

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 8 November 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 11 October 2018 (Minute Nos. 278 - 282) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

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

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

5. Deferred Item

1 - 34

To consider the following application:

18/503274/FULL Erection of 1 detached 3 bedroom chalet bungalow at 82 Church Lane, Newington, Sittingbourne, Kent, ME9 7JU.

Members of the public are advised to confirm with Planning Services prior to the meeting that this 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 7 November 2018.

6. Report of the Head of Planning Services 35 - 227

To consider the attached report (Parts 1, 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 7 November 2018.

7. Exclusion of the Press and Public

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

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

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

8. Report of the Head of Planning Services 228

To consider the attached report (Part 6).

Issued on Tuesday, 30 October 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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

8 NOVEMBER 2018

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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PLANNING COMMITTEE – 8 NOVEMBER 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 - 18/503274/FULL | | | |
| APPLICATION PROPOSAL Erection of 1 detached 3 bedroom chalet bungalow. | | | |
| ADDRESS 82 Church Lane Newington Sittingbourne Kent ME9 7JU | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The changes proposed from approved bungalow would have an acceptable impact upon residential amenity, visual amenity and parking provision. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mr K Cooper AGENT T Fleming Homes Ltd | |
| DECISION DUE DATE 25/10/18 | PUBLICITY EXPIRY DATE 20/09/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| Land to the rear of 80 and 82 Church Lane; | | | |
| 18/501586/REM | Reserved matters of access, appearance, scale, layout and landscaping pursuant to outline permission 16/505663/OUT for erection of 1 detached 2 bedroom bungalow. | APPROVED | 01.06.18 |
| 16/505663/OUT | Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration. | APPROVED | 20.10.16 |
| <i>This application was reported to Planning Committee at the same time as the below application. Officers recommended approval, and the application was approved, with a condition added restricting rooms in the roof space of the bungalow.</i> | | | |
| 16/505653/OUT | Outline application for the erection of 2 no. 3 bedroom semi-detached houses with all matters reserved for future consideration. | REFUSED | 20.10.16 |
| <i>This application was reported to Planning Committee, with Planning Officers recommending approval, however this was overturned and the application was refused.</i> | | | |

| | | | |
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| Existing bungalow at 82 Church Lane; | | | |
| 18/500652/FULL | Conversion of loft into a habitable space and creation of a car port, including the removal of the existing roof and erection of a new wider roof with an increased ridge height. | APPROVED | 29.03.18 |

1.0 BACKGROUND

- 1.01 Members will recall that this application was reported to the Meeting on 11th October, recommended for approval. After a wide ranging discussion, the Planning Committee was minded to not accept the officers recommendation to approve.
- 1.02 Determination of the application was therefore deferred to this meeting in accordance with the Terms of Reference of the Planning Committee, since a refusal of planning permission would have been contrary to my recommendation, contrary to policy and guidance, and as in my view Members had failed to demonstrate sound planning reasons for refusing the application which could be substantiated on appeal.
- 1.03 In this new report I do not intend to repeat the assessment of the application as set out in the original report. I will though assess the possible implications of a decision to refuse planning permission for the reasons mooted at the previous Meeting, and confirm my recommendation that permission be granted.

2.0 POSSIBLE IMPLICATIONS OF A DECISION TO REFUSE PLANNING PERMISSION

- 2.01 My concerns over a possible decision to refuse planning permission for this development is based on the need for planning decisions to reflect a proper assessment of planning policies and other material considerations and for Members, when overturning officer recommendations, to present sound, justifiable and defensible planning reasons for refusal related to the likely impact of the proposed development;
- 2.02 At the Meeting, the discussion of the Committee centred around a number of issues, which I set out below.

The proposed development would be contrary to the conditions imposed on the outline planning permission for a bungalow here

- 2.03 The development proposed included two roof lights to the rear, and two bedrooms (together with a bathroom) in the roof space. The conditions imposed on the outline permission prevent the exercise of permitted development rights *once the building is complete and in use as a dwelling*. This is a full application for planning permission for a single storey dwelling with rooms in the roof space. It is not therefore contrary to the conditions imposed on the outline planning permission, but rather a separate proposed development.
- 2.04 Notwithstanding this, the imposition of conditions removing permitted development rights simply gives the Council control over future development at sites, and means that an application for planning permission is required. It does not follow that planning permission should automatically be refused for applications required for development restricted by condition. To do so would be to refuse planning permission simply on the basis that planning permission is required. Such a reason would not stand up to

scrutiny on appeal and would result in costs being awarded against the Council for an unreasonable refusal of planning permission.

- 2.05 The imposition of such conditions allows the Council to consider and appraise the development proposed, and to assess whether any material planning harm arises from it such that the refusal of planning permission would be justified. This assessment is carried out in the report presented to the previous Meeting and appended to this report. My officers have considered the development and concluded that no significant harm would arise. As such, in my view, there is no justification for the refusal of planning permission.
- 2.06 The Planning Committee is of course fully entitled to reach a different conclusion, but this must be based on an appraisal of the scheme against planning policy, guidance and having considered the material planning considerations inherent in the development proposed. That the development proposed requires planning permission is not a material consideration and cannot be taken into account.

The proposed development would be larger than the approved scheme

- 2.07 The external size of the dwelling remains unchanged between the current scheme and the approved scheme. As such, planning permission cannot reasonably be refused on this basis.
- 2.08 It is of course correct that the development currently proposed seeks to add rooms in the roof space. However – in order to refuse planning permission, Members need to identify material planning harm. It is not enough to simply refuse planning permission on the basis that the internal living space would increase.
- 2.09 The key issue in this respect, is any increase in parking requirements and vehicle movements. The scheme before Members includes parking provision in excess of that required for a three bedroom dwelling – 3 off street parking spaces, when the requirement is for a maximum of two. In my view the additional vehicle movements associated with a three bed as opposed to a two bed unit will be negligible in the context of the amount of traffic using Church Lane and the wider area, and the Council would be unable to substantiate, on appeal, that an additional bedroom in this dwelling would give rise to such harm to highway safety and convenience that planning permission should be refused. Finally, in this regard, the increase in vehicle movements would not have any material effect on the AQMA in Newington or air quality in the area generally.

The proposed development could be subdivided internally to include an additional bedroom

- 2.10 If the building were to be constructed as a four bedroom unit, this would not accord with the plans and would require planning permission. Members cannot determine any application on the basis that a developer may not build what is shown on the approved plans.
- 2.11 The subdivision of rooms within a dwelling to provide additional bedrooms *after* construction is not development and cannot be controlled by planning conditions. Whilst I note Member's concerns in this regard, this applies equally to every dwelling granted planning permission. To determine applications on the basis that the occupiers might choose to carry out works which do not in themselves require planning permission at some point in the future is, therefore, to do so based on speculation, relating to matters which cannot be controlled by the planning system,

and which could not be adequately defended at appeal. The Council would lose such an appeal and lose costs.

- 2.12 Notwithstanding this, even if the dwelling was at some point to be altered internally creating a fourth bedroom, the parking requirement would remain unchanged – two off street parking spaces would be required, and this scheme proposes three.

Planning permission should be refused for the same reasons as previously

- 2.13 The only recent refusal of planning permission at this site was for the erection of a pair of semi-detached houses. The reasons for refusal were as follows:

(1) The proposal by virtue of the location of the site and the likely scale of the development proposed in comparison to the size of the plot would result in harm to the character and appearance of the area, contrary to Policies E1 and E19 of the Swale Borough Local Plan 2008.

(2) The proposed development would give rise to an increase in vehicle movements within Church Lane which, taken cumulatively with existing vehicle movements and those occurring as a result of development approved elsewhere in Church Lane, would compound existing problems relating to congestion and the free flow of traffic in the lane, leading to harm to the safety and convenience of all users of the highway. The proposed development would be contrary to Policy E1 of the Swale Borough Local Plan 2008.

- 2.14 Members should be clear that reasons for refusal relating to different developments should not be reused without a proper consideration of the development proposed, an assessment of the material considerations relevant to the development proposed and consideration of any appropriate reasons for refusal. In certain circumstances, for example, where a resubmission of a previously refused scheme does not overcome the reasons for refusal, it may be appropriate to repeat them.
- 2.15 In this case, the refused scheme and the current proposal are materially different in terms of the number of dwellings, the design of the dwellings, and the parking and highways impacts of the dwellings. It would be fundamentally wrong to refuse planning permission for a bungalow with rooms in the roof space for reasons relating to the scale of the proposal in relation to the plot, particularly where, as I set out above, the development currently proposed matches the approved bungalow in terms of size and location on the plot. Such a reason plainly would not be sustainable on appeal.
- 2.16 Equally, as I set out above, the increase from two to three bedrooms is unlikely to give rise to a noticeable increase in vehicle movements nor to harm to highway safety and convenience. Clearly the impact of two houses would be different in highway terms to a single three bedroom bungalow, and Members should not in my view refuse planning permission on this basis.

3.0 CONCLUSION

- 3.01 Reasons for refusing planning permission need to be based on relevant planning policy, guidance and/or material planning considerations relevant to the development proposed. As I set out above, I do not consider that the Planning Committee's consideration of this development gave rise to such reasons, hence why the application was deferred to this Meeting.

- 3.02 It is imperative that planning permission be refused only where material planning harm is likely to arise and where that harm cannot be controlled by planning conditions. If no such harm can properly be identified as arising from the proposed development, planning permission should be granted.
- 3.03 In this case, I am very firmly of the view that the proposed development would not give rise to material planning harm justifying the refusal of planning permission, and I do not consider that Members' consideration of the scheme demonstrate any such harm as arising. I remain of the view that planning permission should be granted, and accordingly recommend approval.

4.0 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 beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (3) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- (4) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

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

Monday to Friday 0800 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (6) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be 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 Plan Authority.

Reason: In the interests of residential amenity.

- (7) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

- (8) The area shown on the submitted plan as car parking spaces 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 (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (9) Before the development hereby permitted is first used, the proposed windows in the side elevations of the bungalow 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.

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

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

- (11) The development hereby permitted shall be carried out in accordance with the following approved drawings: 7530.BR4, 7530PL1 and 7530.PL2.

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

- (12) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

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

INFORMATIVES

- (1) The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

The Council's approach to this application:

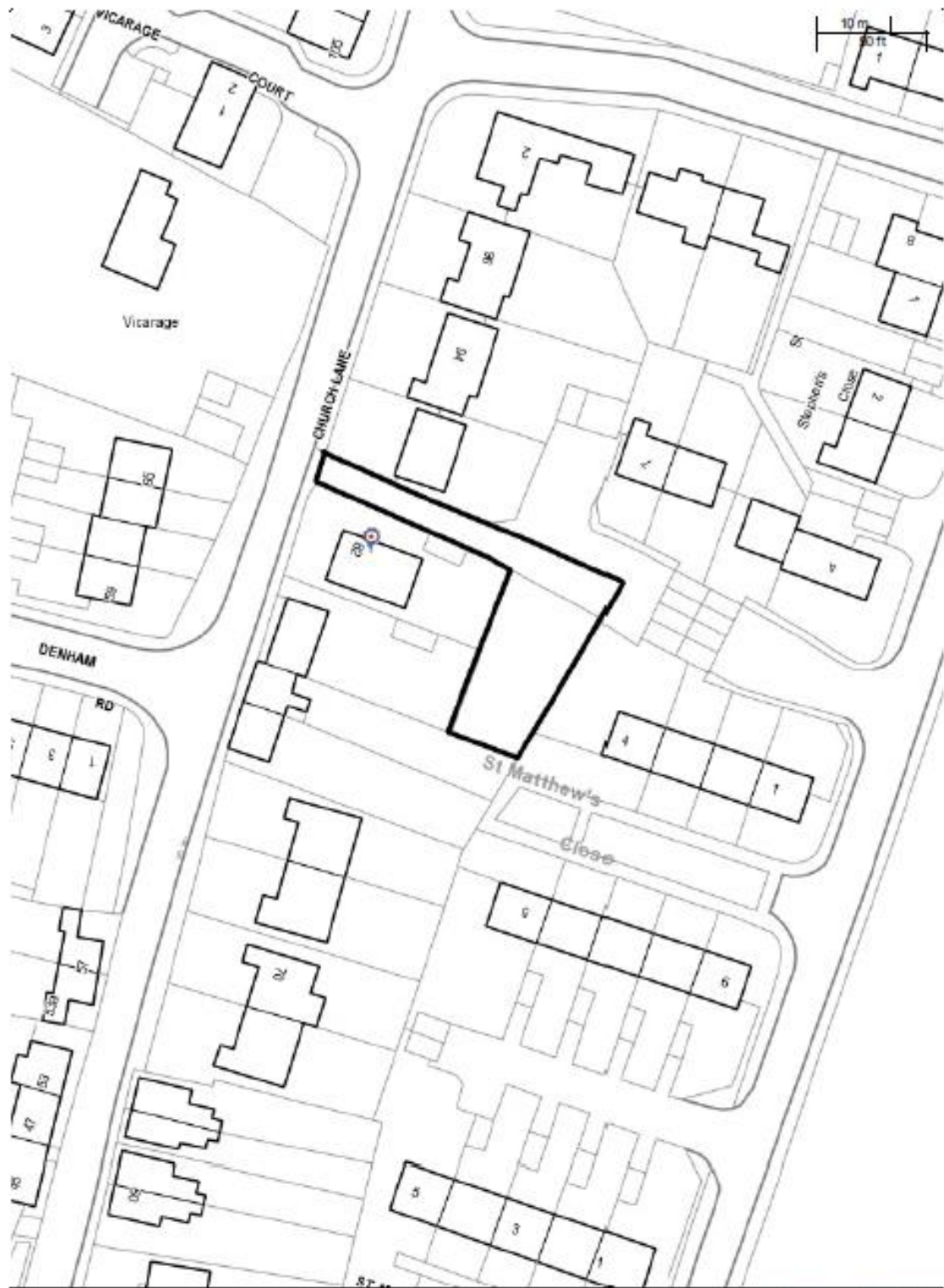
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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.



18/503275/FULL - 82 Church Lane
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APPENDIX 1

Planning Committee Report - 11 October 2018

Item 2.1

PLANNING COMMITTEE – 11TH OCTOBER 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

| | | | |
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| 2.1 REFERENCE NO - 18/503274/FULL | | | |
| APPLICATION PROPOSAL Erection of 1 detached 3 bedroom chalet bungalow. | | | |
| ADDRESS 82 Church Lane Newington Sittingbourne Kent ME9 7JU | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The changes proposed from approved bungalow would have an acceptable impact upon residential amenity, visual amenity and parking provision. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN Newington | COUNCIL | APPLICANT Mr K Cooper AGENT T Fleming Homes Ltd |
| DECISION DUE DATE 25/10/18 | PUBLICITY EXPIRY DATE 20/09/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| Land to the rear of 80 and 82 Church Lane; | | | |
| 18/501586/REM | Reserved matters of access, appearance, scale, layout and landscaping pursuant to outline permission 16/505663/OUT for erection of 1 detached 2 bedroom bungalow. | APPROVED | 01.06.18 |
| 16/505663/OUT | Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration. | APPROVED | 20.10.16 |
| <i>This application was reported to Planning Committee at the same time as the below application. Officers recommended approval, and the application was approved, with a condition added restricting rooms in the roof space of the bungalow.</i> | | | |
| 16/505653/OUT | Outline application for the erection of 2 no. 3 bedroom semi-detached houses with all | REFUSED | 20.10.16 |

APPENDIX 1

Planning Committee Report - 11 October 2018

Item 2.1

| | | | |
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| | matters reserved for future consideration. | | |
| <i>This application was reported to Planning Committee, with Planning Officers recommending approval, however this was overturned and the application was refused.</i> | | | |
| Existing bungalow at 82 Church Lane; | | | |
| 18/500652/FULL | Conversion of loft into a habitable space and creation of a car port, including the removal of the existing roof and erection of a new wider roof with an increased ridge height. | APPROVED | 29.03.18 |

1.0 DESCRIPTION OF SITE

- 1.01 The application site is situated to the north of the railway bridge in Newington. It forms part of the rear garden of 82 Church Lane and extends to the rear of 80 Church Lane. It is accessed via a private road which leads to a small garage court. The site is flat with typical domestic landscaping in place.
- 1.02 There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.
- 1.03 Outline permission for a two bedroom bungalow was approved under 16/505663/OUT and details regarding access, appearance, scale, layout and landscaping were approved under an application for reserved matters, 18/501586/REM. Construction of the bungalow has not yet commenced.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a four bedroom chalet bungalow on the site. Two bedrooms, a bathroom and an open plan living/kitchen and dining room are proposed on the ground floor. In the roof space, two bedrooms and a bathroom will be created. Two parking spaces will be provided to the front of the chalet bungalow. The proposed chalet bungalow will be very similar to the approved bungalow on the site. The only change between this application and the approved bungalow is the addition of two rooms in the roof space resulting in two roof lights on the rear roof slope. For clarity, I have included both the outline (ref. 16/505663/OUT) and reserved matters (ref. 18/501586/REM) applications as appendix 1 and 2.
- 2.02 Amended plans were submitted, removing a bedroom on the ground floor by creating a larger open plan living/kitchen and dining room. An additional parking space was also provided to the side of the chalet bungalow. As such, the application now proposes a three bedroom dwelling with three parking spaces.
- 2.03 A new application for planning permission was required as a condition restricting rooms in the roof space of the approved bungalow was included on the outline application (ref. 16/505663/OUT).

3.0 PLANNING CONSTRAINTS

- 3.01 None

APPENDIX 1

Planning Committee Report - 11 October 2018

Item 2.1

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Development Plan: Policies ST1, ST3, CP3, CP4, DM7, DM14 and DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- 4.03 The Council's Supplementary Planning Guidance entitled "Designing an Extension: A Guide for Householders" which was adopted on the 9th December 1992, is relevant and remains a material consideration having been through a formal review and adoption process.

5.0 LOCAL REPRESENTATIONS

- 5.01 Seven objections were originally received on the application. Their comments are summarised below:
- Two additional bedrooms could result in an increase in the number of vehicles at the property in an area that already suffers from parking issues.
 - The bungalow is surrounded by at least 8 other properties and will affect the outlook of many neighbours.
 - Two windows in the roof will result in overlooking.
 - The density of the roof space would cause even more overshadowing.
 - The rear garden is only 8m in length and the Council recommends a minimum of 10m, therefore the outside amenity space is inadequate.
 - Works would cause even more noise, smells, building material debris and disturbance than we are already going to face.
- 5.02 As we have received a total of seven objections to the proposal, I have contacted the relevant Ward Members and asked whether they would wish the application to be called in to be heard at the Planning Committee, as per the Council's Constitution. Both Cllr Lewin and Cllr Wright did not wish to call the application into Planning Committee, although Cllr Wright did note the garden does not comply with Council guidelines.
- 5.03 Subsequently, Newington Parish Council submitted comments objecting to the application, stating they opposed the original application for this development and they strongly object to this application. They note neighbours concerns regarding the access to the new property and mention the traffic issues in Church Lane, explaining that this proposal could result in additional vehicles parking either in Church Lane or the already congested private driveway. They also raise concerns about overlooking from the rooflights.
- 5.04 Amended plans were submitted and the description was altered. As such, neighbours and the Parish Council were re-consulted on the application.
- 5.05 A further three objections were received from neighbours. Their comments are summarised below:

APPENDIX 1

Planning Committee Report - 11 October 2018

Item 2.1

- Internal layout could be changed on the ground floor creating a four bedroom property.
- Outline application stated bungalow should be single storey, to prevent harm to visual amenity.
- All 3 occupants of the 3 bedroom chalet bungalow may own cars which could cause direct issues in the neighbourhood – frustrate visual and residential amenity and ability to have peace and relax.
- Already facing disruption with work that is going on at main bungalow No. 82.

