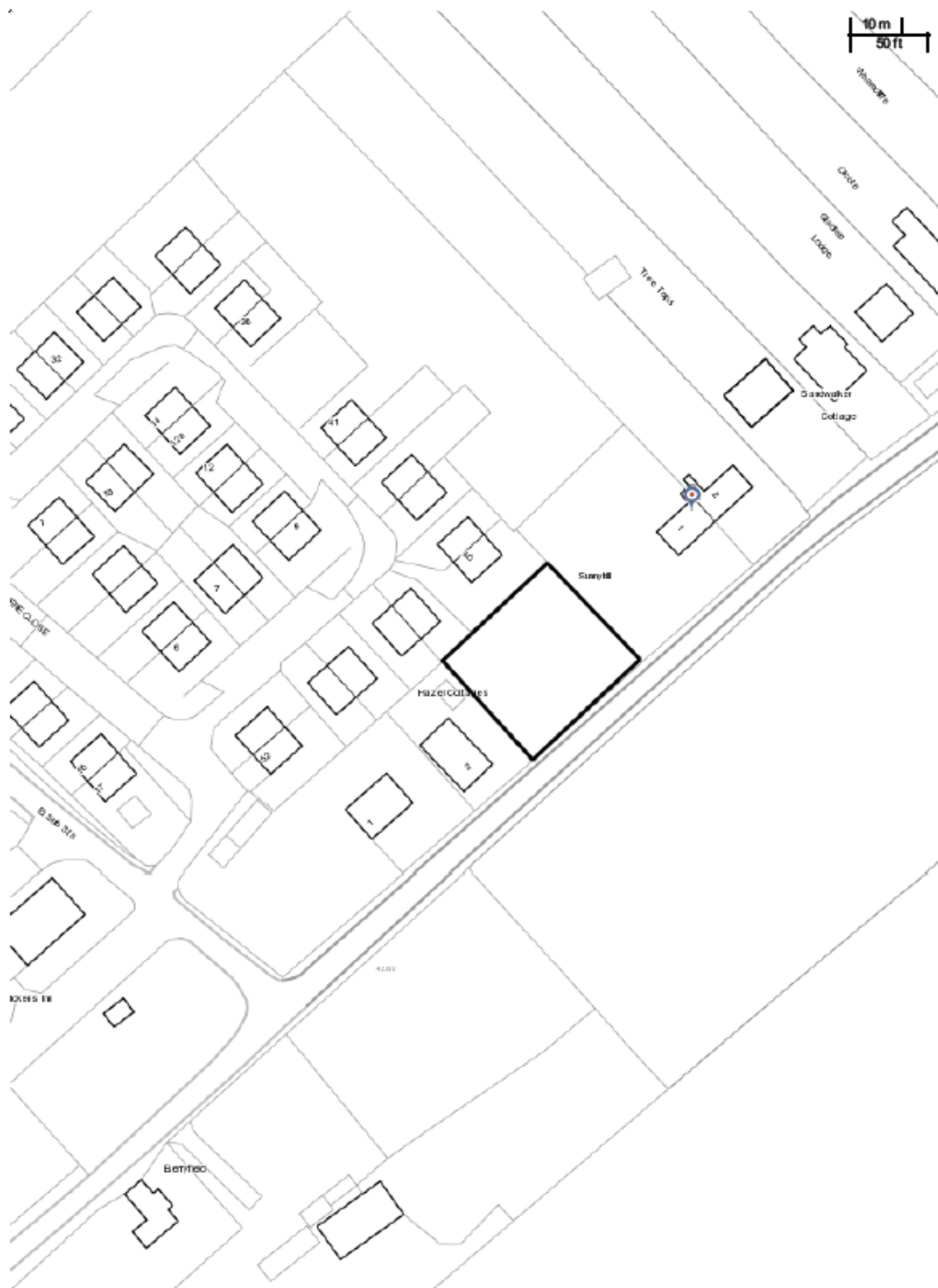
In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- 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 dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.