6.0 CONSULTATIONS

- 6.01 KCC Highways & Transportation state the development does not meet the criteria to warrant involvement from the Highway Authority.
- 6.02 Southern Water has no comments to make with regards to the removal of condition 12. The comments in the original response dated 28.07.2016 remain unchanged and valid.
- 6.03 Environmental Health has no comments to make.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning applications 16/505663/OUT, 18/501586/REM and 18/503274/FULL.

8.0 APPRAISAL**Principle of Development**

- 8.01 The principle of development, scale, layout, access and landscaping of the proposed chalet bungalow has been determined under the applications for outline permission (16/505663/OUT – appendix 1) and reserved matters (18/501586/REM – appendix 2). Therefore only the changes between the approved bungalow and this application will be discussed here, namely the impact additional rooms in the roof space will have on residential and visual amenity and parking provision.

Visual Impact

- 8.02 Regarding the addition of two roof lights to the rear roof slope, I consider they would sit comfortably on the dwelling, and would not give rise to unacceptable impacts to the character and appearance of the property. I note due to their position on the rear roof slope they will not be visible in the street scene.

Residential Amenity

- 8.03 This application includes the addition of two roof lights to the bungalow. All other aspects of the design and scale of the dwelling were deemed acceptable under 18/501586/REM (appendix 2). As the two windows will be roof lights, I believe no overbearing / overshadowing impacts will arise. Concern was raised regarding potential overlooking from these windows. The windows would face onto the rear gardens of the properties along Church Lane but I note due to the position of the proposed bungalow, the windows would provide views of the very rear of the gardens along this stretch of Church Lane. The closest garden, at No. 80 would be approximately 10m away from the windows. However, although there is potential for

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some overlooking to occur, I consider this would not be significant enough to warrant a reason for refusal in this case.

- 8.04 Concern was also raised about the size of the rear garden, which is approximately 8m in length. In the delegated report for 18/501586/REM (appendix 2), it states the following:

“The Council typically requests rear gardens have a length of at least 10m, but taking into account the bungalow will have only 2 bedrooms, I consider the scale of the outside amenity space provided is adequate.”

The proposed dwelling will have three bedrooms. Although the garden is slightly below the preferred size, I do not consider this would amount on its own to a reason for refusal on this application. The property is likely to be occupied by a family whether it has two bedrooms or three bedrooms, and the garden would provide enough space for such a dwelling. As such, I believe the size of the garden would be acceptable for a three bedroom property.

- 8.05 In order to create another parking space at the new property, the remaining rear garden at existing dwelling No. 82 Church Lane has been reduced to 9.5m in length. I consider this will still provide an acceptable level of private amenity space for the property, so have no concerns here.

Highways

- 8.06 Three car parking spaces are proposed to the front of the bungalow. With the additional rooms in the roof space, the bungalow will be a three bedroom dwelling. According to the Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking, two spaces would be required for a three bedroom dwelling in this location. As such, the proposed parking provision is acceptable. I note concern was raised regarding the potential increase in vehicles from the addition of two bedrooms at the property, however as the proposed parking is in line with KCC requirements, I have no concerns here.

Landscaping

- 8.07 The submitted plans show proposed landscaping to the front and rear of the bungalow. An apple tree is proposed to the front of the dwelling and a field maple to the rear. I have included a condition below to ensure these details are implemented and retained.

Impact upon SPA and Ramsar sites

- 8.08 I have for completeness set out a Habitats Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.09 Concern was raised about the impact of the proposal on the outlook from neighbouring properties. However the proposed chalet bungalow differs very little in design and is

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the same scale as the approved bungalow, therefore I consider the impact on neighbour's outlook is acceptable. Neighbours also raise concerns about the potential of adding an additional bedroom on the ground floor of the property, as was originally proposed under this application. I note that if the chalet bungalow was to have four bedrooms, the parking provision would remain the same, as would the level of amenity provided at the property. As such I have no concerns in this respect.

- 8.10 I take note of the comments Southern Water and Environmental Health provided on the outline application (16/505663/OUT). As such, I have included the conditions they have recommended relating to foul and surface water disposal, dust suppression and working hours. I consider these conditions will address the concern raised by objectors regarding the additional noise and disturbance that may be caused by the proposal.

9.0 CONCLUSION

- 9.01 On the basis of the above, I consider the proposed addition of rooms in the roof space of the bungalow will not lead to unacceptable impacts to visual and residential amenity. The parking provision at the property is adequate and I believe the proposal will provide an acceptable level of amenity for future occupiers. All other aspects of the proposal were deemed acceptable under the outline and reserved matters applications and 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) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (3) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- (4) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

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

Monday to Friday 0800 – 1800 hours, Saturdays 0830 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (6) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be 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 Plan Authority.

Reason: In the interests of residential amenity.

- (7) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

- (8) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) 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) Before the development hereby permitted is first used, the proposed windows in the side elevations of the bungalow 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.

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

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

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(11) The development hereby permitted shall be carried out in accordance with the following approved drawings: 7530.BR4, 7530.PL1 and 7530.PL2.

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

INFORMATIVES

(1) The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Habitat Regulations Assessment

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

The application site is located approximately 2km south of The Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

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

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normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE and the Councils concerned.

- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Borough 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 Borough 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 Borough 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.

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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

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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 2

| | | | |
|---|---|---|-------------|
| 2.6 REFERENCE NO - 16/505663/OUT | | | |
| APPLICATION PROPOSAL Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration. | | | |
| ADDRESS 82 Church Lane Newington Kent ME9 7JU | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the dwelling and its parking demands. The impact on residential amenity would be minimal and acceptable. | | | |
| REASON FOR REFERRAL TO COMMITTEE Newington Parish Council objects. | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mrs Deborah Greene AGENT | |
| DECISION DUE DATE 20/10/16 | PUBLICITY EXPIRY DATE 30/08/16 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 16/505653/OUT | Outline application for the erection of 2 no. 3 bedroom Semi-detached houses with all matters reserved for future consideration | Also on this agenda. | Na |

1.0 DESCRIPTION OF SITE

- 1.01 The site is located to the north of the Railway bridge in Newington. It is accessed via a private road which leads to a small garage court. The site forms part of the rear garden of 82 Church Road and extends to the rear of 80 Church Lane. It is flat with typical domestic landscaping in place.
- 1.02 The site fronts on to the private access road. There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of the dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.

2.0 PROPOSAL

- 2.01 This is an outline planning application with all matters reserved for future consideration for the erection of a detached 2 bedroom bungalow. The indicative plan shows an 'L' shaped bungalow measuring a maximum of 9.5m deep by 10m wide. It would have two side by side car parking spaces to the front. The rear garden would be 10m long. The remaining garden for 82 Church Lane would be 12m long.

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3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|-----------------|-----------------|---------------------|
| Site Area (ha) | 0.03ha | 0.03ha | 0 |
| No. of Storeys | 0 | 1 | +1 |
| Parking Spaces | 0 | 2 | +2 |
| No. of Residential Units | 0 | 1 | +1 |

4.0 PLANNING CONSTRAINTS

4.01 The site is located within the built up area boundary of Newington.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF);

“Achieving sustainable development

14

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....

For decision-taking this means:10

- approving development proposals that accord with the development plan without delay; and*
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted.9”*

“6. Delivering a wide choice of high quality homes

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Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.

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Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

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Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

- 5.02 Development Plan: Policies SP1, SP4, TG1, SH1, E1, E19, H2 and T3 of the Swale Borough Local Plan 2008.
- 5.03 Policies ST1, ST3, CP3, DM7, DM14 and DM19 of the Council’s emerging Local Plan entitled Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016.
- 5.04 Supplementary Planning Guidance entitled ‘Designing and Extension: A Guide for Householders’ which sets out the Council normally expects a rear to rear separation distance between dwellings of 21m.

6.0 LOCAL REPRESENTATIONS

- 6.01 15 letters of objection have been received from local residents which are summarised as follows;
- The proposal will exacerbate existing traffic, road safety, congestion and parking problems on Church Lane and the A2. Church Lane reduced to 1 lane by parking.
 - It is not in keeping with neighbouring houses.
 - The proposal will interfere with parking in garage court.
 - The proposal does not have the legal right to access the driveway.
 - Development in residential gardens is not allowed under the NPPF as should be avoided by the Council as it causes harm to the local area.
 - The proposal will result in loss of light, overlooking and noise issues for neighbouring dwellings.
 - Construction traffic will cause problems.
 - Objectors concur with the applicants own objections to previous proposals in the area which highlighted problems with shortfalls in infrastructure, sewerage capacity, utilities and traffic. For the applicant to apply for planning permission when he has objected to so many applications in Newington is hypocritical and the Council should look at the wording of his objections on highway grounds to nearby proposals.
 - Will exacerbate lack of school places.
 - Lack of public transport i.e. buses and trains are crowded and infrequent.
 - There are problems with air quality that will be exacerbated.
 - Nowhere for children to play on the north side of Newington.
 - Council should consider improvements to road safety and parking facilities.
 - Newington has no job opportunities.
 - The development is too dense.
 - Dust and smell issues will arise from construction near our dwelling.
 - Loss of property value.

7.0 CONSULTATIONS

- 7.01 Newington Parish Council objects for the following summarised reasons;
- The application site is an appropriately sized garden for 82 Church Lane. Such gardens are popular with homebuyers.

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- The NPPF is clear Council's should resist windfall sites in domestic gardens.
- The proposal will exacerbate traffic, congestion and parking problems on Church Lane.
- There is confusion as to whether the applicant has the right to access the development via the shared driveway to the side of 82 Church Lane and who is responsible for maintenance of the road.
- This is a very sketchy outline application and the lack of detail makes it impossible to make detailed comments. NPC reserves the right to make further comment should a full application be submitted.

7.02 The Council's Environmental Health Manager raises no objection subject to an hours of construction condition.

7.03 KCC Highways and Transportation notes that as the access is via a private road it has no record of rights of access and suggests that residents investigate their property deeds which may contain more information.

7.04 Southern Water requires a formal application for connection to the public foul sewer. There are no public surface water sewers in the area therefore the development should find an alternative means of draining surface water, not via the public foul sewer. A condition securing the means of foul and surface water sewerage disposal is requested.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application includes a hand drawn proposed development layout plan, proposed block plan and site location plan.

9.0 APPRAISAL**Principle of Development**

9.01 I note the objections of local residents and Newington Parish Council, some of which state that garden development is contrary to paragraphs 48 and 53 of the NPPF as quoted above. However, it is clear from the wording of paragraph 48 that residential gardens should not form part of a windfall allowances in calculating a five year supply of housing land as required by the NPPF. This does not mean a planning application for the development of dwelling houses in a residential garden is unacceptable as a matter of principle. With regard to paragraph 53, the NPPF makes clear Council's should consider the case for setting out policies to resists inappropriate development of residential gardens, for example where development would cause harm to the local area. The Council has not adopted such a specific policy but it does have several other policies such as E1 and E19 of the adopted Local Plan that require all developments not to cause harm to amenity. This is discussed in full below but in my opinion the proposal would not cause harm to the local area sufficient to warrant the refusal of planning permission.

9.02 The site is located within the built up area boundary of Newington as defined by the Proposals Map of the Swale Borough Local Plan 2008. As set out in policy H2 the principle of development is acceptable. Whilst residential gardens have been removed from the definition of brownfield land it remains preferable to make efficient use of land within built up areas instead of developing greenfield sites in the countryside. The site

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is considered to be located in a sustainable central location with access to the services, facilities and transport options Newington has to offer. For these reasons, the principle of the proposal is acceptable in my opinion.

Residential Amenity

- 9.03 This outline application does not provide details of the scale, appearance or layout reserved matters of the bungalow. Notwithstanding the above, the impact of a bungalow is inherently less significant than a two storey dwelling. Single storey development surrounded by standard residential fencing creates very little overlooking. The indicative plan submitted with the application demonstrates that it is possible for the site to accommodate a single bungalow that secures a 27m separation distance between the rear elevation and that of 5 St Matthews Close, noting only 21m is required by the Council's SPG on domestic extensions. The proposal would be a minimum of 9m from the side elevation of 4 St Matthews Close and the proposal is positioned in such a way in relation to this neighbouring property that there would be no harm to residential amenity. The front elevation of the proposal would be 21m from the main two storey rear elevation of 7 St Stephens Close to the north which is sufficient distance to prevent harm to residential amenity. The proposal would be 20m from 92 Church Lane and set at an angle to it which would result in no harm to residential amenity. There would be a gap of approximately 15m between the side elevation of the proposal and the rear elevation of the host property, 82 Church Lane which is sufficient distance to prevent harm to residential amenity. The separation distance to 80 Church Lane is 25m which again prevents harm to residential amenity.
- 9.04 The small footprint and low profile of the bungalow combined with the proposed gaps between it and the application site boundary, including a 10m long rear garden, serve to further reduce any potential impact from loss of light, overshadowing and overbearing, contrary to the objections received. The proposal entails accommodation that would provide an acceptable level of amenity for future occupants. The remaining garden space serving 82 Church Lane is acceptable. The resulting impact on residential amenity would be acceptable in my opinion.

Highways

- 9.05 I note the significant level of objection to the impacts of the development on highway safety and convenience. KCC Highways and Transportation no longer provides advice on such small scale proposals. The current vehicle parking standards entitled 'Kent Design Guide Review: Interim Guidance Note 3: Residential Parking' require that a two bedroom dwelling in a village location has a minimum of 1.5 car parking spaces. This is rounded up to two spaces for single dwelling proposals. The proposal provides 2 car parking spaces in accordance with these standards. There is sufficient space on the site for the car parking spaces to be of an appropriate size i.e. 5m long by 2.5m wide or 2.7m wide if up against a boundary. The position of the dwelling and visibility splays is such that should the vehicles parked in the proposed car parking spaces enter the private access road in a forward or reverse gear, there would be no harm to highway safety and convenience in my opinion. It is important to note the very slow vehicle speeds on the private access.
- 9.06 The spaces are sufficiently removed from the existing garages and parking spaces to the front that there would be no interference with the spaces.

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Other Matters

9.07 I note the objections regarding the legal right to access the development via the private road. It is well established that the Council is free to grant planning permission for a development and it is the applicant’s responsibility to ensure that they have the legal right to access the development. Should these rights not exist there would effectively be a ransom strip around the site, but this is for the applicant to overcome outside of the planning system and Members should be aware that the legal right to access a proposal is not a material planning consideration.

9.08 The hours of construction and foul and surface water drainage conditions recommended by consultees are attached to prevent harm to amenity and flooding.

10.0 CONCLUSION

10.01 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. There is sufficient space on the site to accommodate the dwelling and its parking demands. The impact on residential amenity would be minimal and acceptable.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) Details relating to the layout, scale and appearance of the proposed building, the access thereto 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) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

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- (5) Prior to the commencement of development, details shall be submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

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

- (6) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

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

- (7) The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking of 2 cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (8) The sight lines shown on the approved plans shall be provided prior to the occupation of the dwelling hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

- (9) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be 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.

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

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Monday to Friday 0800 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (11) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

INFORMATIVES

The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Habitat Regulations Assessment Screening

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

The application site is located approximately 2km south of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species.

Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

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

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

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which

APPENDIX 2

Planning Committee Report - 13 October 2016

ITEM 2.6

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, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and 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 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.

The Council's approach to this application:

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

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

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

APPENDIX 3

| | | |
|---|--|--|
| NOTES FOR TECH: | | |
| APPLICATION PROPOSAL | | Ref No 18/501586/REM |
| Reserved matters of access, appearance, scale, layout and landscaping pursuant to outline permission 16/505663/OUT for erection of 1 detached 2 bedroom bungalow. | | |
| ADDRESS 82 Church Lane Newington Sittingbourne Kent ME9 7JU | | |
| RECOMMENDATION – Application Permitted | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mr K Cooper AGENT T Fleming Homes Ltd |
| DECISION DUE DATE 04/06/18 | PUBLICITY EXPIRY DATE 29/05/18 | OFFICER SITE VISIT DATE 17/04/18 |
| RELEVANT PLANNING HISTORY (including relevant history on adjoining site): | | |
| App No | Summary | |
| 16/505653/OUT | Outline application for the erection of 2 no. 3 bedroom semi-detached houses with all matters reserved for future consideration. REFUSED | |
| 16/505663/OUT | Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration. APPROVED | |

DESCRIPTION OF SITE

The application site is situated to the north of the railway bridge in Newington. It forms part of the rear garden of 82 Church Lane and extends to the rear of 80 Church Lane. It is accessed via a private road which leads to a small garage court. The site is flat with typical domestic landscaping in place.

There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.

PROPOSAL

This application seeks approval of reserved matters further to grant of outline permission under reference 16/505663/OUT.

Matters of access, appearance, scale, layout and landscaping have been submitted in relation to the single storey detached bungalow. The property will face onto the garage court, and 2 parking spaces will be provided to the front of the dwelling. The bungalow will have a total floor area of 86.5m², and will be roughly ‘L’ shaped, with a maximum width of 10.42m and maximum length of 10.42m. The bungalow would have a hipped roof with a maximum height of 6.2m and an eaves height of 2.7m. The property would provide 2 bedrooms, an en-suite, a kitchen, living and dining area and a bathroom.

The rear garden at the proposed bungalow would be 8.85m long and the remaining garden for 82 Church Lane would be 11.4m long. Amended plans were submitted including the proposed landscaping details, showing the rear garden will be laid to grass and a field maple will be situated to the rear of the property. An apple tree will be located to the front of the bungalow.

SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|-----------|-----------------|-----------------|---------------------|
| Site Area | 0.03ha | 0.03ha | 0 |

APPENDIX 3

| | | | |
|--------------------------|---|---|----|
| No. of Storeys | 0 | 1 | +1 |
| Parking Spaces | 0 | 2 | +2 |
| No. of Residential Units | 0 | 1 | +1 |

PLANNING CONSTRAINTS

None

POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Development Plan: Policies ST1, ST3, CP3, CP4, DM7, DM14 and DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

The Council’s Supplementary Planning Guidance entitled “Designing an Extension: A Guide for Householders” which was adopted on the 9th December 1992, is relevant and remains a material consideration having been through a formal review and adoption process.

LOCAL REPRESENTATIONS

One letter was received from a neighbour neither supporting nor objecting to the proposal. Their comments are summarised below:

- The driveway/garage areas should be made good after the building work
- 24 hour access to the garages should be provided during the building work
- The owners of the garages are jointly responsible for the cost of maintaining the driveway/garage areas. The owners of the new bungalow (and maybe the existing bungalow) will need to access our land to gain access to their property, how do we ensure that in their deeds they share a responsibility for any maintenance costs?

Newington Parish Council – *“Councillors have considered the application and had no comment to the design but requests Swale Borough Council will take notice of residents' concerns about the shared driveway and that there be covenant on the building that there is no occupation of the roof space.”*

CONSULTATION RESPONSES

KCC Highways – The development proposal does not meet the criteria to warrant involvement from the Highway Authority.

Southern Water – Cannot discharge condition 4 as the final discharge point to the public sewer has not been indicated. The applicant should submit a detailed drainage layout plan, clearing indicating the on-site drainage and their relevant discharge points to the public sewer.

Environmental Health – No objections.

APPRAISAL

The principle of development has been agreed under application 16/505663/OUT and only matters of detail are up for consideration here.

Appearance / Landscaping

APPENDIX 3

I consider the dwelling itself is of an appropriate scale and a good standard of design. No proposed materials have been submitted as part of this application so I have included the relevant condition below to ensure these details are submitted to and approved by the Council. The development will front onto a private access road, and will be mainly screened from Church Lane by the existing bungalow, No. 82.

Amended plans were submitted showing the proposed landscaping to the front and rear of the bungalow. An apple tree is proposed to the front of the dwelling and a field maple to the rear. Overall, taking into account the design of the dwelling and the proposed landscaping, I consider the proposal will not adversely impact the street scene or surrounding area.

Layout / scale / amenity

The submitted plans show that there will be a distance of approximately 25m between the rear elevation and that of 5 Matthews Close. I note only 21m is required by the Council's SPG on domestic extensions. The proposal would be a minimum of 10m from the side elevation of 4 Matthews Close and the proposal is situated in such a way in relation to this neighbouring property that there would be no harm to residential amenity. I note windows are proposed in the flank walls of the development, which could potentially cause overlooking issues, and as such I have conditioned the windows to be obscure glazed to mitigate this. The front elevation of the proposal would be 23.4m from the main two storey rear elevation of 7 St. Stephens Close to the north which is a sufficient distance to prevent harm to residential amenity. The proposal would be 19.4m from 92 Church Lane and set at an angle to it which would result in minimal harm to residential amenity. There would be a gap of approximately 12.6m between the side elevation of the proposal and the rear elevation of the host property, 82 Church Lane, which I consider is a sufficient distance to prevent harm to residential amenity. The separation distance to 80 Church Lane is 22.3m which again prevents harm to residential amenity.

On the basis of the above, I consider the impact to residential amenity will be acceptable and will not give rise to any serious issues of overlooking or overshadowing for neighbouring properties. Therefore I believe the layout and scale of the development is acceptable.

Regarding the level of amenity provided for the future occupiers of the bungalow, I note the rear garden will be a minimum of approximately 8m in length. The Council typically requests rear gardens have a length of at least 10m, but taking into account the bungalow will have only 2 bedrooms, I consider the scale of the outside amenity space provided is adequate. The proposed accommodation in the bungalow is also acceptable in my opinion, and therefore I consider the proposal will offer a good standard of amenity for future residents.

Highways / parking / access

The development will provide two car parking spaces to the front of the dwelling, which is in accordance with the Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking), which states that 1.5 car parking spaces will be required in this location. The size of the spaces is in line with KKC requirements, and as such I believe the parking provision at the bungalow is acceptable.

The position of the dwelling and visibility splays is such that should the vehicles parked in the proposed car parking spaces enter the private access road in a forward or reverse gear, there would be no harm to highway safety or convenience in my opinion, especially when taking into account the very slow vehicle speeds on the private access road.

Regarding the concern raised by a neighbour and seconded by the Parish Council about the new owners of the bungalow contributing to the cost of maintaining the access road, this is a

APPENDIX 3

civil matter and is not a material planning consideration, so therefore will not be discussed here.

Dust suppression

Environmental Health was consulted on the application and I note they had no objections to the submitted Dust Suppression document. As such, I consider the submitted document is acceptable. Notwithstanding this, it is required by a condition of the outline PP and cannot be dealt with under a reserved matters application, but rather by submission of details pursuant to conditions.

Foul and surface water

As shown by Southern Water's comments, the submitted plans do not show enough detail regarding foul and surface water disposal. This is dealt with by condition of the outline PP – see above.

Conclusion

Overall I consider the development is acceptable and will not give rise to any unacceptable impacts to residential or visual amenities. Therefore I recommend that the reserved matters should be approved.

RECOMMENDATION – Grant subject to the following conditions:

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

Reason: In the interest of visual amenity.

- (2) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

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

- (3) Before the development hereby permitted is first used, the proposed windows in the side elevations of the bungalow 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.

INFORMATIVES

- (1) The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Case Officer Megan Harris

APPENDIX 3

| | |
|-------------------------------|------------------|
| Case Officer Sign: MHarris | Date: 31.05.2018 |
| Delegated Authority Sign: RB | Date: 31/5/18 |
| PRINT NAME: | |
| TL/DM Countersign if refused: | Date: |

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PLANNING COMMITTEE – 8 NOVEMBER 2018

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

| | | |
|--|----------------------------------|---|
| 1.1 REFERENCE NO - 15/502716/FULL | | |
| APPLICATION PROPOSAL Change of use of land to single gypsy pitch and associated development | | |
| ADDRESS Breach Farm Paddocks Land North-east Of Breach Farm Bungalow Breach Lane Upchurch Kent ME9 7PE | | |
| RECOMMENDATION Revoke Planning Permission | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mr M Love AGENT Patrick Durr |

1. BACKGROUND

- 1.1 This report relates to an extant planning permission at Breach Farm Paddocks, Breach Lane, Upchurch.
- 1.2 Planning permission was granted for the development in October 2015, and has recently been implemented.
- 1.3 The applicant no longer wishes to progress this scheme and instead is seeking planning permission for an adjacent site as an alternative (application reference 17/506569/FULL). In order to avoid the situation whereby the two sites could both be completed, it is necessary to revoke the permission granted initially. Such a decision is not delegated to Officers by the Constitution, hence this report being presented to Members for a decision.

2. PROPOSAL

- 2.1 The approved scheme sits above the level of Breach Lane, and the highway to the south. As such it is comparatively prominent in the landscape. The approved development would be noticeable (although not materially harmful) from a distance.
- 2.2 The alternative site sits at a much lower level, closer to the highway and better screened from view from distance and in close proximity. The scheme proposes the same number of caravans (one static and one tourer) together with a utility room.
- 2.3 In my view, given a choice between the original approved scheme and the proposed alternative, the alternative is preferable. The current, alternative application has been the subject of consultation and, whilst it has attracted objections from local residents, Newington Parish Council (despite the address above, the site lies within Newington Parish) do not object if any permission granted would be an alternative to the approved

scheme. The Ward Members have been consulted and do not wish the application to be reported to the Planning Committee. The determination of the alternative planning application (Ref 17/506569/FULL) can therefore be a delegated decision.

- 2.4 Under Section 97 of the Town and Country Planning Act 1990 (as amended) the Council has the power, where expedient, (and in very specific circumstances) to revoke permissions granted. In the case of changes of use, this can only be done where the use has not yet commenced.

3. BACKGROUND PAPERS AND PLANS

Application papers and correspondence for 15/502716/FULL and 17/506569/FULL

4. APPRAISAL

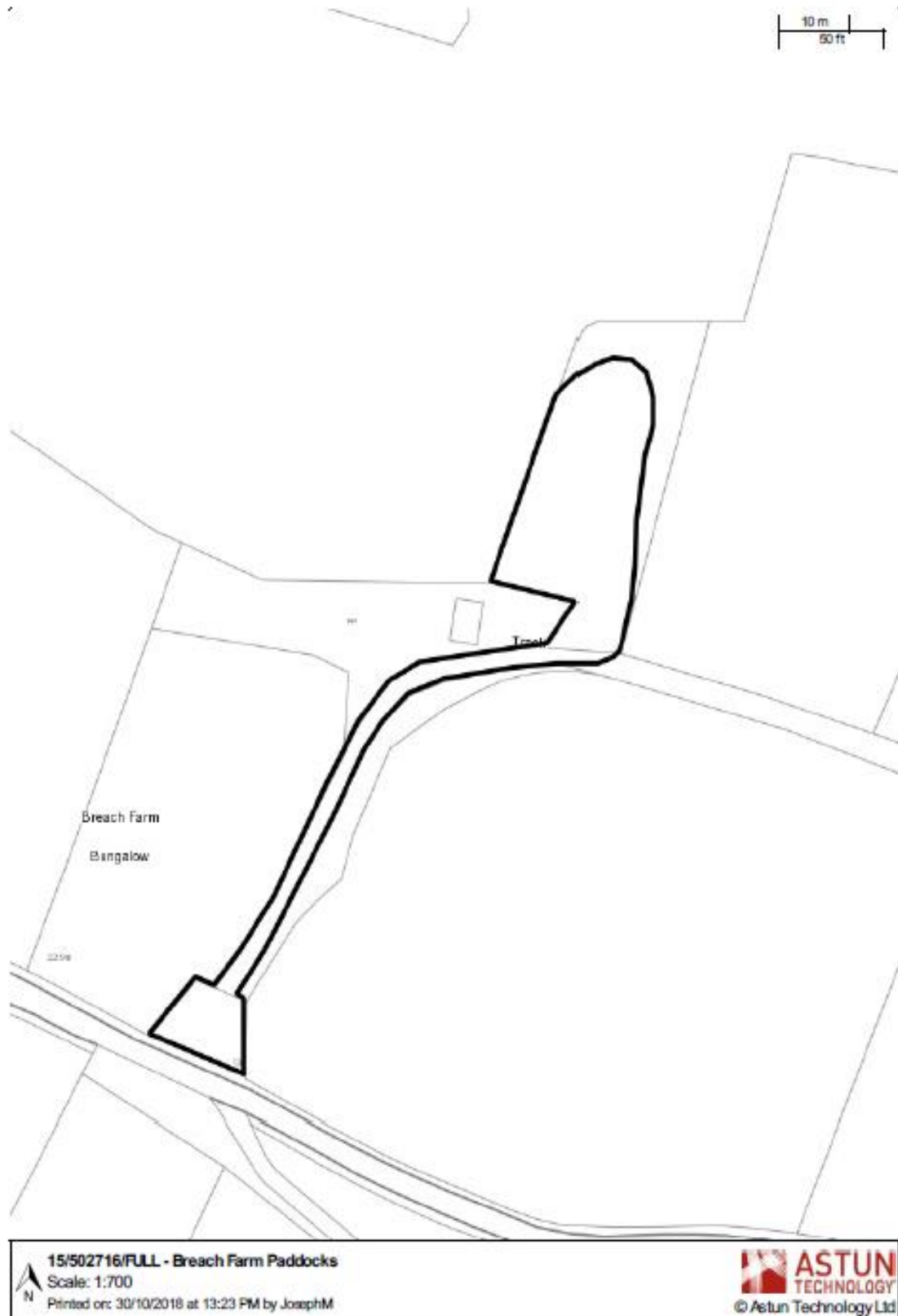
- 4.1 The key issue for Members to consider is whether it is expedient for the existing permission to be revoked.
- 4.2 This is clearly an unusual situation, where the applicant himself is seeking to reassure the local residents and Parish Council that the wider site will not be occupied by two separate developments, and as such is raising no objection to the revocation of the permission. The question of any potential compensation claim being made by the applicant should therefore not arise.
- 4.3 At the present time, the Council is (as set out elsewhere on this agenda) able to demonstrate in excess of a five year supply of gypsy/traveller sites, and there is therefore no compelling reason not to revoke the permission on these grounds.
- 4.4 In terms of visual impact, the currently proposed development is, as I set out above, preferable to the approved scheme – it sits lower in the landscape, would be less prominent and therefore less harmful to the visual amenities of the area. It would lie somewhat closer to the existing dwellings in the vicinity, but not to the extent that it would cause harm to residential amenity.
- 4.5 In my view, Members may consider it expedient to revoke the existing permission on the basis that the approved scheme is less preferable to the alternative in visual terms, and as the provision of two sites here would cause some additional harm to visual amenity.

5. CONCLUSION

- 5.1 Given the above, I conclude that the revocation of the planning permission granted under reference 15/502716/FULL is expedient and recommend that Members delegate authority to Officers and the Head of Mid Kent Legal Services to prepare and serve the necessary documents, including their precise wording.

6. RECOMMENDATION

That the planning permission granted under 15/502716/FULL is revoked under the provisions of s.97 of the Town and Country Planning Act 1990 (as amended).



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PLANNING COMMITTEE – 8 NOVEMBER 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

| | | | |
|---|--|---|-------------|
| 2.1 REFERENCE NO - 18/504460/FULL | | | |
| APPLICATION PROPOSAL | | | |
| Erection of full width first floor balcony and replacement of ground floor window with new french doors to the front. | | | |
| ADDRESS 10 Provender Walk Belvedere Road Faversham Kent ME13 7NF | | | |
| RECOMMENDATION - Approve | | | |
| REASON FOR REFERRAL TO COMMITTEE | | | |
| Town Council objections | | | |
| WARD Abbey | PARISH/TOWN COUNCIL Faversham Town | APPLICANT Mr Edward Bollen AGENT Mr David Marman | |
| DECISION DUE DATE 01/11/18 | PUBLICITY EXPIRY DATE 12/10/18 | | |
| RELEVANT PLANNING HISTORY | | | |
| App No | Proposal | Decision | Date |
| SW/03/0812 | Construction of basement to existing property. | REFUSED | 21/08/2003 |
| SW/96/417 | Erection of 29 houses, with creekside moorings, and improvement of belvedere road | REFUSED BUT ALLOWED ON APPEAL | 08/05/1997 |
| RELEVANT PLANNING HISTORY RELATING TO 23 to 28 PROVENDER WALK | | | |
| App No | Proposal | Decision | Date |
| SW/07/0529 | Lawful Development Certificate for extended balconies to 24, 25, 26 & 28. New balconies to 23 & 27. (Proposed) | APPROVED | 06/07/2007 |
| RELEVANT PLANNING HISTORY RELATING TO 22, 23 and 29 PROVENDER WALK | | | |
| App No | Proposal | Decision | Date |
| 18/503943/LAWPRO 18/503947/LAWPRO 18/503950/LAWPRO | Lawful Development Certificate for proposed erection of front balcony. | REFUSED | 08/08/2018 |
| 18/504646/FULL 18/504653/FULL 18/504657/FULL | Creation of first floor metal balcony structure to North West elevation and insertion of two ancillary French doors. | APPROVED | 22/10/2018 |

1.0 DESCRIPTION OF SITE

- 1.01 The application property sits within the Faversham conservation area and is a modern semi-detached town house set over three floors fronting Faversham Creek. The front elevation faces the Creek across the creekside promenade with the rear of the house fronting Belvedere Road. The house is one of a number approved on appeal in 1997 as part of the overall Provender Walk development.
- 1.02 Permitted Development rights for extensions and alterations were not restricted by the original appeal decision, but the property is subject to an Article 4(2) Direction dated May 2007 which (amongst other things) restricts alterations to elevations fronting a waterway. This was issued in order to prevent piecemeal degradation of the streetscape of the town via incremental Permitted Development changes and, ideally, to raise the standard of appearance of properties when changes are being made. In any case, balconies cannot be erected under current Permitted Development rights, hence the refusal of Lawful Development Certificates for balconies elsewhere on Provender Walk earlier this year, and the need for this application
- 1.03 The application property has two Juliet balconies at first floor level, but it has not been altered since its erection and it forms part of the prominent creekside development of Provender Walk which features groups of houses designed in a waterside style fronting the creek.
- 1.04 Elsewhere on Provender Walk, but not adjacent to this property, front balconies have been added or extended under previous versions of Permitted Development rights on five houses in a row of eight houses. These rights have since been altered in national legislation to exclude the right to erect balconies, and very recently planning permission has been granted for the three remaining properties in the same block to have balconies to match those erected in 2007. The Town Council had no objections to those applications

2.0 PROPOSAL

- 2.01 This application relates to one of two symmetrical semi-detached four bedroom houses. It proposes removing the two Juliet balconies and erecting a steel framed glazed balcony supported by steel corner posts across the full width of the front elevation at first floor level, with a 2m high obscure glazed privacy screen to the attached neighbours' end. The new balcony would project forward by 2.5m from the front wall, and feature the same design of railings as the current Juliet balconies do. In addition, it is proposed to replace a ground floor window directly under the proposed balcony with glazed French doors and matching Juliet balcony rails.
- 2.02 The application is supported by a Design and Access Statement, a Heritage Statement and a Flood Risk Assessment. In these, the applicant explains that the balcony will be supported by corner and intermediate piers/steel posts on concrete foundations which will make it flood resilient.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Article 4 Faversham

Conservation Area Faversham

Environment Agency Flood Zone 3 135664

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
 National Planning Practice Guidance (NPPG)
 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP4, DM14, DM16 and DM33
 Supplementary Planning Guidance (SPG); ‘Designing and Extension’ and ‘Conservation Areas’

5.0 LOCAL REPRESENTATIONS

5.01 The immediate attached neighbours have objected to the application as follows;

‘I apologise for the last-minute nature of this posting, but we have only just returned from holiday and received the notification of the plans for Number 10 Provender Walk, application reference 18/504460/FULL. We live at Number 9, which is the other half of the 3-storey building, shown in the proposal diagram.

We were startled to see this application. A joint application for both properties had been discussed some months ago, agreed, we believed, by all as essential if the appearance of the Faversham Creek frontage was to be preserved. This is a conservation area frontage, facing across to the Saxon Shore Way, and is a prominent part of one of the most photographed views in Faversham.

Enormous trouble was taken by the Conservation Officer of Swale Council to get the right appearance for Provender Walk at the time of building in 2000. A lop-sided, mismatched development such as is proposed in this application would be unsightly and destroy the carefully planned overall effect of the Provender Walk frontage.

Another set of problems arises from the absence of structural details from this application – how the balcony is to be attached to the building, for example, and the depth to which support pillars would be dug. Both have implications for the whole building, especially if the jointly owned dividing wall is affected.

For these reasons we ask that this application be rejected, until it can be made more acceptable.’

6.0 CONSULTATIONS

6.01 Faversham Town Council has commented as follows;

*‘Recommendation: No Objection
 Condition:*

1) The Town Council objects to the opaque glazing and requests that the balconies are not glazed.’

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for applications referred to above.

8.0 APPRAISAL

- 8.01 The main considerations in the determination of this planning application are the impact of the balcony and other alterations on the character of the property, on the street scene, on the character of the conservation area, and on the amenities of neighbouring properties.
- 8.02 Because Provender Walk is not a public right of way (unless the England Coast Path ends up running along Provender Walk), the proposed alterations will be mainly visible to the public in views from the opposite side of the Creek. From here the overall spread of Provender Walk presents an attractive, varied and creekside style. With a number of properties originally having front facing balconies, and others having already added them, such a feature is already a feature of the conservation area, and this metal framed and glazed balcony will be of a similar style and scale to those already either built or approved at numbers 22 to 29 Provender Walk. Accordingly, I do not believe that the proposed balcony (or the other minor alterations proposed), whilst visible from the front of the dwelling, will be objectionable, harmful to visual amenity, or harmful to the character of the conservation area.
- 8.03 In terms of design, I see no objection to the glazing set behind the metal framework, or to the obscure glazed privacy screen on the neighbours' side, and I note that the Town Council did not raise objection to such arrangements on the very recent applications for three balconies elsewhere in Provender Walk.
- 8.04 Whilst the house is a symmetrical semi-detached house, and this balcony will be attached to just one half of the pair, in my view it will be read as an addition, and the overall original symmetry of the pair will still be readily apparent. Even the changing of a ground floor window to French doors, which will be under the shadow of the balcony, will not be prominent in long views and will have little impact on the perception of symmetry. I see no objection to this sort of change. Provender Walk as a whole features small variations between seemingly similar houses, and this proposal will add to that variety. I do not consider that the balcony will be unacceptable due to its impact on the appearance of this pair of semi-detached houses.
- 8.05 With regards to neighbouring amenity, the balcony will not overlook any private area, and the privacy screen will protect them from views into front windows from people using the balcony.
- 8.06 The neighbours' concern over the structural impact of the works is a private matter that should not affect the determination of this application.