18/501878/FULL - Land adjoining 1 Sunnyhill, Warden Road, Eastchurch
Scale: 1:1000
Printed on: 11/6/2018 at 15:09 PM by SaraP



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2.5 REFERENCE NO - 18/501494/FULL			
APPLICATION PROPOSAL Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.			
ADDRESS St Saviours Church Whitstable Road Faversham ME13 8BD			
RECOMMENDATION Subject to the further views of the Environmental Health Manager.			
REASON FOR REFERRAL TO COMMITTEE Town Council Objection; Local Objections; Call-in by Cllr Bryan Mulhern			
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Romana Bellinger	
DECISION DUE DATE 30/05/18	PUBLICITY EXPIRY DATE 11/05/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/502638/FULL & 14/502639/LBC	Residential use of rear part of building, and artist's studio in the main building	Approved	31/03/2015

1.0 DESCRIPTION OF SITE

- 1.01 The property is a late C19 'tin' church, a type of building now increasingly rare to find; as such, the building is Grade II listed. The building is situated on Whitstable Road, opposite the Faversham Recreation Ground, within the established built-up area boundary and within the Faversham conservation area.
- 1.02 The building consists of the church itself, and an extension to the rear, also in 'tin' and dating to the 1920s. The rear extension is in residential use, with the main body of the church being an artist's studio. The building is in a reasonable state of repair when considering its age and method of construction, but does suffer from damp, which has serious implication to the metallic nature of its construction. The building is not in the 'At Risk' category but works to arrest its decline are necessary.
- 1.03 The building was for many years used as a joinery workshop, but since 2014 it has been used as an artist's studio with residential use at the rear

2.0 PROPOSAL

- 2.01 The proposal refers to the main body of the church and is for a change of use of the church to re-instate its previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.
- 2.02 It should be noted that this is a planning application only for a change of use; the applicant informs me that a listed building consent application for internal works and internal and external repairs is in preparation.
- 2.03 The proposal in its essence is explained in a statement from the applicant which accompanies the application. It proposes a community 'hub', where drinks and food are available in a café style setting; where local artists may display their work; where cultural and historic talks to small audiences may be given, and as a general place

where the local community may meet. Proposed opening hours are 8.00am to 11.00pm seven days a week.

2.04 The proposal is accompanied by a combined Design and Access Statement and Heritage Statement, and a Planning Statement.

2.05 A licensing application has also been made to the Council under the appropriate legislation. It appears that this application may have caused some confusion, as one of the sections on this form states that the proposal is for the use of 'up to 500 people' for events. That is a statutory category on that form, but a number of residents have taken that to mean that the venue may be holding events for five hundred people. The applicant points out that the building is not physically capable of holding such large events, due to its modest size, and no such intention exists.

3.0 PLANNING CONSTRAINTS

Grade II Listed Building

Conservation Area Faversham

Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): Paragraph 7 (Sustainable Development); Paragraph 14 (Presumption in favour of sustainable development); Paragraph 70 (Social, recreational and cultural facilities), Paragraph 131 (Viable use of heritage assets); Paragraph 132 (Protecting heritage assets)

Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP1 (Building a strong economy); CP6 (Community facilities to meet local needs); CP8 (The historic environment) DM1 (Maintaining and enhancing the viability of town centres and other areas); DM14 (General development criteria); DM16 (Alterations); DM32 (Listed buildings); DM33 (Conservation areas)

5.0 LOCAL REPRESENTATIONS

5.01 The Faversham Society objects to the proposal, for reasons similar to those expressed by the Town Council (see below).

5.02 Seven letters and emails of objection have been received from local residents mostly living close to the site. Their comments may be summarised as follows:

- Site location plan is obsolete: does not show three new houses directly to the west
- One fire exit goes through attached dwelling
- Requires listed building consent
- Alterations have already begun
- Litter and vermin from proposed use
- No waste proposals
- Fire escapes inadequate
- Will presumably require air conditioning, CCTV and security lighting
- I have emailed my objections to the licensing department
- Narrow alleyway for fire escape

- No insulation, sound proofing or fire proofing
- I can already hear sounds from within when putting out my bins
- *'For music to be potentially played from 8am till 11pm 7 days a week will blight the lives of the local residents, especially those with young children and shift workers. It is in the same grounds as Sanctuary Sheltered housing flats. Which houses vulnerable adults. I believe some are trying to stay off of drink and drugs, some are mentally ill and there have been ladies who are in a safe and secure place due to abusive relationships. Having a licensed music venue next door would draw attention to this building and its residents'*
- No off-street parking at a site on a busy junction
- *'There is no outside space to house smokers and I believe one toilet. This could cause a litter issue and perhaps men urinating on the pavements.'*
- *'We already have a shop which sells alcohol nearby and a pub which puts on live music'*