9.0 CONCLUSION

- 9.01 This application will be a suitable addition to this waterside property compliant with relevant planning policies, and will not be unacceptably harmful to the character of the conservation area, or to the amenities of the immediate neighbours.

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 new French doors shall be fabricated in timber.

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

- (3) The obscure glazed privacy screen shall be erected before the balcony is first used as such, and shall thereafter be retained at all times that the balcony is in place..

Reason: In the interest of preserving mutual privacy between neighbouring properties.

Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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

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



| | | | |
|---|---|---|-------------|
| 2.2 REFERENCE NO - 18/504421/FULL | | | |
| APPLICATION PROPOSAL Erection of single storey extension to front, side and rear. | | | |
| ADDRESS 1 Wihtrred Road Bapchild Sittingbourne Kent ME9 9ND | | | |
| RECOMMENDATION - Approve | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The application has previously had approval under SW/14/0607 and I consider the reasons for approval remain the same where there would be an acceptable impact on the neighbouring amenity in terms of the scale and siting of the proposed extensions. | | | |
| REASON FOR REFERRAL TO COMMITTEE Three local objections received and application called in by Ward Member. | | | |
| WARD West Downs | PARISH/TOWN COUNCIL Bapchild | APPLICANT Mr Sam Feaver AGENT Mr Julian Mann | |
| DECISION DUE DATE 15/11/18 | PUBLICITY EXPIRY DATE 25/09/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/14/0607 | Single storey extensions to front, side and rear. | Approved | 21/07/2014 |

1.0 DESCRIPTION OF SITE

- 1.01 The application property is a two bedroom semi-detached bungalow situated on a prominent corner plot where Wihtrred Road meets Ashstead Drive, within the built up area boundary of Bapchild. As such it appears to front on to Ashstead Drive although its front door and porch are on the side (end elevation) facing Wihtrred Road. The property has an area for parking large enough for at least two cars, situated to the rear on the south side of the site accessed from the Wihtrred Road, with most of the curtilage being to the front and side of the property, and an enclosed private garden to the rear.
- 1.02 The property is situated within a mature residential village location surrounded by a number of two storey semi-detached properties and attached to a bungalow of similar size and style. The bungalow appears not to have previously been extended but the current Ordnance Survey plans still show the outline of what might have been a conservatory behind the lounge. This addition is not there today.
- 1.03 The attached property (4 Ashstead Drive) is a similar bungalow, but it has a deep front wing across half of its front elevation, making the pair of bungalows appear asymmetric when viewed from Ashstead Drive.

2.0 PROPOSAL

- 2.01 The application is for a single storey front extension (fronting Ashstead Drive) and a separate wrap-around side and rear extension fronting Wihfred Road and extending towards the side elevation of 3 Wihfred Road.
- 2.02 The single storey extension proposed to the west side of the existing property would project by 3.93m (about the same as the front wing at 4 Ashstead Drive) with a width measurement of approximately 4.4m. The height to the eaves would be 2.5m with an overall roof height of 4.2m.
- 2.03 The single storey side and rear extension would be L shaped in form. The existing porch would be removed and the side extension element (south elevation) would extend to the side of the property by approximately 2.6m and would also extend from the rear of the property by 4.5m with a width at the rear of 5.6m. The overall height of the roof on the side extension would match the existing roof height of 5.1m and the rear extension would have a maximum height of 4.2m.
- 2.04 The proposed extensions would convert the property from a two bedroom bungalow to a four bedroom bungalow.
- 2.05 This application is a resubmission of the approved application SW/14/0607 which has now expired and there are no changes to the proposal, other than the fact that a previously existing pre-fabricated garage facing Wihfred Road has since been removed.

3.0 PLANNING CONSTRAINTS

- 3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Policies CP4 (good design), DM14 (general criteria), and DM16 (extensions and alterations) of the adopted Swale Borough Local Plan 2017 are relevant.
- 4.03 Council's adopted SPG "Designing an Extension" is also relevant.
- 4.04 Kent Design Guide Review: Interim Guidance Note 3 – Residential Parking (November 2008).

5.0 LOCAL REPRESENTATIONS

- 5.01 Three letters of objection were received, raising the following summarised comments:
- The existing bungalow is a one/two bedroom bungalow suitable for the elderly to downsize to. The extension will prevent such downsizing.
 - Retirement bungalows are limited in Bapchild, and 1 Wihfred Road is one of them, two bedroom bungalows are fast disappearing.
 - Four bedroom properties will be available in the Stones Farm development in the village.

- Parking – The bungalow is on a corner plot on a very busy T-junction, when vehicles are parked on the pavement at the corner it causes issues with vehicles turning into the road – adequate off road parking is required for a four bedroom dwelling. Currently there is only provision for 1 parking space.
- The OS plans are wrong as there is no rear extension at the property.
- Proposed plan extends across the building line in Wihtrud Road.
- Proposed plans would almost double the floor size of the bungalow making it out of keeping with other properties nearby.
- The proposed expansion to four bedrooms would overdevelop this site by over 50% leaving virtually no back garden for a large bungalow.

6.0 CONSULTATIONS

6.01 None received.

7.0 BACKGROUND PAPERS AND PLANS

7.01 The application is accompanied by all necessary drawings.

8.0 APPRAISAL

Principle of Development

8.01 The property is located within the built up area boundary of Bapchild and as such the principle of development is acceptable. The main considerations in this case concern the scale of the proposal and its impact upon the street scene, on parking, and on neighbouring amenities.

Visual Impact

8.02 The proposed single storey front extension would be visible from public vantage points and as such there would be an effect on the streetscene so policy CP4 (Good design), is of utmost of importance. In this case the extension would have a pitched roof and the materials proposed would match the existing which I consider to be acceptable as I believe this reduces the visual impact of the extension.

8.03 Paragraph 5.3 of the SPG states that The Borough Council normally requires that front additions are kept to a maximum of 1.2m. The proposed front extension is substantially larger than this policy would normally allow for. However, in this instance I consider that the proposed extension is acceptable as there is already a strong forward projecting building line due to the front wing on the adjoining property, which this extension will largely mirror.

8.04 The side and rear extension is also designed with a matching pitched roof and should sit well here. Both extensions have been well designed and reflect the character and appearance of the existing property at an appropriate scale. I therefore consider the proposal acceptable and in line with the guidance contained within the Supplementary Planning Guidance.

Parking

8.05 Concern has been raised with regards to the provision of parking at the dwelling. The proposed extensions would provide two additional bedrooms resulting in a four bedroom dwelling therefore consideration is required concerning the provision of

parking, however according to the Residential Parking Advice (Kent Design Guide Review: Interim Guidance Note 3 – Residential Parking (November 2008)) the parking requirement would be 2 off-street parking spaces and this would be comfortably met by the existing parking at the side of the property.

- 8.06 The extent of the parking between the flank wall and the highway might be considered prominent. However, Wihtrud Road is characterised by large paved frontages and I do not think it would be reasonable to see the proposed parking arrangements as out of keeping with the area on this basis.
- 8.07 I note the front garden is not proposed for the provision of additional parking and so would not be adversely affected by the extensions.

Residential Amenity

- 8.08 The Council's Supplementary Planning Guidance entitled "*Designing an Extension – A Guide for Householders*" paragraph 5.7 states;

"For single storey rear extensions close to your neighbour's common boundary, the Borough Council considers that a maximum projection of 3m will be allowed."

The SPG in paragraph 5.9 goes on to say that;

"On well-spaced detached properties or where an extension is to be built away from the boundary a larger extension may be acceptable".

The proposed extensions project beyond the recommended maximum 3m projection but as the front extension is 4.2m away from the boundary and the rear extension is 5.1m from the neighbouring boundary I believe that both extensions satisfy the intentions of the guidance. When it is also considered that the property is semi-detached on a large corner plot then I am of the opinion that the proposal would not cause harm to the amenities of neighbours.

- 8.09 I note that the closest corner of the proposed rear extension would be approximately 0.5m away from the side wall of the neighbouring property to the rear, no.3 Wihtrud Road. However, there are no windows situated within the side elevation of this neighbouring property or within the rear elevation of the proposed rear extension, and therefore I am of the view this element of the proposal would not cause any loss of privacy.

Overdevelopment

- 8.10 With regards to the possible overdevelopment of the site I do not believe that the proposed expansion to four bedrooms would overdevelop this site and that the extensions are at an appropriate scale. The design is in keeping with the existing bungalow with materials to match the existing character of the building. Neighbours have expressed a preference for the bungalow to stay at two bedrooms, but I can see no reason to oppose its enlargement where adequate parking and garden arrangements are in place. The extension makes good use of urban land and does not in my view stand out as unusual or excessive. The same plans have in any event, been approved before and I can see no defence to a refusal of planning permission.

9.0 CONCLUSION

9.01 I consider that there would be an acceptable impact on the streetscene, parking provision and on neighbouring amenity in terms of the scale and siting of the proposed extensions. I therefore recommend that 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 extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

The Council's approach to this application:

In accordance with paragraph 38 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.

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



| | | |
|---|--|--|
| 2.3 REFERENCE NO - 17/504813/FULL | | |
| APPLICATION PROPOSAL Part change of use from car wash to residential for one studio flat within the main building. | | |
| ADDRESS Car Wash 67 High Street Newington Sittingbourne Kent ME9 7JJ | | |
| RECOMMENDATION Grant subject to conditions and the further views of Environmental Services and amended plans showing amenity space | | |
| SUMMARY OF REASONS FOR RECOMMENDATION Proposal would not harm residential or visual amenity or harm highway safety or convenience and would not materially affect the Newington AQMA | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council Objection | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Acorn Car Wash AGENT Kent Drawing |
| DECISION DUE DATE 08/12/17 | PUBLICITY EXPIRY DATE 17/11/17 | |

PLANNING HISTORY

15/509335/FULL

Use of land for the storage of 2x touring caravans.

Approved Decision Date: 16.06.2017

SW/12/0088

Retrospective application for Car wash canopy.

Approved Decision Date: 19.03.2012

SW/11/0975

Retrospective change of use of part of site to hand car wash

Approved Decision Date: 15.09.2011

1. DESCRIPTION OF SITE

1.1 This site is the former garage on High Street, Newington, at the centre of the village. It is in use as a hand car wash, granted under the reference above, and has a large canopy to the front of the building. The building is set back from the highway behind the forecourt, where the car washing takes place. It is a single storey, white rendered building, with a former yard area to the rear. Beyond this to the rear is the Council car park. To the east is the access to the car park and to the west is no.67 High Street, a dwelling in separate ownership to this site.

2. PROPOSAL

2.1 The proposal seeks planning permission for the change of use of eastern part of the main building to a studio flat, although the plans show a one bedroom flat with lounge/kitchen/diner and separate bedroom.

- 2.2 Access to the flat would be via the existing office at the site or a door to the rear. All windows serving the flat would face the former yard area to the rear.
- 2.3 The application includes supporting information relating to the necessity of providing accommodation on site, including the late working hours of employees at the site, and the need for on site security.

3. PLANNING CONSTRAINTS

The site abuts the Newington AQMA

4. POLICY AND CONSIDERATIONS

NPPF - Para 170:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

Development Plan: Bearing Fruits 2031 –Swale Borough Local Plan 2018 .Relevant policies include:-

CP1 – Building a Strong, Competitive Economy

DM7 – Vehicle Parking

DM14 – General Development Criteria

5. LOCAL REPRESENTATIONS

Two objections have been received from local residents, which are summarised as follows:

- It is against the law to live in a commercial building and would set a precedent for all other carwashes and commercial building in the UK
- The site is covered by security cameras and a (currently inoperative) security light;
- The business should be insured against theft and damage;
- Staff normally leave by 7:30pm and many of them live across the road;

6. Consultations

- 6.1 Newington Parish Council raise objection and comment as follows:

Councillors have considered the application and have agreed unanimously to object to the proposal as there is no business necessity for the proposal and the site is not suitable for residential use.

- 6.2 I am awaiting further comments from the Environmental Services Manager and will update Members at the Meeting.

7. BACKGROUND PAPERS AND PLANS

Application papers and correspondence for applications 15/509335/FULL, SW/12/0088 and SW/11/0975

8. APPRAISAL

Principle of Development

- 8.1 The site lies within the built up area of Newington, where residential development is acceptable as a matter of principle. In this instance, the proposal would result in the loss of an area of floorspace which could be used for commercial purposes. However – it is my view that the area, which is not in use at present, is unlikely to be put to office use, nor to any commercial use not associated with the car wash. The use of the wider site can cause noise and disturbance and it seems unlikely to me that the building could be successfully marketed for alternative uses. I therefore consider the loss of commercial floorspace acceptable in this instance, and accordingly, the proposal is acceptable as a matter of principle. I discuss the impact of the car wash on residential amenity below.

Visual Impact

- 8.2 The external alterations to the building amount to the insertion of two windows to the rear. I do not consider that this would give rise to harm in this respect.

Residential Amenity

- 8.3 The proposed flat would not overlook any dwellings, and is well removed from neighbours. I do not envisage harm to the amenities of nearby residents.
- 8.4 As a one bed flat, the Council would not normally expect the significant provision of amenity space. Nonetheless, there is an opportunity for an area to be provided to the rear of the dwelling, and I have requested that the plans be amended to show this. I will update Members at the Meeting.
- 8.5 There is of course significant potential for harm to residential amenity by virtue of noise and disturbance to occupiers of the flat due to its very close proximity to the car wash. In this respect, I note that the openings at the flat would all face away from the car wash. I also note that it is intended that the occupier would be an employee at the car wash, and would therefore be at work at the site during the times when the use is taking place. Given this, I am satisfied that, subject to the condition below regarding occupancy of the flat, there would be limited harm to residential amenity.

Highways

- 8.6 The site benefits from a well established access to the highway, and there is substantial space for vehicle parking at the site. I do not envisage harm to highway safety or convenience.

Other Matters

- 8.7 The site fronts on to the Newington Air Quality Management Area. I await further comments from the Environmental Services Manager, but note that the building is set well back from the highway, and that all the openings for the proposed flat would face away from the AQMA. Furthermore, I do not envisage that the vehicle movements

associated with a single dwelling here would give rise to a material worsening of the air quality in Newington.

8.8 I note the arguments made with regards security and working hours, and the comments of the objectors in these respects. In my view a persuasive argument has not been made on either grounds. Nonetheless, given the above, and subject to the comments of the Environmental Services Manager, I find the proposal otherwise acceptable.

8.9 An appropriate assessment is set out below.

9. CONCLUSION

9.1 The proposal is in my view acceptable and, subject to the receipt of amended plans and the further comments of the Environmental Services Manager, I recommend approval.

10. 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 occupation of the dwelling shall be limited to a person solely or mainly employed, at the application site for the purposes of car washing and valeting, and any dependent of such a person residing with him (but including a widow or widower of such a person).

Reason: Having regard to the specific circumstances at the site and the potential for noise and disturbance and harm to residential amenity arising from the use of the site.

The Council's approach to this application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment (AA) 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, and an Appropriate Assessment is required to establish the likely impacts of the development.

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.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwellings are occupied.

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 (via the NKEPG), 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 has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff amount takes account of and compensates 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 the agreed tariff mitigates for the individual and cumulative impacts of this scheme.**

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.

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.

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.



17/504813/FULL - Car Wash 67 High Street
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| 2.4 REFERENCE NO - 18/503697/FULL | | | |
| APPLICATION PROPOSAL Demolition of 56 and 58 Station Road and erection of 130 dwellings, with associated public open space, landscaping, access, parking and drainage, together with parking for existing Station Road and Nobel Close residents. | | | |
| ADDRESS Land At Station Road Teynham Kent ME9 9SY | | | |
| RECOMMENDATION Approve, subject to agreement of the contribution for the A2/Station Road junction, secondary education and secondary education land, the conditions below and signing of a suitably worded Section 106 Agreement. | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The application proposes residential development on a site allocated for housing within the adopted Local Plan. The layout and design of the scheme has in my view been carefully considered and provides a good quality proposal which responds positively to the requirements of the Local Plan and the context of the site. No objection has been raised by statutory consultees and I consider that the application acceptably deals with residential, visual and highway amenity and issues such as air quality, drainage, contamination and archaeology. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection. | | | |
| WARD Teynham And Lynsted | PARISH/TOWN COUNCIL Teynham | APPLICANT Crest Nicholson Eastern AGENT DHA Planning | |
| DECISION DUE DATE 18/10/18 | PUBLICITY EXPIRY DATE 24/08/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 17/502053/ENVSCR | EIA Screening Opinion for - Outline application for residential development for a minimum of 107 dwellings, public open space, boundary landscaping, car parking, vehicular access onto Station Road in the vicinity of Nobel Close and other pedestrian and cycle routes onto Station Road and London Road. | EIA Not Required | 27.04.2017 |
| SW/88/1723 | Outline application for use of agricultural land for residential development. | Refused | 30.01.1989 |

1.0 DESCRIPTION OF SITE

1.01 The application site measures 4.4 hectares and is broadly rectangular in shape. It is located to the east of the existing properties which front onto Station Road, to the south of the rear gardens of the properties in Bradfield Avenue and the north of the properties which front onto the A2. The site is comprised of grassland and an

orchard and divided into two fields by existing mature hedgerows which run approximately east / west across the site. The site slopes gently downwards from south to north and east to west. The site sits approximately 20m Above Ordnance Datum.

- 1.02 Public Right of Way ZR253 lies to the east of the application site, however, due to intervening development and mature planting, combined with the land levels, which drop quite significantly, views of the application are quite limited.
- 1.03 The southern boundary of the site abuts the Cellar Hill and Greenstreet conservation area. The closest listed building with a relationship to the site is the property known as Alverley House which is located within close proximity of the south western boundary of the site.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of No.s 56 and 58 Station Road and the erection of 130 dwellings, amounting to a density of 29.5 dwellings per hectare.
- 2.02 The main point of vehicular access to the site will be taken from Nobel Close in the western part of the site. Additional accesses, one in the southern part of the site will connect the development to London Road whilst a further access in the north west of the site will provide a connection to Station Road. The existing orchard which sits in the central part of the site is to be retained and enhanced and will include an attenuation pond. This central piece of open space will mean that the dwellings will essentially be provided in two parcels, one to the north and one to the south. A further piece of open space is located in the north west of the application site.
- 2.03 Two three-storey apartment blocks, providing 17 units in total are located immediately to the north of the open space. To the north-west of the open space there will be a two storey apartment block containing 5 units. The remainder of the dwellings will be two storey in height aside from two units which will be two and a half stories.
- 2.04 The units will be split as follows with 40% of the dwellings (52) affordable. The 52 units will be provided as 62% affordable rented and 38% shared ownership:
 - 1 bed – 6 (5 of these affordable)
 - 2 bed – 55 (28 of these affordable)
 - 3 bed – 56 (15 of these affordable)
 - 4 bed – 13 (4 of these affordable)
- 2.05 The application proposes the retention of the hedgerow that runs approximately east / west along the central part of the site with additional hedgerow planting along both the northern and the southern boundaries.
- 2.06 The proposals also include parking space for both the existing residents of Nobel Close and Station Road. The parking space for Nobel Close will be provided in front of these existing dwellings and will total 12 in number. In respect of the existing residents of Station Road, 46 parking spaces will be provided and these will be located to the rear of the dwellings in Station Road. The access to the car park will have its own 'in-only' access, running south from the Nobel Close access road. Vehicles will exit the parking area on the access that lies between No.s 42 and 44 Station Road.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance
- 3.02 Conservation Area Cellar Hill and Greenstreet, Teynham

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF): Paras 8 (three dimensions of sustainable development); 10, 11 (presumption in favour of sustainable development); 47 (Determining applications); 54, 55, 56, 57 (planning conditions and obligations); 61 (delivering a sufficient supply of homes); 124, 127, 128, 130, 131 (good design); 174, 175, 176, 177 (Biodiversity); 189, 190, 191 and 192 (Proposals affecting heritage assets).
- 4.02 National Planning Practice Guidance (NPPG): Air Quality; Conserving and enhancing the historic environment; Design; Environmental Impact Assessment; Land affected by contamination; Natural Environment; Noise, Open space, sports and recreation facilities, public rights of way and local green space, sports and recreation facilities; public rights of way and local green space; Planning obligations; Travel Plans, Transport Assessments and Statements.
- 4.03 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP6 (Community facilities and services to meet local needs); CP 8 (Conserving and enhancing the historic environment); A19 (Land east of Station Road, Teynham); DM6 (Managing transport demand and impact); DM7 (Vehicle parking); DM8 (Affordable housing); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges); DM32 (Development involving listed buildings); and DM33 (Development affecting a conservation area).
- 4.04 Policy A19 reads as follows:

Planning permission will be granted for a minimum of 107 dwellings, together with landscape and open space on Land east of Station Road, Teynham, as shown on the Proposals Map. Development proposals will:

1. Accord with Policy CP 4, in particular demonstrate and provide a strong landscape framework (shown by a submitted Landscape Strategy and a Landscape and Ecological Management Plan) that includes:

- a. retention and enhancement of existing hedgerows;
 - b. provision of new hedgerow planting;
 - c. retention, enhancement and appropriate management of the existing traditional orchard; and
 - d. new orchard planting for the landscaped areas of the new development.
2. Be of high quality design, of two storeys height, adjacent to the existing residential development and the countryside edge, and respond appropriately to the character,

setting, design and materials of the Teynham Conservation Area in accordance with Policy DM 32 and DM 33;

3. Achieve a mix of housing in accordance with Policy CP 3, including provision for affordable housing in accordance with Policy DM 8;

4. Through both on and off site measures, ensure that any significant adverse impacts on European sites through recreational pressure is mitigated in accordance with Policies CP 7 and DM 28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy;

5. Provide an off-street car park to address on-street car parking problems on Station Road;

6. Provide an Archaeological Assessment to consider the importance of the site and, if necessary propose mitigation;

7. Provide a new access road from Station Road, a separate emergency access onto Station Road and pedestrian and cycle access onto Station Road and the A2;

8. Address air quality impacts arising in the Teynham AQMA, including the implementation of innovative mitigation measures;

9. Be supported by a Transport Assessment and provide appropriate traffic improvements and management measures, including at the junction of Station Road and the A2 and at other locations as appropriate; and

10. Provide the infrastructure needs arising from the development, including those identified by the Local Plan implementation and delivery schedule, in particular those relating to improvements in primary school and health facilities.

4.05 Supplementary Planning Documents: Listed Building; Conservation Areas; Developer Contributions (2009) and the Swale Landscape Character and Biodiversity Appraisal (2011).

5.0 LOCAL REPRESENTATIONS

5.01 Letters of objection have been received from 29 separate addresses raising the following summarised concerns:

- There is a lack of infrastructure and facilities in the local area, in particular, healthcare facilities, public transport, schools and shops to be able to support this development;
- There is insufficient highway capacity;
- The junction of the A2 / Station Road is unable to cope with an increase in traffic;
- There have been a number of accidents / fatalities on the surrounding road network;
- There is a lack of parking provision in the surrounding area;
- The proposed car parking spaces are inadequate in number for the number of properties they will be serving;
- Parking at the rear of properties in Station Road will be less convenient for existing residents than the existing arrangement;
- Access to the proposed dwellings should be directly from the A2 rather than Station Road;
- The housing will not be affordable;

- The housing will be poor quality;
- The land is designated for pasture / agricultural use;
- *“Where would the money come from for this project?”*
- The development would lead to increased levels of pollution and poorer air quality;
- There is a lack of employment for future residents;
- The access to the site is inadequate;
- The cumulative effect of this development and others in Teynham is not appropriate for a settlement the size of Teynham;
- The car park at the rear of the properties in Station Road will increase anti social behaviour;
- Removing cars from Station Road will increase driver speeds in the area;
- Utilities in the area will struggle to cope with the increase in housing;
- What are the parking proposals for disabled residents?
- There are alternative sites that should be built on;
- The proposed demolition of existing properties will lead to noise and dirt;
- The removal of the build out on the western side of Station Road south of Belle Friday Close will speed up traffic and reduce the safe lay-by;
- The developer suggested that a footpath would be built on the eastern side of Station Road which has not come forward in the application;
- Providing dropped kerbs for surrounding properties would reduce parking pressures;
- How will the proposed car park for Station Road residents be managed;
- The drainage system in the area is inadequate to support this development as flooding already occurs;
- Increased usage of public access points will impact upon security of existing properties;
- A pedestrian crossing with traffic lights should be provided;
- A lower speed limit should be introduced along Station Road;
- The proposed pedestrian access will lead to a loss of privacy;
- The development would have an impact upon the conservation area;
- The application site supports a range of wildlife;
- The development would spoil the view that the application site currently provides;
- The proposal would give rise to overlooking of surrounding properties;
- The properties to be demolished are part of the historic terrace;
- The existing footpath in Station Road is narrow and dangerous;
- Additional vehicles will give rise to higher levels of noise;
- There are concerns regarding the structural stability of the properties in Station Road due to their age and unstable land in the area;
- A ground condition survey should be carried out;
- Concerns regarding the presence of radon;
- There is a mains water pipe within the proposed access road, which the developer will need to take responsibility for;
- What security measures will be in place for the new car park;
- Seek confirmation that the developers are not demolishing the rear garden wall of existing properties in Station Road;
- A number of trees on the site should be subject to a TPO and the orchard should be protected and designated as a conservation area;
- The orchard should be turned into a working orchard to create jobs and provide open space;
- The construction of the properties should be carried out in a sustainable manner;
- In general the parking layout for the development will lead to conflict;
- How asbestos will be dealt with has been omitted from the supporting information;
- Who will take liability if surrounding properties are flooded?;

- The street light in front of the properties in Nobel Close has been removed on the drawings giving rise to safety concerns;
- Security measures such as CCTV would be an invasion of privacy;
- Revised drawings taking into account a planted area to the frontage of Nobel Close, sufficient lighting and parking restrictions should be submitted;
- The proposed access road passing the side elevation of an existing property will give rise to a loss of light and overshadowing;
- The proposed access road to the car park being so close to existing properties would give rise to increase respiratory problems;
- There are *“many greenfield sites still available in Swale, use those first”*;
- Construction traffic will not be able to travel down Station Road;
- The land owner has already cut down trees, shrubs and scrub which was full of nesting birds and is illegal;
- It is clear that it is the intention to Compulsory Purchase land belonging to Nobel Close and the Vicarage yet none of the land owners have been consulted;
- The amount of green space proposed is not in proportion to the amount of housing proposed;
- Why does the social housing have to back onto houses in Station Road?;
- The sub-station should be moved to the other side of the development;
- The construction phase will lead to noise and disturbance;
- The developers should apply for 'Prior Consent' for noise generating activities during the construction phase of the development under the Control of Pollution Act 1974;
- The density of the layout is too high;
- The development is overbearing and out of scale to the locality;
- The proposals do not take into account the requirement for the landscape buffer to the rear of the properties along the A2;
- The three storey element of the development will give rise to harm to visual amenities;
- With the possibility of a 'no-deal Brexit' farmland should be used for food production;
- The NHS are concerned regarding increased pressure the extra residents will put onto the service;
- *“UK Power Networks have not been served with the correct notices in accordance with the Party Wall Act 1996”*;
- How will existing residents be compensated for the right to peace and quiet?;
- There is Japanese Knotweed on the site;
- How much will the dwellings cost, how many local people will buy them and who is going to be coming into the village?;
- When and why was Nobel Close adopted?

5.02 1 letter of support has been received raising the following summarised points:

- The proposed parking arrangements for the Station Road residents will be an improvement;
- The removal of cars from Station Road will lead to a highway improvement;
- The developers should not have to fund all required infrastructure.

6.0 CONSULTATIONS

6.01 **Teynham Parish Council** object to the application raising the following summarised concerns and observations:

- Due to the cuts in local services, including the number of Doctor's surgeries and rail services, the loss of 'Sure Start' facilities, no tangible improvement in bus

services and no evidence that school facilities will be improved the designation of Teynham as a sustainable location for development in the Local Plan is questioned;

- The impact of the development upon schools and medical facilities will be required to be addressed prior to the occupation of the dwellings;
- The existing surrounding road network is already over capacity and the junction of the A2 / Station Road will need to be modified;
- Notice should be taken of the High Court's decision to dismiss an appeal in Newington following SBC's refusal of planning permission on air quality grounds. Like Newington, Teynham is subject to an Air Quality Management Order and as such this application should be refused for this reason;
- Parking restrictions should be put in place around the Nobel Close entrance;
- There should be consideration towards widening the footpath along Station Road;
- Do not support the removal of the build out feature on Station Road outside of the school;
- Safety of the 'in' access to the proposed car parking area and the pedestrian / cycleway is being prioritised over the main access to the development;
- The proposed car parking areas should be subject to management plans;
- No discussion with the Parish Council regarding management of the proposed car parking spaces, the woodland areas or the provision of new play equipment has taken place;
- Fruit trees which are to be removed should be replaced with trees requiring minimal maintenance;
- An assumption is made that local applicants with an association with Teynham will be considered first for affordable housing;
- The shared cycle stores could create opportunities for crime and as a meeting place for youths; and
- Although as set out above, the Parish Council object to the scheme, it was noted that they consider *"the design of the development to be appropriate and suitable."*

6.02 **KCC Highways & Transportation** initially commented that the methodology used within the Transport Assessment has been agreed. It is considered that the design of the main access to the site (to be taken at the Nobel Close junction) is appropriate. The additional pedestrian links, to London Road to the south, and Station Road to the north-west will provide direct routes to local services and the re-location of the existing kerb build out in Station Road will provide suitable visibility and a footway area to accommodate pedestrians.

The quantum of parking spaces accords with IGN3 (Kent Design Guide Review: Interim Guidance Note 3. 20 November 2008), although many of the parking spaces have been provided in the form of tandem spaces. In these instances, a third parking space has been added for these properties in the tandem arrangement. Further to this, KCC Highways & Transportation requested some additional on street parking. There was also some concern regarding the car ports and that they should be provided as the rearmost parking space.

The proposal includes the creation of off-street parking spaces for the residents of Station Road, the number of which will exceed the existing parking spaces which will be lost by the introduction of waiting restrictions on Station Road. Some limited lengths of the existing on-street parking will still remain, including the disabled bays, as this will assist with influencing vehicle speeds between Nobel Close and the A2. The proposed parking spaces for the Nobel Close residents will address the existing situation of informal parking in this area.

Although the cycle parking arrangements for the houses and the three storey apartment block is acceptable, the cycle storage for the two storey apartment block does not appear to be able to be monitored as successfully.

The swept path analysis has been undertaken for the appropriately sized vehicles and the details submitted show that they will be able to manoeuvre into and within the site.

Although the trip rates used in the TA and derived from the national TRICS database are agreed, KCC Highways & Transportation requested that the associated traffic flow diagram is provided to fully ascertain the contributions that may be required at various junctions. The TA has also considered the correct timeframes and scenarios for the assessment of the local highway network. In respect of developer contributions, improvements to the following junctions will be required – A2/Swanstree Avenue; A2/Murston Road; A2/A251; A2/Station Road and general improvement works to the A2 in Teynham.

Further to the above comments, discussions between Officers and the applicant / agent have taken place and further information and amendments have been received. KCC Highways & Transportation have been re-consulted and responded as follows:

Due to the design of the car ports they are unlikely to be converted and planning conditions and covenants can be used to control this further. Additional on street parking has been provided and therefore the amount and location of parking throughout the scheme is now acceptable. The cycle store for the two storey apartment block will be operated by a security fob which is considered acceptable. On the basis of the submitted details, no objection is raised subject to the securing of the highway contributions previously discussed, the obligation to advance the Traffic Regulation Order for the implementation of the proposed waiting restrictions on Station Road and conditions relating to off site highway works; mud on the highway; site parking, loading and turning for construction workers / vehicles; retention of parking spaces; provision of cycle spaces; access provided prior to occupation of the dwellings; details of estate roads, footways, verges etc; and completion of works between dwellings and the adopted highway.

- 6.03 The Council's **Environmental Protection Team Leader** originally commented on the application stating that in respect of Air Quality, the assessment submitted uses modern accepted methodology. In regards to construction, the predicted levels fall well below the level of concern and as such no objection is raised to this. For vehicular traffic, 12 receptor points have been assessed. NO₂ (nitrogen dioxide) impact levels are predicted to be 'medium' at receptors 1-4 and 'small' for the remainder. All PM₁₀ and PM_{2.5} impact predictions are listed as 'imperceptible'. Although the predicted levels did not go above the objective levels, the Environmental Protection Team Leader was not convinced that a medium impact translates as a negligible impact descriptor for receptors 1-4.

A requirement for a Noise Assessment and Contaminated Land Assessment was also set out.

Further to the above, additional information was received in respect of air quality and reports in relation to noise and contamination. In terms of air quality, it was initially set out in the assessment that mitigation measures were not required as there was predicted to be a mostly negligible impact which was not in accordance with the information provided in the rest of the document. However, it has now been stated

that the provision of a number of mitigation measures, including electric charging points will be made.

A Noise Assessment has been submitted which conclusively concludes that the site should not be adversely affected by noise and the report is considered satisfactory.

The Land Contamination report comprehensively describes the ground conditions on the site. It is considered that the report follows current and acceptable methodology, concluding that there is very little evidence of pollution on the site which could adversely affect human health. However, the report does state that some elevated levels of lead have been found in part of the site. The report recommends that further investigation should take place and the Environmental Protection Team Leader agrees with this stance and considers that this issue needs to be investigated further and mitigated and/or removed from the site.

On the basis of the above, there are no objections raised to the proposal on Environmental Health grounds subject to conditions requiring electric vehicle charging points and further investigation and mitigation, if necessary, of the site to reduce the elevated levels of lead.

- 6.04 The **Lead Local Flood Authority (KCC)** initially responded with a holding objection pending the submission of ground investigation details and appropriate infiltration rates for the proposed soakaways.

Further to this, the Lead Local Flood Authority have been in consultation with the Environment Agency as the discharge to groundwater is a matter which they would comment upon and who have raised no objection subject to conditions (see paragraph 6.08). On this basis the Lead Local Flood Authority have enough reassurance that they can raise no objection to the scheme subject to conditions requiring a detailed sustainable surface water drainage scheme; an operation and maintenance manual for the proposed sustainable drainage scheme; and a verification report demonstrating the suitable operation of the drainage scheme.

- 6.05 **Kent Police** state that the submitted information clearly demonstrates that crime prevention has been considered and confirm that they have met with the applicants. They have set out that there are a limited number of issues to be addressed but consider these matters of planning detail.
- 6.06 **UK Power Networks** *“objects to the planning application for the Development, as the Applicant has neither served Notice in accordance with the Party Wall etc. Act 1996 nor satisfied the Company that the works are not notifiable. The Applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act. The Applicant would need to be responsible for any costs associated with any appropriate measures required.”*
- 6.07 **Highways England** are satisfied that in principle the proposals will not materially affect the safety, reliability and / or operation of the Strategic Road Network and therefore raise no objection. However, they recommend a condition requiring a Construction and Environmental Management Plan
- 6.08 **Natural England** comment that *“since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed*

strategic solution which we consider to be ecologically sound. Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). Our advice is that this needs to be confirmed by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with the Conservation of Habitats & Species Regulations 2017.”

- 6.09 **Environment Agency** originally responded stating that *“we have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.”*

However, after reviewing the information further following discussions with the Lead Local Flood Authority (KCC) regarding groundwater implications, additional comments have been received. This confirms that no objection is raised subject to conditions relating to contamination; a verification report; no infiltration of surface water and piling and other foundation designs.

- 6.10 **KCC Ecology** state that they have reviewed the submitted ecological assessment documents submitted and advise that the mitigation measures proposed are sufficient for the planning application to be determined. A condition requiring a biodiversity method statement is recommended to ensure that the proposed mitigation can and will be implemented. In addition, and to ensure that the site retains any ecological interest a landscape and ecological management plan is recommend to be secured via a condition. The site also lies within 2km of the Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites) and therefore appropriate mitigation will need to be provided via a contribution to the SAMM. In addition to this, due to a recent decision from the Court of Justice of the European Union, an Appropriate Assessment will be required to be carried out.
- 6.11 **KCC Archaeology** have reviewed the archaeological desk based assessment and agree with the general conclusions that archaeological mitigation can be dealt with through a condition of any forthcoming approval. However, the possibility of archaeological interest on the site has potentially been understated. On this basis, a condition requiring archaeological evaluation to be followed by further mitigation as appropriate in recommended.
- 6.12 **SBC Greenspaces Manager** comments that due to the insufficient on-site provision contributions to improving play facilities (£446 per dwelling) and formal sports (£595 per dwelling) at land adjacent to Teynham Village Hall should be made.
- 6.13 **Swale Clinical Commissioning Group (NHS)** – comment that *“the CCG area is subject to high levels of growth and our local health services especially GP services are already at capacity. This new development will place additional pressure on those services. We are therefore flagging up to you that in relation to this development we would require a S.106 financial contribution of £360 per new resident (£360 x 312) which equates to a financial contribution of £112,320 towards expanding existing facilities within the vicinity of the development. We are of the opinion that this funding should be earmarked for the use of Dr Rb Kumar Practice.”*
- 6.14 **KCC Developer Contributions** request £358,992 for primary education towards Phase 1 expansion of Teynham Primary School; £506,200 for secondary education towards Phase 3 of the new Secondary School construction upon land off Quinton

Road, NW Sittingbourne; £208,673.28 towards Phase 3 land for the new Secondary school site upon land off Quinton Road, NW Sittingbourne.