5.03 Fifteen letters and emails of support have been received from local residents. Their contents may be summarised as follows:

- As the previous owner of the building, I also held small arts events at the venue, with no detriment to local community
- The use will help fund repairs to the building
- New owners have experience of events management and production
- Likely to be local people using the venue, so no traffic or parking issues
- The applicants' *'approach is focussed on supporting local artists, local musicians, local food producers, local crafts etc. and overall, giving quality and individuality priority over commercial gain.'*
- *'Many objectors have followed the local press in making much of the theoretical limits of the license application form (8am-11pm 7 days / week for 500 people) as if they represented the actual hours and numbers intended by the applicants. In practice the average weekly opening hours will be very much lower, will be determined by the type of event on any given day, and the building capacity runs nowhere near 500, and will probably be limited to under 100 anyway by the Fire Authority. I feel it's highly unlikely that any events they host there will prove a nuisance to surrounding residents in practice, as their interest and background is based far more in the field of film and the arts than in the sale of alcohol; that would simply be an adjunct to its main purpose as a community arts centre.'*
- No similar venues in Faversham; this will be an asset to the town
- *'Arts, culture, creativity and food are proven generators of community cohesion and engagement. Participating in arts and culture is proven to be incredibly beneficial for health and wellbeing (see the All Party Parliamentary group for Arts, Health and Wellbeing for information on this). Arts and culture contribute hugely to the local and national economy (see the Creative Industries Federation for data on this) and to placemaking (see the TCPA website for guidance on this). Faversham as a town is known for arts, culture and heritage; they are why people chose to live and visit here. The more opportunities for residents to engage in these things, the better for the town, its people, their wellbeing and the local economy'*
- Will not produce ant-social behaviour
- Will be a parent and child friendly destination
- *'It is vital that the local community had a space of this type where the arts can be appreciated, and hope to inspire some of our younger generation, and what better space than one of the most iconic buildings in Faversham?'*

- St. Saviour's is an excellent example of a Tin Tabernacle and is very much worthy of being restored as there are very few left in the country
- *'Faversham is full of pubs in which people can drink and be loud. In my view this venue is very unlikely to attract an antisocial clientele. While it is clearly unsuitable for putting on loud concerts, it would be well suited for programmes of chamber music, jazz, spoken word etc. Artistic expression and performance can contribute to a loving sensibility which is reflected back into the wider community'*
- The owners are intending to use this community building in a way which benefits the community - its original intended use.
- *'I understand neighbours anxiety but it would be nice to give it a chance - any issues that arose would be dealt with and the licence is revokable in the worst-case scenario. The owners have demonstrated that they want to work closely with neighbours to ensure no disturbance.'*

6.0 CONSULTATIONS

- 6.01 Faversham Town Council recommends refusal of the proposal. Their comments are as follows:

'Recommendation: Object Reasons: 1) The building is in the wrong location for the proposed activities 2) Site plan does not show all neighbouring properties 3) The neighbouring properties are home to vulnerable people 4) Lack of Planning information 5) Acoustic Survey required 6) Design Access Statement required 7) Listed Building Consent required 8) Inadequate fire safety assessment.'

- 6.02 The Environmental Health Manager raises no objection to the application subject to a condition requiring an acoustic survey, and one requiring no amplified music to be played on the site. I share his concerns, but at present I am not absolutely sure about the likely implications of the proposed use on the amenities of neighbours, and what implications there might be (in turn) on the need to insulate this lightweight building against noise which might have implications for the character or historic interest of the listed building. As such, I am still considering this matter with the Environmental Health Manager and I hope to report further at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Design and Access Statement and Heritage Statement; Planning Statement.