- 6.15 **Southern Water** have requested a condition in respect of sewerage network reinforcement and the agreement of details in relation to foul sewerage disposal.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The following documents have been submitted in support of the application:

- Proposed floorplans and elevations;
- Site Section;
- Block Plan;
- Schedule of Accommodation;
- Swept Path Analysis;
- Air Quality Assessment;
- Arboricultural Impact Assessment;
- Archaeological Desk Based Assessment;
- Ecological Assessment;
- Flood Risk Assessment;
- Habitat Screening Assessment;
- Landscape Strategy;
- Landscape Masterplan;
- Planning Statement;
- Statement of Community Involvement;
- Design and Access Statement;
- Transport Assessment;
- Refuse Collection Strategy Plan;
- Parking Strategy Plan;
- Materials Plan;
- Boundary Treatment Plan;
- Dwelling Distribution Plan;
- Storey Heights Plan;
- Tenure Allocation Plan;
- Road Hierarchy Plan; and
- Affordable Tenure Allocation Plan

8.0 APPRAISAL

Principle of Development

- 8.01 The application site is allocated in the adopted Local Plan under policy A19 for a minimum of 107 dwellings and is situated within the built-up area boundary. The application proposes the demolition of 2 dwellings and the construction of 130 dwellings which would contribute towards the Council's housing supply on a site which is specifically allocated for this type of development. To reach the point whereby the site has been allocated in the Local Plan it has gone through a rigorous selection process and has been independently assessed by a Planning Inspector, reaching the opinion that it is suitable for residential development. On this basis, I am of the very firm view that the principle of this development on this site is accepted.

The quantum of housing and mix of units

- 8.02 As set out above, the proposal seeks planning permission for 130 dwellings on a site of 4.4 hectares. This equates to a density across the site of 29.5 dwellings per hectare. In my view, the density in the surrounding area is mixed. The properties laid out at the highest density are the Victorian terraced properties in Station Road and London Road, immediately to the west and south of the site. In Bradfield Avenue and Nutberry Close to the north the properties are laid out at a lower density and are more typical of a suburban pattern of development. The application site includes a range of densities with the highest in the central part of the site where the apartment blocks are located. Aside from this, the layout comprises a mixture of terraced, semi detached and detached dwellings. In this case, it is firstly important to consider that the specific site allocation policy identifies this site as being capable of delivering a minimum of 107 dwellings. Furthermore, the NPPF sets out at paragraph 122 that *‘decisions should support development that makes efficient use of land, taking into account’,* amongst other matters, *‘the desirability of maintaining an area’s prevailing character and setting’.* I also give weight to the specific requirement of policy CP3 where it is stated that proposals will *“Use densities determined by the context and the defining characteristics of the area”.*
- 8.03 In my view, the variation in densities proposed within the application site would broadly reflect the mixture of densities in the surrounding area. The layout provides a mixture of units, which will be discussed in further detail below, and would in my view satisfy the aims of both the Local Plan the NPPF in regards to the density of the development proposed.
- 8.04 The overall aim of policy CP3 is to deliver a wide choice of high quality homes. The policy sets out the starting point for the required mix of housing to meet currently assessed needs. I have below compared the aspirations of the Local Plan with the mix proposed within this application:

| Unit Size | Number (%) Proposed | Local Plan Requirement |
|-----------|---------------------|------------------------|
| 1 bed | 6 (5%) | 7% |
| 2 bed | 53 (41%) | 36% |
| 3 bed | 56 (43%) | 42% |
| 4+ bed | 13 (10%) | 15% |

- 8.05 In my view, the above table demonstrates that the mix of properties aligns closely with the Local Plan requirement. I believe that a range of housing has been proposed to adequately suit the needs of a range of potential occupiers and overall I am of the opinion that is a considerable benefit of the scheme.

Visual Impact, landscaping and impact upon designated heritage assets

- 8.06 As set out above, the site at the current time is predominately comprised of vacant undeveloped land but does include an unmanaged orchard, trees and hedgerows. In views from public vantage points, the site is largely obscured, due to the residential development abutting the site to the north, west and south and the well established tree line that runs along part of the eastern boundary of the site.
- 8.07 The layout and design of the dwellings themselves have been considered through a detailed pre application design process to arrive at the scheme which is now before Members. In my opinion the layout displays a number of good planning principles

such as active frontages addressing the highway, legible routes throughout the site, active visible side elevations and well designed properties.

- 8.08 The architectural treatment of the buildings is based on fairly traditional designs which pick up upon Kent vernacular and seek to use complementary facing and roofing materials to reinforce the design principles. I am of the view that the proposed mix of houses and apartments, with their varying scales and forms would go a long way towards creating an attractive new residential area with well considered streetscenes and roofscapes. The three storey apartment blocks on the site will be the most prominent buildings from within the site, however, I am of the view that they have been designed sympathetically in terms of their elevations, roofscapes and use of materials. My only slight concern in this respect related to the design of the two, two and a half storey dwellings proposed in terms of the spacing and proportion of the fenestration. However, further to discussions with the applicant / agent where my thoughts were expressed, amended elevations have been provided. In my opinion, due to the fenestration now siting more comfortably on these dwellings from a visual perspective I take the view that an acceptable design for these two properties has now being demonstrated. In order to ensure that the external finishing materials are acceptable I have recommended conditions requiring details to be submitted.
- 8.09 The boundary treatment across the site has in my view been well considered with close boarded fences limited to private areas. The parts of the site where boundary treatment is more prominent have been afforded a higher quality finish in the form of brick walls and estate railings. Upon receipt of the original scheme, I did have some concern regarding the boundary treatment around the Noble Close parking spaces and to the rear of unit 71 which was indicated as being a close boarded fence. I raised this with the applicant / agent and have received an amended drawing showing that the boundary treatment in these two areas has been amended to a brick wall. This is in my view acceptable and along with the other considerations upon this matter result in well considered and appropriate boundary treatment across the site.
- 8.10 The application site lies directly to the north of Teynham's conservation area (Cellar Hill and Green Street conservation area) and one of the listed buildings contained within this Conservation Area, namely the grade II listed Alverley House at 61 London Road, which dates from the 17th century.
- 8.11 There are however, very limited visual connections between the application site and the aforementioned designated heritage assets. The conservation area has a linear form, and is primarily experienced in terms of views of groups of buildings fronting onto either the main A2 London Road (Green Street), or onto Cellar Hill. Where some glimpsed views exist between the buildings along the northern edge of the conservation area off London Road, these in part, reveal the southern boundary of the application site, but with no clear views across the site itself due to tree coverage and boundary screening.
- 8.12 There does, however, remain some historical association between the conservation area and the application site by virtue of the latter's historic use as orchards, connected with the use of some of the buildings along London Road, and remnants of the former significant commercial orchard area which still survive today. This remnant area provides an attractive natural space and will allow for a recreational, visual amenity and ecological resource. The requirement for the retention and enhancement of this area is a specific requirement of policy A19. This has been recognised within the application and as such I am of the view that the historical

significance of the orchard and its links with the conservation area as described above have been appropriately dealt with and will lead to an enhancement in this regard. To ensure that this is dealt with appropriately I have included relevant landscaping conditions and in addition to this a requirement for a Landscape and Ecological Management Plan has been recommended by KCC Ecology. As such, to ensure the on-going management of this specific area I have imposed this condition.

- 8.13 In respect of the landscaping upon the rest of the site, policy A19 (which is set out in full above) requires a strong landscape framework that includes retention and enhancement of existing hedgerows and provision of new hedgerow planting. In addition, the indicative drawing which accompanies policy A19 shows the general areas within where planting should be enhanced and retained.
- 8.14 Firstly, the application proposes the retention of the hedgerow along the central part of the site. However, the application when originally submitted failed to provide hedgerow planting along the northern boundary and failed to provide landscaping within the south western part of the site, where a landscape buffer was envisaged. This was raised with the applicant / agent and the response has been to add a 2m wide hedgerow along the northern boundary and a 2m wide hedgerow along the southern part of the site. In terms of the northern boundary, I am of the view that this satisfies the aims of policy A19. In relation to the southern boundary, the indicative drawing indicates that a landscape buffer should be provided. Although I am of the view that a 2m wide hedge falls short of what could be described as a landscape buffer, I also take into consideration the tree planting that is proposed along the southern boundary. I also give weight to the lack of harm that has been identified in respect of the conservation area which lies to the south of the site. As such, although in this specific area the hedgerow and tree planting falls short of a landscape buffer, when this is balanced against the rest of the landscaping within the scheme and the lack of harm to heritage assets I am of the view that what has been provided is acceptable.
- 8.15 Aside from the hedgerow planting, the scheme also includes a number of street trees which I believe will have a positive impact upon visual amenities and also allow for opportunities for biodiversity enhancements. Overall I am of the view that the landscaping strategy for the site satisfies the vast majority of the aims of policy A19. I believe that the proposal will give rise to enhancements in terms of landscaping and as such I take the view that this element of the scheme is acceptable.
- 8.16 The proposal also seeks to demolish two existing properties in Station Road in order to increase the visibility splay for the existing access to Nobel Close. Local concern has been raised in respect of the contribution that these two properties make in heritage terms. In my view, the properties are clearly Victorian although have lost a number of their original features and now have a number of modern elements such as uPVC windows. This has eroded the original character of these properties in my view. In addition, the properties are not listed, nor in a designated area. Furthermore, I note that the demolition of the properties is to provide sufficient access to a site allocated in the Local Plan for housing. As such, I take the view that the demolition of these properties would not give rise to any significant harm to visual amenities.

Residential Amenity

- 8.17 The application site is bounded by existing residential development to the north, west and south. Concern has been raised from local residents in respect of overlooking

from the proposed dwellings and due to the location of the site the impact of the development upon residential amenities requires careful consideration.

- 8.18 The Council would expect that rear-to-rear separation distances are a minimum of 21m. In terms of the southern boundary, the closest relationship between the proposed dwellings and those in London Road is 27.5m increasing to 43m at the furthest point. Along the western boundary to the south of Nobel Close, the closest proposed dwelling is 32m from the existing properties in Station Road, rising to 43m at the furthest point. As such, I have no serious concerns in this regard in respect of the overlooking or a loss of privacy.
- 8.19 To the north of Nobel Close the existing building line is irregular. The closest proposed property to the existing front elevation of the dwellings in Nobel Close is 25m and as such I am of the view that this relationship is acceptable. Aside from one instance, the remainder of the separation distances along this boundary are comfortably in excess of 21m. The separation distance falls below this in the case of the relationship between No.72 Station Road (the former Teynham Medical Centre) and unit 65 which is 19.5m away. However, it is important to note in this case that the medical centre is now vacant and in any case its lawful use is within class D1 (non residential institutions). As such I am of the view that this separation would not give rise to any unacceptable overlooking or a loss of privacy.
- 8.20 Along the northern boundary, due to the layout of the existing properties in Nutberry Close there are a limited number of rear elevations which have a direct relationship with the proposed properties in this part of the site. Of those that do, No.9 Nutberry Close is separated from unit 79 by 21m. This achieves the minimum separation distance and in addition to this I note that the rear elevation is turned away from the proposed unit to some extent. As such, I consider the layout in this regard not to give rise to unacceptable harm to the amenities of existing occupiers.
- 8.21 I have also carried out an assessment of the impact of the future residents of the site as follows. In the vast majority of case the minimum separation distance of 21m between proposed properties has been achieved. In the instances where it does not, which are limited to the separation distance between units 38-44 and 45-54 it falls short by such a marginal amount (0.5m) that I take the view that the impact would not be unacceptable. I have also assessed the private garden sizes of the properties and again, in the majority of cases the minimum depth of 10m, which the Council would usually seek, has been met. In the instances where it has not, the shortfall is limited to 0.5m in most cases, although there are three units where the garden depths are 8.5m. In these cases, I have assessed what I consider to be the usability of these private amenity spaces and take the view that in all cases they provide a sufficient level of space not to unacceptably comprise the amenities of future occupiers. As such, I am of the opinion that the provision of private amenity is appropriate for this development.

Highways, Access and Parking

- 8.22 I note the concern raised by neighbours in respect of highways issues, in particular in relation to the capacity and safety of the surrounding network. Policy A19 of the Local Plan is clear in that the proposal should be supported by a Transport Assessment and provide appropriate traffic improvements and management measures, including at the junction of Station Road and the A2 and at other locations as appropriate.

- 8.23 In order to comprehensively assess the highway impacts of the scheme and to reach a view on the acceptability of the proposal upon both the strategic and local highway network, Highways England and KCC Highways & Transportation have been consulted and I make the following observations based upon their responses, which are summarised above.
- 8.24 Firstly, Highways England in this case have paid particular attention to the impact of the development upon the A249 and the M2 at junction 5 to 7. They have commented that they believe the broad scale of trips identified within the Transport Assessment as being realistic. In summary, this equates to an estimated peak hour increase of 6 trips at the M2 Junction 7 which is not considered to have a material impact on the safe and efficient operation of that junction. In respect of northbound trips on the A249, the Transport Assessment predicts that there will be 15 additional over a 60 minute PM peak period and therefore it is unlikely that traffic increase of this scale would significantly increase queues and delays on the northbound off-slip. On this basis, no objection is raised in relation to the impact upon the strategic highway network subject to the imposition of a condition requiring a Construction and Environmental Management Plan, which I have recommended as below.
- 8.25 In relation to the local highway network, in order to improve the visibility of the access to the site to accommodate traffic generated by the development, as stated above, the application proposes the demolition of No.56 and 58 Station Road. The design of the junction and the footway build out in Station Road has been developed on the basis of discussions between KCC Highways & Transportation and the applicant's highways consultant and it is considered that an appropriate design has been submitted. Furthermore, KCC Highways & Transportation are of the view that having assessed the Personal Injury Data over what is the appropriate 3-year study period that there are no trends to suggest that there is a pre existing safety issue which would be worsened by this proposal.
- 8.26 In respect of parking, the proposal delivers the quantum of parking as required by the document against which proposals are assessed. Some concern was initially raised in respect of the tandem parking spaces, although in many cases 3 spaces are provided per plot to mitigate against this. However, to further mitigate some additional on street parking was requested. There was also concern regarding the potential for the car ports to be converted which would restrict the availability of on plot parking. Discussions on this basis have taken place between KCC Highways & Transportation, the applicant's highway consultant, the applicants and Officers. The result of this is that the details of the car ports have been provided which confirm that they are designed in such a way which makes them difficult to convert. In addition, the applicant has confirmed that covenants will be placed upon the properties restricting their conversion and in addition a relevant condition has been recommended to retain the parking spaces for such use. KCC Highways & Transportation have reached the view that this is an acceptable approach. As such, due to the amendments and the conditions imposed I am of the view that the parking provided for the proposed properties is appropriate in both its amount and location and will not give rise to harm to highway safety or amenity.
- 8.27 Currently, on street parking occurs along the western side of Station Road, however, the majority of these spaces will be lost due to the introduction of parking restrictions in Station Road. The process by which the parking restrictions will be introduced is via the advancement of a Traffic Regulation Order, which is outside of the planning process. As such, this will need to be agreed separately from this application. However, in order to address this, policy A19 of the Local Plan sets out that the proposal will provide an off street car park. The indicative site allocation drawing

shows the potential for this car park to be provided in a block form close to the western boundary of the site. The application has come forward with this off street parking area along the western boundary but in a linear arrangement. Although in visual terms, the proposed car park will be laid out in a different fashion to that envisaged in the Local Plan, I am of the view that the solution to this issue that has been submitted for consideration is an enhancement on the indicative drawing contained in policy A19. The reason for this is that a car park encroaching further into the site with its associated hard surface treatment would in my opinion have a harsher appearance. I believe that the proposed location will be softer in terms of its impact on the development as a whole. I also note the planting that has been proposed which I consider will further mitigate against the visual impact. On this basis, I am of the view that the landscaping conditions recommended will ensure that this issue is dealt with appropriately.

- 8.28 I note a number of comments that have been received from the Parish Council and local residents in respect of the proposed car parking arrangement. There is some concern that the removal of vehicles from Station Road would allow for faster vehicle speeds along Station Road. However, some spaces, including the disabled spaces, would remain in situ and would mitigate against this. It is also noted that in response to concerns regarding parking space numbers that the parking spaces to be provided, which total 46 to the rear of Station Road, will be greater than the amount being removed. Points have also been raised regarding the on-going management of these spaces which in my view is a key aspect of the success of this element of the proposal. I have discussed this with the applicant who has confirmed that it will be placed within the control of a management company. I am of the view that this is an appropriate solution, although at the current time there is a lack of detail in respect to what this would entail. As a result I have recommended a condition requiring a car park management plan to be submitted. I also note the comments of Kent Police who consider that some issues remain to be addressed, although the majority of these relate to this specific car park. These would be matters of detail that I would expect to come forward as part of the details submitted in the parking management plan. On this basis I consider that the car park will provide an acceptable solution to the existing parking arrangement on Station Road.
- 8.29 In addition to the parking spaces for the Station Road residents the application also provides 12 dedicated spaces for the residents of the properties in Nobel Close. These will be provided in a linear fashion to the front of these properties which face towards the application site. The current parking arrangement for the residents in Nobel Close is informal and I noticed vehicles parked along what will be the main access into the site when undertaking my site visit. This dedicated parking area will in my view be a benefit to the existing residents whilst at the same time removing vehicles from the highway which are currently parked in an informal manner.
- 8.30 As required by policy A19, the application also provides additional access points onto Station Road to the north west of the site and London Road to south. It is noted within the submission that the route from the north western part of the site to Station Road is currently in third party ownership and as such subject to agreement outside of the planning process. KCC Highways & Transportation have taken the view that this is important for those residents in the northern part of the development to have a more direct route to local services and facilities including the Primary School and the railway station. I entirely agree with this view. As a result of this, I have recommended a condition which requires this access to be provided prior to the occupation of any of the dwellings in the northern half of the site (units 55 to 129). This will allow the agreement between the applicants and the third party the

opportunity to be resolved whilst at the same providing reassurance that the link will be provided.

- 8.31 In respect of the access in the southern part of the site connecting through to London Road, this is within the control of the applicant. Members will note that this does provide vehicular access but only to an existing parking arrangement close to the southern boundary of the site. The vehicular access will be blocked off further to the north meaning that this access will be retained as a vehicle and cycle access into the application site. This is in my view acceptable and accords with the requirements of the Local Plan.
- 8.32 On the basis of the above, KCC Highways & Transportation raise no objection subject to the securing of highway contributions (discussed in more detail below), the obligation to advance the Traffic Regulation Order for the implementation of the proposed waiting restrictions on Station Road and a number of highway related conditions which have been recommend below.

Building For Life

- 8.33 I have also made an assessment of the scheme against Building for Life 12 (as agreed by the Local Plan Panel on 25.04.18), and consider that it scores extremely well in terms of this. My assessment is appended.

Air Quality, Noise and Land Contamination

- 8.34 An Air Quality Management Area – which runs from No.75 London Road to No.109 London Road - is located approximately 100m from the site. An air quality assessment has been submitted with the application and I have consulted with the Council's Environmental Protection Team Leader. As is standard practice the air quality assessment has divided air quality issues into two, those from construction activities and those from vehicular sources. In respect of construction activities the assessment is based upon the predicted air quality impact on twelve nearby sensitive receptors. In respect of this the baseline levels for 2017 and 2021 are compared with the predicted levels for the same two years. The results fall comfortably below the levels of concern and therefore in respect of the impact of construction activities upon air quality there is no significant concern raised.
- 8.35 In terms of vehicular traffic, the main air pollutants of concern are nitrogen dioxide (NO₂), and particulates PM₁₀ and PM_{2.5}. Although the predicted levels for NO₂ fall below the relevant objective level, there was initially concern raised that although the impact on all receptors was described as negligible, predicted levels at four of the receptors was set out in the report as being 'medium'. As such, the Council's Environmental Protection Team Leader originally did not accept the Air Quality assessments conclusion that there was no necessity to employ mitigation measures as it was considered that this was inconsistent with some of the observations regarding the predicted impact.
- 8.36 Further to the above, the Council's Environmental Protection Team Leader and the applicant's Air Quality Consultants have liaised and a further Technical Note has been provided. The Technical Note includes a number of mitigation measures which will be introduced which includes the following:
- Electric vehicle charging points;
 - Low NO_x boilers: Potterton Promax Combi NO_x 5 (best in class), which complies with the Code for Sustainable Homes;

- Provision of fibre broadband to enable increasing homeworking tendency;
- Pedestrian and cycle linkages are proposed to the north and south of the site, leading to Station Road and the A2 London Road;
- Nobel Close will be developed with 2.0 metre footways on either side.

KCC Highways have also requested contributions to general improvement works along the A2 which the applicant has agreed to. This will contribute to the management of traffic and pedestrians along the A2 which will in turn make a contribution towards the aims of mitigating against air quality impacts.

- 8.37 I have re-consulted with the Council's Environmental Protection Team Leader on this basis who has commented that the main concern was related to mitigation measures which the original report had concluded was not necessary. However, on the basis of the above mitigation measures the view has been reached that the impact upon air quality will be unlikely to go above what are accepted levels. In respect of how this can be controlled, I have recommended a condition requiring electric vehicle charging points to all dwellings with a closely associated car parking space. This effectively means that all the apartments, which total 22 units on the site would not benefit from this as the parking spaces for these units is provided communally and charging points would be difficult to implement. I have continued to liaise with the Environmental Protection Team Leader who has confirmed that he considers this to be an acceptable solution. In respect of the other mitigation measures, the efficiency of the boilers would be dealt with under Building Regulations. In terms of broadband I have recommended a condition requiring adequate underground ducts to enable this to be installed. The accesses to the site are controlled by the relevant conditions requiring these to be provided whilst the 2m footpath on Nobel Way is shown on the drawing which the development will be required to be completed in accordance with. As such, I am of the view that the proposal would not give rise to significant additional harm in respect of air quality.
- 8.38 In relation to noise and land contamination, respective reports have been submitted dealing with these two issues and the Environmental Protection Team Leader considers conclusively that impacts of noise will not give rise to any particular harm.
- 8.39 In terms of contamination, some elevated levels of lead have been identified in a part of the site and the recommendation that this is investigated and dealt with if necessary. I note the condition recommended by the Environment Agency in respect of contamination and therefore I am of the view that this will ensure that any contamination on the site is adequately dealt with.

Ecology, Drainage and Archaeology

- 8.40 The supporting text to policy A19 sets out that the existing traditional orchard area on the site is a UK BAP (Biodiversity Action Plan) priority habitat which should be retained and supplemented with new orchard planting as necessary. In addition the supporting text sets out that supporting information will be required to assess the extent and importance of habitats and species on the site and to provide recommendations in respect of these. A number of documents have been submitted with the application as required and the mitigation measures proposed can be summarised as follows:
- Traditional orchard UK BAP Habitat – partly to be retained and mostly to be enhanced;
 - Bats – check of potential roosting features prior to tree removal, detailed lighting scheme, new roosting opportunities to be incorporated into buildings;

- Reptiles – capture and translocation to onsite enhanced receptor site;
 - Breeding Birds – Avoid breeding bird season in all vegetation, incorporation of new nesting opportunities;
 - Invertebrates – habitat enhancements within the traditional orchard;
 - Other mammals – precautionary measures during construction phase;
 - Invasive species (Japanese knotweed and Rhododendron) to be removed under specialist care.
- 8.41 KCC Ecology have been consulted and are of the view that the mitigation measures provided are sufficient. They have recommended a condition requiring a biodiversity method statement to ensure that the proposed mitigation can and will be implemented. I have included this condition below to ensure that this is adequately dealt with. In addition to this, KCC Ecology have also considered it appropriate to recommend a condition requiring a Landscape and Ecological Management Plan. This is to ensure that the site retains its ecological interest and to enable the appropriate management of any created ecological features.
- 8.42 In regards to drainage, a Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. Members will note from paragraph 6.03 that the Lead Local Flood Authority have now removed their holding objection after receiving a satisfactory response from the Environment Agency that the matter of infiltration can be dealt with via a condition. Therefore, the Lead Local Flood Authority have recommended three conditions to ensure that the surface water from the site can be adequately drained. I have included these conditions below and am of the view that that this will adequately deal with this issue. The Lead Local Flood Authority did comment that there is still a minor risk that the appropriate design arrangements for infiltration may need special consideration within the design layout and which may need later variation. However, if this was to be the case and the application was altered in a material way then this would require a separate consent from the Council. As such, I do not believe that this possibility would prejudice this scheme if it was to be approved.
- 8.43 Members will note from the consultation section above that Southern Water have requested two conditions, one in regards to sewerage infrastructure and one relating to foul and surface water sewerage disposal. In order for a condition to be imposed it is required to meet the six tests (necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; reasonable in all other aspects). Having assessed these conditions against the six tests I am of the view that the requirement for the development to align with the delivery by Southern Water of any sewerage network reinforcement required would fail to meet the test of being relevant to planning. This would be a matter solely between the developer and Southern Water and for that reason I have not recommended this condition. In terms of the second condition, I have recommended that this is amended to remove reference to surface water disposal as this is dealt with under conditions recommended by the Lead Local Flood Authority. For this reason I have included the condition to require details of foul water disposal and believe that this adequately addresses this issue.
- 8.44 The site is located within an area of potential archaeological importance and as such an Archaeological Desk Based Assessment has been submitted. I have consulted with the Archaeological Officer at KCC who agrees with the general conclusion that archaeological mitigation can be dealt with via a condition. However, he believes that the potential for archaeological remains in respect of later prehistoric and Roman remains and the potential for Palaeolithic archaeology has been understated. As a result of this a condition requiring an archaeological evaluation followed by further mitigation as appropriate has been recommended. I have included this condition and

on this basis am of the view that any archaeological remains that are on the site can be appropriately protected.

Developer Contributions and Affordable Housing

8.45 Members will note from the consultation responses above that, in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with the additional demand upon local infrastructure. Policy A19 of the Local Plan also sets out that the proposal will provide for the infrastructure needs arising from the development. The contributions that have been requested are as follows:

- Play Equipment - £57,088
- Formal Sports - £75,904
- NHS - £110,880
- Primary Education - £358,992
- Secondary Education - £506,200
- Secondary Education Land - £208,673.28
- Community Learning - £7,734.60
- Youth Service - £4,810.65
- Libraries - £29,056
- Social Care - £8,106.24
- Highways - A2/Station Road - £150,000
- Highways - A2/A251 - £32,640
- Highways - A2 / Swanstree Avenue - £55,174.40
- Highways - A2 / Rectory Road - £43,898.40
- Highways – A2 Improvement Works - £20,000
- Refuse Bins – £14,972
- Strategic Access Management and Monitoring Strategy (SAMMS) – £38,545.92
- An Administration and Monitoring fee

8.46 For clarity, although some of the consultees have recognised that the proposal also includes the demolition of two dwellings some respondents, including the NHS, have requested the payment for 130 additional dwellings. I am of the view, that as developer contributions are required to mitigate the impacts of the development that the impact of the net number of dwellings should be calculated. As such, where the amounts have been calculated on a per dwelling basis I have multiplied this by 128 and consider this reasonable.

8.47 The applicants have agreed to the majority of the payments although the matter of the contribution for the A2 / Station Road junction is still under discussion. As a result I will update Members in respect of this at the meeting.

8.48 The secondary education contribution and secondary education land contribution has also been challenged on the basis that the applicant believes that this does not meet the relevant tests for developer contributions as set out in paragraph 56 of the NPPF. In summary, the applicant is of the view that there is surplus capacity at the Isle of Sheppey Academy and pupils from the Isle of Sheppey are attending schools in Sittingbourne, including the closest school to the application site – Sittingbourne Community College.

8.49 I have referred this challenge to KCC who have responded stating that in 2020/21 there will be a deficit of secondary school places. KCC do not have the power to insist that pupils attend their closest school. Furthermore, Sittingbourne Community College applies its own admission criteria, which is correct according to the

Legislation. Therefore, the necessity for the secondary school age pupils generated by this development requiring school places will need to be mitigated. In my view, this contribution request does meet the tests for developer contributions. I have continued to discuss this with the applicant and KCC although these discussions have not been concluded. As such I am seeking delegation to approve the application subject to the secondary education contribution as sought by KCC Education being agreed.

- 8.50 The secondary education land contribution has also been challenged for the same reasons as the secondary education contribution above. In response to this, there is the possibility that this land will be provided under the application for land at north west Sittingbourne (18/502190/EIHYB). However, this is still to be confirmed and therefore I will update Members at the meeting if this has been clarified by that stage. There is also the option that if there is uncertainty over the contribution that the Section 106 could be worded in such a way that requires this sum only if the land is not provided by an alternative means. As such, if there is no clarification by the time of the meeting then I am seeking delegation to approve the application subject to either the secondary land contribution being provided or confirmation that this land will be provided in an alternative manner.
- 8.51 Policy A19 sets out that the proposals will include provision for affordable housing in accordance with policy DM8. Policy DM8 sets out the range of affordable housing provision that will be required in various parts of the Borough. Within ‘all other rural areas’, the category which Teynham falls into, the requirement is for 40% of the dwellings to be affordable. In terms of this overall figure, this application fully reflects the requirements of the Local Plan by proposing 52 of the 130 dwellings to be affordable.
- 8.52 The supporting text of policy DM8 sets out that the starting point in respect of affordable housing tenures is to seek 90% affordable rent and 10% intermediate products (usually shared ownership). The application was originally submitted with 31 of the affordable units proposed as affordable rent (60%) and 21 as low cost homeownership (40%). I have consulted the Council’s Strategic Housing and Health Manager who initially responded stating that she was comfortable with the distribution and number of affordable units although wished to see a tenure mix which was closer to the 90/10 split as required by the Local Plan. There was also some concern that all the flats were proposed to be provided as affordable units.
- 8.53 In response, the scheme has been amended to provide five of the flats which were previously proposed to be low cost home ownership units as open market units. In addition to this, an additional three two-bedroom dwellings will be provided as affordable rented units. Due to the amendments the scheme now provides 32 affordable rented units (62%) and 20 as low cost home ownership (38%). Officers were of the view that if this tenure mix was to be accepted then evidence would need to be provided from Registered Providers (RP) that they were in support of this as opposed to the 90/10 split. This evidence has been received in the form of letters from four separate RP’s who all support the stance of the applicant. On the basis of the information received I have liaised again with the Council’s Strategic Housing and Health Manager. She has confirmed that she accepts the letters from the RP’s as evidence to support the tenure split that has been provided. As such, I believe that it is important to note that the scheme is providing 52 affordable units which is 40% of the total that the Local Plan requires. Although the tenures differ from the 90/10 split that the Local Plan envisages I am confident that as the RP’s have given their support to the mix that it will meet an identified need. On this basis I believe that this affordable housing element of the scheme is acceptable.

The Conservation of Habitats and Species Regulations 2017

- 8.54 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are 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.
- 8.55 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£301.14 per dwelling on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.56 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on a protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 8.57 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (130 new dwellings with 2 dwellings being demolished on an allocated housing site within the built up area, with access to other recreation areas including open space within the development) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff will ensure that these impacts will not be significant or long-term. The allocation of the site in the Local Plan means that it would have been considered during the adoption process of the Local Plan. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.
- 8.58 It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others. (<https://birdwise.org.uk/>).

Other Matters

- 8.59 Although I consider that the majority of the matters raised in the objection letters have been addressed by virtue of the discussion above, of those that remain I respond as follows. Firstly, in terms of a perceived lack of employment to support the development I consider that the site has been allocated through the Local Plan for residential use which allocates land for a mix of uses, this includes housing and

employment. A number of the comments received are seeking the applicant to undertake separate works outside of the application, including providing dropped kerbs to existing properties. In my view this would be outside of the scope of the requirements of the Local Plan and consider it unreasonable to request this. Further to this, I believe that a number of issues raised, such as spoiling the view, liability for flooding, compensation for the right to peace and quiet, the Party Wall Act, asbestos and questions regarding who will be buying the properties to be matters which do not constitute material planning considerations. Finally, comments have been made regarding the adoption of Nobel Close, however, this would be a matter for KCC and does not have a bearing upon the determination of this application.

- 8.60 I also note the objection that has been received from the occupier of No.44 Station Road. The proposal seeks to introduce the 'out access' from the car park (provided to mitigate against the loss of parking on Station Road) between No.s 42 and 44 Station Road. In specific response to the concerns raised regarding the introduction of this access (overshadowing, loss of light, overlooking and loss of privacy, noise and reduction in air quality) I respond as follows. Firstly, as it would be vehicles and pedestrians using this access road I do not believe that this would give rise to a loss of light or overshadowing to any significantly harmful degree. In addition, the property on either side of the access road would essentially become corner plots. I consider this to be an entirely typical arrangement and a relationship with the highway which a number of dwellings have. Finally, I note the comments regarding the respiratory condition which an occupant of No.44 Station Road requires medication for. Whilst I have personal sympathy with this situation, from a professional standpoint I refer to the comments of the Environmental Protection Team Leader as set out above, who does not consider that the proposals would give rise to unacceptable harm in respect of noise or air quality.

9.0 CONCLUSION

- 9.01 In overall terms I am of the view that this application satisfies in almost all respects the aims of policy A19 and I believe that the development will provide a good quality proposal which will respond to its setting at the edge of Teynham. I have attached the assessment of the proposal against the Building for Life criteria and as detailed believe that this scheme represents in layout, visual and design terms a development which scores particularly well.
- 9.02 As set out in the report, there are no objections from statutory consultees and I am of the view that the objections raised by the Parish Council and neighbours have been adequately addressed.
- 9.03 In conclusion, subject to the developer contributions being agreed in relation to the A2/Station Road junction, secondary education / land and the signing of a suitably worded Section 106 agreement and the conditions set out below, I take the view that the proposal is acceptable and recommend that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the signing of a suitably worded Section 106 agreement, the resolution of the outstanding s106 matters set out above, and following conditions.

- 10.01 Delegated authority is also sought to agree such amendments to the s106 and planning condition wording that may reasonably be required.

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

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

- 2) The development hereby approved shall be carried out in accordance with the following drawings: PR289. 14858.001 Site Location Plan Rev A; PR289.14858.050 Proposed Block Plan Rev D; PR289. 14858.051 Proposed Site Plan Rev E; PR289. 14858.052 Coloured Block Plan Rev B; PR289. 14858.060 Refuse Strategy Plan Rev D; PR289. 14858.061 Parking Strategy Plan Rev D; PR289. 14858.063 Boundary Treatment Plan Rev D; PR289.14858.064 Dwelling Distribution Plan Rev D; PR289. 14858.065 Storey Height Plan Rev D; PR289.14858.066 Tenure Allocation Plan Rev E; PR289.14858.067 Road Hierarchy Plan Rev D; PR289. 14858.068 Affordable Tenure Plan Rev E; PR289. 14858.101 Sandown Rev B; PR289. 14858.102 Elmswell Rev A; PR289. 14858.103 Sussex Rev C; PR289. 14858.104 Hartley 1 (Detached) Rev C; PR289.14858.105 Hartley (Semi Detached) Rev B; PR289. 14858.106 Hartley 2 Rev B; PR289. 14858.107 Chelsworth Rev A; PR289.14858.108 4B6P Rev A; PR289.14858.109 HA1 House Type Rev A; PR289.14858.110 HA2 House Type Rev A; PR289.14858.111 HA3 House Type Rev B; PR289.14858.112 HA4 House Type Rev A; PR289.14858.113 HA4 (with Bay) Rev A; PR289. 14858.114 Type O Rev A; PR289.14858.115 HA 4 (with Bay variation) Rev A; PR289.14858 116 2 Storey Apartment Rev A; PR289. 14858.117 2 Storey Apartments (Proposed Plans); PR289.14858.118 2 Storey Apartments (Proposed Plans); PR289.14858.119 3 Storey Apartments (Proposed Ground Floor Plan) Rev A; PR289.14858.120 3 Storey Apartments (Proposed First Floor Plan) Rev A; PR289. 14858.121 3 Storey Apartments (Proposed Second Floor Plan) Rev A; PR289. 14858.122 3 Storey Apartments (Proposed Elevations 1) Rev A; PR289.14858.123 3 Storey Apartments (Proposed Elevations 2) Rev A; PR289.14858.150 Proposed Site Section (1) Rev B; PR289. 14858.151 Proposed Site Section (2).

Reason: For clarity and in the interests of proper planning.

- 3) 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, where possible), 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.

- 4) 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.

- 5) 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.

- 6) Prior to commencement of development, an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 shall be submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 7) All existing trees and hedges on the site shall be retained, unless identified on the approved site plan (or block plan in the absence of a site plan) as being removed, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 8) Prior to commencement of development, a method statement for the protection of biodiversity, as detailed within the submitted Ecological Assessment report shall be submitted to and approved in writing by the local planning authority. The content of the method statement shall include the: a) Purpose and objectives for the proposed works; b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives; c) Extent and location of proposed works, including the identification of receptor site, shown on appropriate scale maps and plans; d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works; f) Use of protective fences, exclusion barriers and warning signs; g) Extent and location of proposed works shown on appropriate scale plans;

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In the interests of biodiversity.

- 9) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority, in accordance with a programme to be agreed in writing prior to the occupation of the 1st dwelling. The content of the LEMP shall include the following. a) Description and evaluation of features to be managed; b) Ecological trends and constraints on site that might influence management; c) Aims and objectives of management; d) Appropriate management options for achieving aims and objectives; e) Prescriptions for management actions, together with a plan of management compartments; f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period; g) Details of the body or organisation responsible for implementation of the plan; h) Ongoing monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interest of biodiversity.

- 10) 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 accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters. The drainage scheme shall be implemented in accordance with the approved details prior to first occupation of the development (or within an agreed implementation schedule).

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 11) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to (and approved in writing) by the local planning authority. The manual at a minimum shall include the following details:
- A description of the drainage system and it's key components

- A general arrangement plan with the location of drainage measures and critical features clearly marked
- An approximate timetable for the implementation of the drainage system
- Details of the future maintenance requirements of each drainage or SuDS component, and the frequency of such inspections and maintenance activities
- Details of who will undertake inspections and maintenance activities, including 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.

The drainage scheme as approved shall subsequently be maintained in accordance with these details.

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction), as per the requirements of paragraph 165 of the NPPF (July 2018) and the Non-Statutory Technical Standards for Sustainable Drainage.

- 12) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with the National Planning Policy Framework.

- 13) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii. 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.

- 14) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
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; and 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 written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels of ground or water pollution in line with paragraphs 170, 178 and 179 of the National Planning Policy Framework.