8.0 APPRAISAL

- 8.01 The main issues to consider are those of residential amenity; the future of this rare listed building; and the perceived need for such a venue. For the sake of regularity, I will address each in turn.
- 8.02 In terms of residential amenity, I do understand the concerns of local residents that the building could be used for up to 500 people, but I am of the opinion that these concerns mainly stem from the unfortunate wording on the applicants' licensing application form. However, a mere cursory inspection of even the exterior of the building would confirm that this relatively small building could not even begin to accommodate anything near that number of people.
- 8.03 In my estimation, anything more than ninety people would be distinctly uncomfortable, and it is certain that the Fire Brigade will impose suitable restrictions

on the number of people using the premises at any one time before a Fire Certificate is issued. Similarly, the concerns over fire exits, etc, which are not planning matters, would be assessed by the Fire Brigade, and a certificate would be refused if found to be inadequate.

- 8.04 It should also be noted that, prior to submitting the present planning application, the applicant instituted a leaflet drop to immediate neighbours, informing them of her intentions and inviting them to come and view the property and discuss any issues of concern.
- 8.05 With the type of venue which is being proposed, I believe that there is little likelihood of anti-social behaviour emanating from the venue. A small venue, outside the immediate town centre, offering refreshments, cultural events and arts offerings is unlikely to appeal to those of an unruly disposition. It is likely to appeal to quiet, cultural people, parents with their young children, and older people who might appreciate the opportunity of going somewhere for tea, cake and a chat with friends. However, to protect the residential amenity of neighbours, I am considering the likely noise implications of such a use with the Environmental Health Manager, and I hope to report further on this matter at the meeting.
- 8.06 With regard to parking and highway issues, I am of the opinion that most of the clientele would be Faversham residents, who would be likely to walk to the venue. As such, I would contend that the proposal, if approved, would have little or no effect on parking issues of highway safety.
- 8.07 Turning to the issues surrounding the listed building and the conservation area, it cannot be denied that work is needed to repair and restore the building. The uses applied for would ensure a small but steady funding stream which would pay for these works; as such, the proposal is in accordance with Paragraph 131 of the NPPF and Policy DM32 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- 8.08 With regard to the ‘need’ for such a facility, I would contend that this is a sensible place for a community facility. The western end of the town has the vastly popular West Faversham Community Centre; the central area boasts the facilities of the town centre, but to the east, there is nowhere which really offers such facilities. As such, the proposed use, if approved, would provide a welcome centre for the immediate community; a venue for the arts; and a non-pub-like place for people to meet.
- 8.09 Paragraph 70 of the NPPF clearly states that: *‘To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments’*

9.0 CONCLUSION

- 9.01 I am of the opinion that this proposal will bring a much-needed community facility to this part of Faversham and subject to discussing the amenity issues with the Environmental Health Manager, I recommend that it be approved, subject to strict conformity with conditions included below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) Details of any mechanical ventilation system that is to be installed shall be 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.

- (3) No floodlighting, security lighting or other external lighting shall be installed or operated at the site.

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

- (4) The premises shall be used for the purpose of a community café and arts centre and for no other purpose, including any other purpose within the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- (5) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week.

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

- (6) Conditions to be recommended by the Environmental Health Manager in respect of noise issues and the possible implications for the amenities of neighbours.

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 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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2.6 REFERENCE NO - 18/500880/FULL & 18/500881/LBC			
APPLICATION PROPOSAL Proposed conversion from A2 to C3 to provide 2No 1 bedroom self contained flats and refurbishment of building (Resubmission of planning application 17/505859/FULL).			
ADDRESS 7 Preston Street Faversham ME13 8NS			
RECOMMENDATION Approved subject the receipt of satisfactorily amended drawings			
REASON FOR REFERRAL TO COMMITTEE Contrary Representations from Town Council			
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Alastair West AGENT Maylands Consulting	
DECISION DUE DATE 18/04/18	PUBLICITY EXPIRY DATE 13/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/505859/FULL & 17/505860/LBC	Proposed conversion from A2 to C3 to provide 2No 1 bedroom self contained flats and refurbishment of building	Withdrawn	10/01/2018
17/503933/LBC	Listed Building Consent for the repair and reinstatement of the building following extensive fire damage.	Approved	21.12.2017

1.0 DESCRIPTION OF SITE

- 1.01 The property is a Grade II listed building, dating from the late C16 with later changes. It is situated at the town end of Preston Street, within the Faversham conservation area and the Core Shopping Area. The building was the victim of a serious fire last year, when much of the original and later fabric was lost. However, the main structural beams and timbers survived the fire, and the basic form of the building remains.
- 1.02 The property was used for many years as a travel agency. As such, it enjoyed A1 use, rather than the A2 Offices and Professional Services use. However, from 2013, the property has been used as a solicitors’ office (A2 use) under Permitted Development rights.

2.0 PROPOSAL

- 2.01 The proposal is to leave the front two-thirds at ground floor level of the property as A2 Professional and Financial Services use, but to convert the rear downstairs third and all of the first floor to two one-bedroom flats. This would involve a new corridor and stairs to access the flats from the single street facing front door of the property. Flat one would be situated at the front of the building on the first floor above the commercial area. Flat two at the rear would be over both ground and first floors.
- 2.02 The present use of the areas to be converted is now given over to store rooms, and an office upstairs at the rear.

- 2.03 The application is accompanied by a Design and Access Statement, which incorporates a Heritage Statement. This has noted the initial concerns expressed by the Conservation Officer with regard to the method of conversion and has adapted and responded to those concerns.
- 2.04 Apart from necessary repairs following the fire, and the replacement of the fenestration with new joinery, the exterior will remain virtually as was, save for the removal of a small chimney stack towards the rear.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
No. of Storeys	2	2	-
Parking Spaces	0	0	-
No. of Residential Units	0	2	+2

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

Listed Buildings SBC Ref Number: 1282/SW

Description: G II 7 AND 8, PRESTON STREET, FAVERSHAM

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): Paragraph 132 (Listed buildings)

Bearing Fruits 2031 – The Swale Borough Local Plan 2017: Policies CP4 (Design), CP8 (The historic environment), DM14 (General development criteria), DM16 (Alterations), DM32 (Listed buildings) and DM33 (Conservation areas)

Supplementary Planning Guidance (SPG) relating to Conservation Areas, Listed Buildings and The Conversion of Buildings into Flats & Houses in Multiple Occupation.

6.0 LOCAL REPRESENTATIONS

- 6.01 The Faversham Society objects to the loss of the ground floor store room.

7.0 CONSULTATIONS

- 7.01 Faversham Town Council comments as follows;

*‘No Objection to the upstairs being developed for residential use. But Object to removal of office and storage on the ground floor.
Condition: 1) An Historic Buildings Survey should be completed before any works take place.’*

- 7.02 No representations have been received from the County Archaeological Officer.

8.0 APPRAISAL

- 8.01 As this property enjoys A2 office use, even though the property is within the Core Shopping Area where changes of use from A1 retail are generally not encouraged under Policy DM1, I do not share the concern of the Town Council about loss of the ancillary office and storage space. I do not consider that the loss of the storage space at the rear of the ground floor level would have an adverse impact on the vitality and viability of Faversham Town Centre, as the A2 use would be retained, with its commensurate employment and commercial advantages to the local economy. In any case the property still retains a basement storage area which will serve the commercial part of the premises. As the proposal includes the restoration of the previous large shop window, the property would also be viable for a future A1 use, if such a change was required. As such, I am of the opinion that the loss of the storage and office area to the rear of the ground floor area would not have an adverse impact upon the town centre offering.
- 8.02 The conversion of the building to two flats would provide two small dwelling units in the town centre within the existing building envelope. It will also use an upper floor area which is line with our policy for town centres. Smaller, less expensive units are certainly required within the Borough, and this proposal, if approved, would certainly provide such units, suitable for both younger buyers or older buyers who wish to downsize.
- 8.03 I note that neither flat would have private parking facilities, but in such a central location within Faversham, where buses are frequent and the railway station is a few minutes' walk away, Kent Vehicle Parking Standards (IGN3) do not require private off-road parking spaces. Public car parks in the form of the central car park adjacent to Faversham pools, and in Institute Road, are a two-minute walk away.
- 8.04 Whilst the proposed flats both more than meet the floorspace standards advised in the Council's relevant SPG I am currently discussing the layout of the front flat with the applicant as I am concerned that the sole bedroom to this flat relies solely on a window situated on the side boundary at the rear. If this window were to be blocked or obstructed externally perhaps by any future extension or alteration works to the adjacent property this could lead to the flat having a poor standard of amenity. Possible solutions include re-planning the flat to rely more on the front street facing window and utilising the side window for a bathroom or kitchen which could ultimately manage without a window. I hope to be able to report further on this matter to the meeting.

9.0 CONCLUSION

- 9.01 As the proposal would provide two much needed smaller housing units within Faversham, without significantly adversely affecting the vitality and viability of the town centre, I am inclined to recommend that the proposal hereby admitted be approved, subject to resolution of amenity concerns and to strict adherence to the conditions included below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

18/500880/FULL – Planning Permission

- (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 construction of the development hereby approved 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 interest of the special architectural or historic interest of the listed building.

- (3) 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.

Councils approach to the 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.

18/500881/LBC – Listed Building Consent

- (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 construction of the development have been 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 interest of the special architectural or historic interest of the listed building.

- (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 until details of external finishes and colours have been submitted to and approved in writing 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.

- (5) Before the development hereby permitted is commenced, samples of any replacement roof tiles (including ridge and/or hip tiles) to be used in the reconstruction of the roof (whether they be new or re-claimed) 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 interest of the special architectural or historic interest of the listed building.

- (6) No development shall take place until samples of the weatherboarding (in its proposed stain or paint finish) to be used in the partial cladding of the side elevation 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 interest of the special architectural or historic interest of the listed building.

- (7) The existing cast iron rainwater goods shall be retained and refurbished/repared as far as is practically possible, and any replacement rainwater goods to be provided (where needed) shall be of cast iron and match the dimensions and profile of the existing retained rainwater goods as closely as possible. The completed rainwater goods system shall be provided with a traditional black painted finish using a proprietary metal paint.

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

- (8) The replacement (timber) windows for the rear elevation shall be constructed in accordance with the approved joinery drawing (ref. MC17066 010).

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

- (9) Before the relevant work commences, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for the diamond mullion window openings to be fitted with a custom secondary glazing system (incorporating double glazing) 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 interest of the special architectural or historic interest of the listed building.

- (10) Before the relevant work commences, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for the replacement door to the rear elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. The drawings to be submitted shall show how the existing segmental arch at the head of the existing door opening shall be adapted to take the proposed wider, double-opening door design, and shall be accompanied by a detailed method statement. The development shall then be carried out in complete accordance with these approved details. (Please also see Informative below).

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

- (11) Before the relevant work commences, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for the new internal doors (including their associated architraves) to be provided in the building (as shown on the approved proposed floor plan drawing – ref. MC17066 002 Rev. C) 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 interest of the special architectural or historic interest of the listed building.

- (12) Before the relevant work commences, a 1:1 vertical and plan joinery section showing the tread and riser and any skirting for the new stair between the ground and first floor 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 interest of the special architectural or historic interest of the listed building.

- (13) The new partitions to be inserted at first floor level shall be scribed around the profile of the existing tie beams to which they abut. The tie beams are not to be cut in the carrying out of the conversion works without the prior written approval of the Local Planning Authority.

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

- (14) Before the relevant works commence, a specification (including detailed and scaled section drawing) of the fire and sound partitions to be provided, 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 interest of the special architectural or historic interest of the listed building.

- (15) Before the relevant works commence, details of any vents, flues or pipe overflow outlets to be provided in relation to the proposed conversion works, shall be submitted and approved in writing by the Local Planning Authority. The submitted details shall include a floor plan and part elevation indicating the exact location of the vent, flue or pipe overflow outlet to be provided. The development shall then be carried out in complete accordance with these approved details.

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

- (16) Unless previously agreed in writing with the Local Planning Authority, new/replacement pipework and cabling serving the new flats and reconfigured/refurbished retail unit shall run in the floor voids at ground and first floor level and be aligned in order to avoid the need for cutting into the floor joists.

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

- (17) Before the relevant works commence, details of the new, replacement or retained and repaired/refurbished floor finishes to be used 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 interest of the special architectural or historic interest of the listed building.

- (18) Unless previously agreed in writing with the Local Planning Authority, all making good works shall be carried out using matching materials and finishes (including colour finish).

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

INFORMATIVE

- (1) The sections to be provided shall include part of the surrounding masonry or joinery bordering the door opening and shall be set out clearly (annotated as necessary) to show the following details, as applicable:

- Depth of reveal
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profile(s)
- Door frame
- Weatherboard and threshold detail

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

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

PLANNING COMMITTEE – 21 JUNE 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 – Land at Scoggers Hill, Boughton
APPEAL DISMISSED and Enforcement Notice Upheld**

Observations

This appeal was only made on the grounds that no breach of planning control had taken place, but the appellant provided no argument to that effect. When the Inspector visited the site the appellant was not there but the Inspector was able to see the site for himself and he drew his own conclusions which supported the Council's allegations.

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The Planning Inspectorate

Appeal Decision

Site visit made on 4 April 2018

by V F Ammoun BSc DipTP MRTPI FRGS

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

Decision date: 01 June 2018

Appeal Ref: APP/V2255/C/17/3172005

Land at Scoggers Hill, Boughton, Kent

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Master John Ebrill against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 16 February 2017.
 - The breach of planning control as alleged in the notice is *Without planning permission, the material change of use of the Land from agricultural to a mixed use of agricultural and for the storage of various materials both within and outside of a number of shipping containers, parking or storage of army style and off-road style vehicles and for the stationing of a caravan for residential use, all being located on the Land with no association to any agricultural activity.*
 - The requirements of the notice are (i) *Cease the use of any part of the Land for the storage, parking or stationing of any materials, containers, army style and off-road style vehicles or caravan, not associated with agricultural use of the Land;* (ii) *Remove all materials, containers, army and off-road style vehicles and any caravan not used in association with agricultural use of the Land.*
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)[b] of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
-

Decision

1. The appeal is dismissed and the Enforcement Notice is upheld.

The appeal

2. The Enforcement Notice Appeal Form completed by the Appellant included queries as to the jurisdiction of the Council, referred to inalienable rights, claimed defects in a Kent Constabulary criminal investigation, and referred to the Human Rights Act. A subsequent email of 4 August also refers to problems with Council reference numbers and generally sought guidance. In its email letter of 11 August 2017 14:10 the Inspectorate informed the Appellant as to the scope of its responsibility and gave a summary of the enforcement appeal process that would ensue, in particular drawing attention to the timetable for the appeal. On the same day details of the appeal process were set out in letters sent to both parties.

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

Appeal Decision APP/V2255/C/17/3172005

3. In the course of the appeal process the Council provided an appeal statement which was sent to the Appellant on 27 September 2017, together with representations from the Dunkirk Parish Council. No statement or reply was received from the Appellant, who did not attend the subsequent site inspection.

The appeal on ground (b)

4. The appeal was made on the single ground (b) which is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. In this regard on 4th August the Appellant stated *"with regard to ground b: the facts speak for themselves, no contravention of the town and country planning act 1990 had or has occurred.*
5. Ground (b) is known as a "legal ground" and where a legal ground is raised against an Enforcement Notice it is the responsibility of Appellants to show that, on the balance of probability, their case should prevail.
6. The Council statement included photographic evidence of what was there in October 2016. Aerial photographs show changes to the site over time. At my visit to the site while attempting to contact the Appellant in his caravan I saw the same range of objects including but not confined to storage containers, a vehicle, and the caravan. What is on the ground thus support the Council's case. There is no evidence from the Appellant that the objects referred to and/or residential use of the caravan serves the "limited horticultural use" seen by the Council in 2016. As a matter of fact and degree I consider that the type and distribution of stored objects in relation to the area of the site is such that there has been a material change of use, while the stationing of a caravan for residential use is a material change of use of the site on its own.
7. It is therefore my conclusion that the Appellant has not shown that, on the balance of probability, the case on ground (b) should succeed. On the other hand the Council's case is supported by the facts of what is present on this site. The appeal on ground (b) fails.
8. For completeness I restate the fact set out in the headnote above, that because the prescribed fees have not been paid there is no deemed planning application before me for consideration. Accordingly while I have noted all representations made, I must take my decision on the legal grounds pleaded only.
9. I have taken into account all the other matters raised in the representations, but do not find that they are necessary to or alter my conclusions on the appeal.
10. As there are no other grounds of appeal, once the appeal on ground (b) has failed the appeal must be dismissed and the Enforcement Notice upheld.

VF Ammoun
INSPECTOR

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