- 15) Prior to the occupation of the first dwelling a verification report demonstrating the 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.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework

- 16) 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

- 17) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

- 18) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason To protect controlled waters, including groundwater and to comply with the National Planning Policy Framework.

- 19) Prior to the occupation of the first dwelling, a Parking Management Plan for Station Road and Nobel Close parking shall be submitted to and approved in writing by the Local Planning Authority. The Parking Management Plan will detail the allocation of the parking spaces for, the control and enforcement measures to be used to manage the parking on site, and it shall be implemented in accordance with the approved framework and shall remain in force for the duration of the approved use.

Reason: In the interests of highway safety and amenity.

- 20) No dwellings hereby approved shall be occupied until the off-site highway works to Station Road indicated on drawings H-02 Rev P1 and H-03 Rev P1 have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of amenity and road safety.

- 21) The development hereby approved shall not commence until a Construction Management Plan to include the following has been submitted to and approved in writing by the Local Planning Authority:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of highway safety and amenity.

- 22) The area shown on the submitted layout as vehicle parking space, car ports, car barns or garages shall be provided before any of the dwellings are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 23) No dwelling shall be occupied until space has been laid out within the site in accordance with the details shown on the application plan(s) for cycles to be parked.

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.

- 24) The main vehicular access onto Nobel Close, the exit from the car park onto Station Road and the access labelled 'pedestrian and vehicle access' onto London Road shown on the approved plans shall be completed prior to the occupation of any dwellings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 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.

- 26) Before the occupation of the first 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.

- 27) 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 08:00 – 18:00 hours, Saturdays 08:00 – 13:00 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) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

- 30) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 31) No development beyond the construction of foundations of plots 13-28, 55-59 and 95-111 shall take place until details in the form of samples of external finishing materials in relation to these specific plots have been submitted to and approved in writing by the Local Planning Authority, works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to preserve the character of the conservation area.

- 32) No development beyond the construction of foundations of the plots not listed in condition (31) shall take place until details of the external finishing materials to be used in the construction of these specific plots have been submitted to and approved in writing by the Local Planning Authority, works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 33) No development beyond the construction of foundations shall take place until a colour brochure and specification of the proposed windows and doors (including technical drawings with sections), including the proposed colour finishes, has been submitted to and approved in writing by the Local Planning Authority, works shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 34) No development beyond the construction of foundations shall take place until a colour brochure and specification of the proposed rainwater system / products to be used has been submitted to and approved in writing by the Local Planning Authority, works shall be implemented in accordance with the approved details.

Reason: In interests of visual amenities.

- 35) Prior to the occupation of units 55 – 129 the access route in the north western part of the site shall be provided and the specification, which shall include the surface treatment, shall have been submitted to and agreed in writing with the Local Planning Authority prior to its implementation.

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

- 36) Construction of the development shall not commence until details of the proposed means of foul water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that foul water is adequately dealt with.

- 37) Prior to the occupation of the relevant dwelling, units 1 – 54, 60 – 94, and 112 – 129 shall be provided with electric vehicle charging points, the specification of which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To enable sustainable modes of transport.

- 38) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 39) Upon completion, no further development on plots 13 - 28 permitted by Class B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) shall be carried out.

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

- 40) The affordable housing mix shall be provided as set out in the email received from Crest Nicholson on 11th September 2018.

Reason: to ensure an acceptable mix of affordable housing is provided.

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

The Council's approach to this application

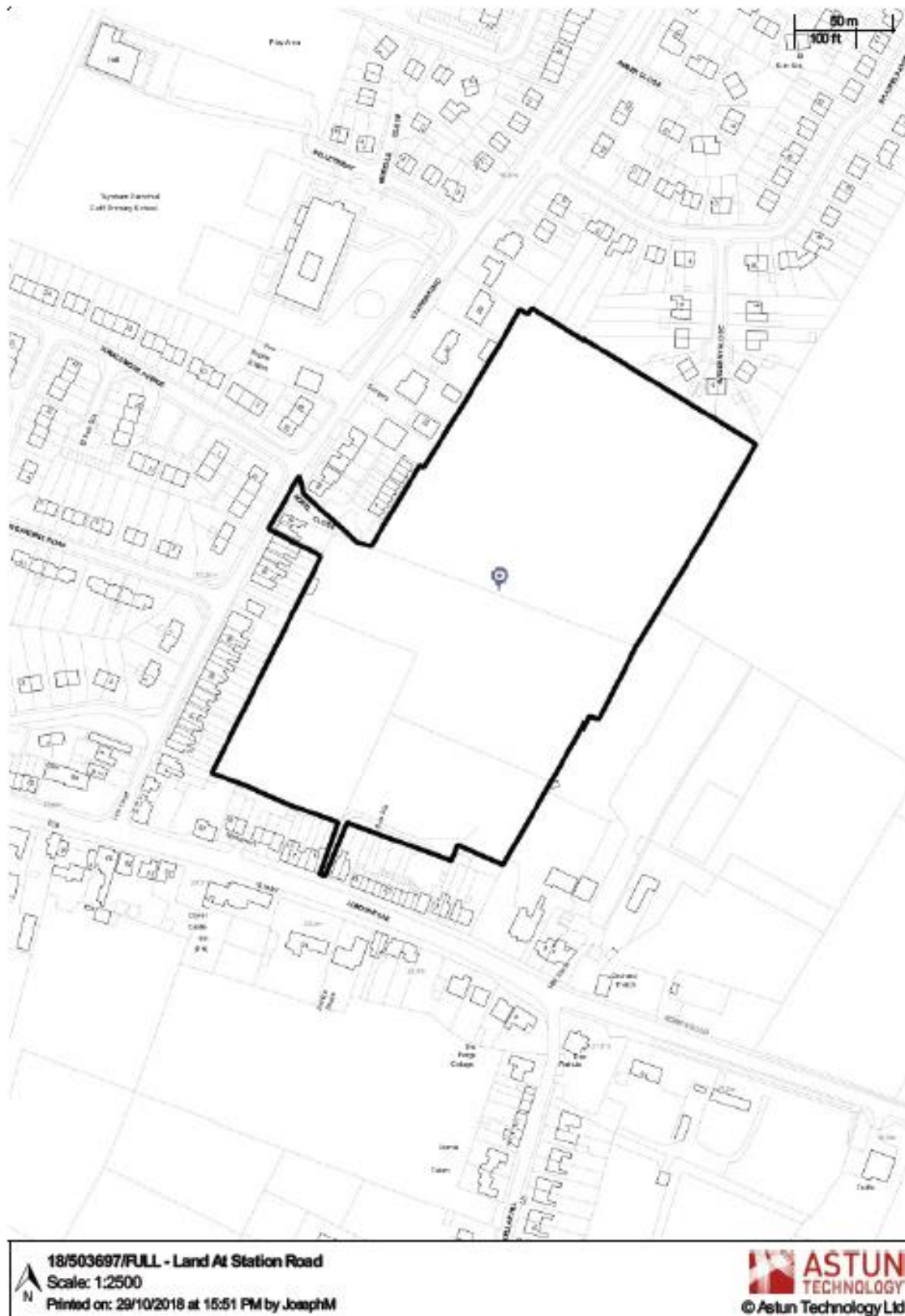
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

- 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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Swale Borough Council Building for Life Checklist

Using this checklist

Please refer to the full Building for Life document (<http://www.udg.org.uk/sites/default/files/publications/BFL12COMPLETED.pdf>) when assessing development proposals.

For each of the criteria and questions listed below you should provide a brief comment as to whether or not the matter has been addressed / considered fully within the submissions.

Not all developments will be able to meet all criteria. This may be due to site-specific circumstances, or matters outside of the applicant's control. In such instances applicants should explain why criteria can't be met, and officers can weight their assessment / comment accordingly.

APPENDIX 1

SITE ADDRESS:
APPLICATION NO.:

1. CONNECTIONS

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|--|---------------|
| 1a Where should vehicles come in and out of the development? | The main access for the site is as envisaged by the specific Local Plan policy and as such I consider this entirely appropriate. | ✓ |
| 1b Should there be pedestrian and cycle only routes into and through the development? | These are provided at, in my opinion, sensible locations, providing connections into the local area to provide legible routes for future occupants to local services. | ✓ |
| 1c Where should new streets be placed, could they be used to cross the development site and help create linkages across the scheme and into the existing neighbourhood and surrounding places? | The site is located upon the edge of an existing settlement between residential units and the open countryside. I consider the linkages into the existing neighbourhood to be well considered. | ✓ |
| 1d How should the new development relate to existing development? | The site is adjacent to existing development. | ✓ |

2. Facilities and services

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|--|---------------|
| 2a Are there enough facilities and services in the local area to support the development? If not, what is needed? | The site has been allocated in the Local Plan and Teynham has been assessed as being capable of supporting this scale of development. | ✓ |
| Where new facilities are proposed: 2b Are these facilities what the area needs? | The facilities proposed on site are limited to public open space, although a contribution has also been agreed in respect of this. | ✓ |
| 2c Are these new facilities located in the right place? If not, where should they go? | They open space is dictated by the location of the existing orchard which is to be retained and enhanced. However, this is conveniently located in the central part of the site. | ✓ |
| 2d Does the layout encourage walking, cycling or using public transport to reach them? | The open space is located in the central part of the development. As above I believe there to be good links to the services and facilities in the surrounding area. | ✓ |

3. Public transport

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|--|---------------|
| 3a What can the development do to encourage more people (both existing and new residents) to use public transport more often? | There are bus stops and Teynham Railway Station within relatively close proximity of the site. I believe that the access routes encourage residents to use them. | ✓ |
| 3b Where should new public transport stops be located? | N/A | N/A |

4. Meeting local housing requirements

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|--|---------------|
| 4a What types of homes, tenure and price range are needed in the area (for example, starter homes, family homes or homes for those downsizing)? | The application provides a range of dwelling types, closely aligned with the needs as set out in the Local Plan. | ✓ |
| 4b Is there a need for different types of home ownership (such as part buy | The site includes provision for 40% of the units to be affordable. | ✓ |

APPENDIX 1

| | | |
|---|---|---|
| and part rent) or rented properties to help people on lower incomes? | | |
| 4c Are the different types and tenures spatially integrated to create a cohesive community? | The different tenure types are relatively well spaced throughout the development. | ✓ |

5. Character

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|--|---------------|
| 5a How can the development be designed to have a local or distinctive identity? | The design picks up on Kent vernacular and seeks to use contemporary materials to complement the design principles. | ✓ |
| 5b Are there any distinctive characteristics within the area, such as building shapes, styles, colours and materials or the character of streets and spaces that the development should draw inspiration from? | There is a mixture of building styles and designs in the local area and not one specific characteristic which I believe could be said to be distinctive. | N/A |

6. Working with the site and its context

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|--|---------------|
| 6a Are there any views into or from the site that need to be carefully considered? | Views are limited due to the existing built form and well established planting around the site. | N/A |
| 6b Are there any existing trees, hedgerows or other features, such as streams that need to be carefully designed into the development? | There are some large trees, a hedgerow and the existing orchard which have all been incorporated into the development. | ✓ |
| 6c Should the development keep any existing building(s) on the site? If so, how could they be used? | N/A | N/A |

7. Creating well defined streets and spaces

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|---|---------------|
| 7a Are buildings and landscaping schemes used to create enclosed streets and spaces? | The buildings predominately face onto the roads, | ✓ |
| 7b Do buildings turn corners well? | Yes, buildings upon corner plots all have dual aspects. | ✓ |
| 7c Do all fronts of buildings, including front doors and habitable rooms, face the street? | Where appropriate this is the case. | ✓ |

8. Easy to find your way around

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|---|---------------|
| 8a Will the development be easy to find your way around? If not, what could be done to make it easier to find your way around? | The development is effectively set out around two loop roads with a central area of open space. | ✓ |
| 8b Are there any obvious landmarks? | The central open space. | ✓ |
| 8c Are the routes between places clear and direct? | Yes, due to the response to 8a as above. | ✓ |

9. Streets for all

| ITEM | COMMENT | (SBC use) ✓/✗ |
|--|---|---------------|
| 9a Are streets pedestrian friendly and | Due to the layout roads there are only limited areas of | ✓ |

APPENDIX 1

| | | |
|---|--|----------|
| <p>are they designed to encourage cars to drive slower and more carefully?</p> | <p>straight roads so therefore limiting speeds.</p> | |
| <p>9b Are streets designed in a way that they can be used as social spaces, such as places for children to play safely or for neighbours to converse?</p> | <p>I believe that the layout will encourage the roads to be used as social spaces.</p> | <p>✓</p> |

APPENDIX 1

10. Car parking

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|---|---------------|
| 10a Is there enough parking for residents and visitors? | Yes. | ✓ |
| 10b Is parking positioned close to people's homes? | Yes. | ✓ |
| 10c Are any parking courtyards small in size (generally no more than five properties should use a parking courtyard) and are they well overlooked by neighbouring properties? | More than 5 properties use one of the parking courts, however, it is extremely well overlooked. | ✓ |
| 10d Are garages well positioned so that they do not dominate the street scene? | No garages on the site. There are car ports but I consider these to be set back between the applicable dwellings. | ✓ |

11. Private and public spaces

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|---|---------------|
| 11a What types of open space should be provided within this development? | There is an area of open space in the central part of the site and a smaller one in the north eastern corner. | ✓ |
| 11b Is there a need for play facilities for children and teenagers? If so, is this the right place or should the developer contribute towards an existing facility in the area that could be made better? | As above, but this will not meet the entire need so a contribution is being made. | ✓ |
| 11c How will they be looked after? | Open space will be in Management Company control as the Council will not be adopting them. | ✓ |

12. External storage and amenity areas

| ITEM | COMMENT | (SBC use) ✓/✗ |
|---|---------|---------------|
| 12a Is storage for bins and recycling items fully integrated, so that these items are less likely to be left on the street? | Yes. | ✓ |
| 12b Is access to cycle and other vehicle storage convenient and secure? | Yes. | ✓ |

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| | | | |
|---|--|---|-------------|
| 2.5 REFERENCE NO - 18/503140/FULL | | | |
| APPLICATION PROPOSAL | | | |
| Conversion of existing ground floor store with room above to create 1 bed flat. Conversion and extension of existing ground floor store into 1 bedroom flat and erection of a single store above to provide 1 bedroom flat. Erection of a first floor extension above the retail space to provide 2 bedroom flat. | | | |
| ADDRESS 9 Whitstable Road Faversham Kent ME13 8BE | | | |
| RECOMMENDATION – Grant subject to conditions | | | |
| REASON FOR REFERRAL TO COMMITTEE – Town Council objection | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION: | | | |
| Proposal is in accordance with national and local planning policy | | | |
| WARD Abbey | PARISH/TOWN COUNCIL Faversham Town | APPLICANT Mr S Baines AGENT Olson Design Group | |
| DECISION DUE DATE 27/08/18 | PUBLICITY EXPIRY DATE 03/08/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/12/1003 | Lawful Development Certificate for change of use from A3 to A1 | Granted | 10/09/2012 |

1.0 DESCRIPTION OF SITE

- 1.01 The property is a prominent traditionally designed building which for many years was a public house, later a restaurant, and it is now a small convenience store. It is situated on the corner of Whitstable Road and Westgate Road, within the Faversham conservation area and within the built-up area boundary of Faversham. The building is situated outside the town centre, which is less than a five minute walk away.
- 1.02 The property is situated on a bus route, and the railway station is a less than a ten minute walk away. The surrounding streets are mainly categorised by late C19/early C20 terraced houses, with the majority of parking provision being on-street. The site is surrounded by residential dwellings, and the Faversham Recreation Ground is situated on the opposite side of Whitstable Road.
- 1.03 The property has a small inner courtyard, accessed by a pair of gates leading from Whitstable Road. The property is quite complicated in its layout; the main body of the property is two storey, and has two single storey ‘wings’; one fronting onto Westgate Road, and one fronting on to Whitstable Road. In the north-eastern corner of the inner courtyard is a separate two storey outbuilding/storeroom.
- 1.04 The main part of the building is in painted brickwork under a slate roof, with two brick faced single storey wings. The southern wing fronting Whitstable Rd has a flat roof behind a parapet wall. To the Westgate Rd side there are two stepped slate roofs. There is an existing flat above the shop and a one bedroom/studio flat at first floor level within the separate outbuilding

2.0 PROPOSAL

- 2.01 The proposal is to extend the property at first floor level to the site boundaries above, beyond and behind existing single storey wings on both road frontages. This will provide two 1 bedroom flats facing Westgate Road (one on each floor) and a 2 bedroom flat facing Whitstable Road above the shop area and access to the internal courtyard. It is also proposed to convert the ground floor storage area of the existing storage outbuilding within the courtyard to create a two storey 1 bedroom house within the outbuilding. The conversions will require mainly first floor extensions to the building, but also enlarging the footprint of the building and carrying out internal changes to the layout.
- 2.02 The ground floor windows are timber with lintel, cill and moulded vertical mullions to the principal windows and sash/casement windows to the West Elevation. At first floor level, some of the windows are uPVC double glazed windows. These have recently replaced existing timber sash windows and this work has been carried out without planning permission. However, Enforcement Officers have discussed this matter with the applicant, who is prepared to replace these with timber windows as part of this development.
- 2.03 The proposed first floor extensions will be in matching facing brick painted with timber sash windows. There will be eaves brackets to complement the existing details with slate roofs which will be lower levels than the principal roof on both the south and west elevations. The roofs will be at the same pitch as the existing roof. To the rear of the extensions there will be flat roofs which will be finished in single ply material in a lead-like dark grey colour.
- 2.04 Existing access to the internal courtyard and outbuilding is via the side gate on the east side of the premises. Flats would be accessed by the existing side door on Westgate Rd and from within the courtyard. No vehicle parking is proposed on site.
- 2.05 The design has considered overlooking within the courtyard area by the use of high level windows and window positioning, and the proposed extension and conversion would be in accordance with Nationally Described Space Standards (NDSS) March 2015 Technical Housing Standards and the flats will more than meet the Council's own published guidance on flat sizes.
- 2.06 The application is supported by a Design and Access Statement, a report on the structural integrity of the building regarding adding first floors, and a Heritage Impact Statement.

3.0 SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|----------|----------|--------------|
| Parking Spaces | Nil | Nil | - |
| No. of Residential Units | 2 | 5 | +3 |

4.0 PLANNING CONSTRAINTS

Conservation Area Faversham
 Approximately 50 metres outside flood Zone 3

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): Paragraphs 8 (Sustainable Development); 71 (Providing entry-level homes); 118 (Making effective use of land); 127 (Appropriate Design); and paragraphs 193 and 196 (Conservation Areas)

Bearing Fruits 2031: The Swale Borough Local Plan 2018 - Policies ST1 (Delivering Sustainable Development); ST3 (Settlement Strategy); ST7 (The Faversham area and Kent Downs Strategy); CP1 (Economy); CP3 (Delivering a wide choice of quality homes); CP4 (Good Design); CP8 (Conserving the historic environment); DM7 (Vehicle Parking); DM14 (General Development Criteria); DM16 (Alterations and Extensions); and DM33 (Conservation Areas)

6.0 LOCAL REPRESENTATIONS

6.01 The Faversham Society recommends approval, noting that;

'This application is welcomed because it will provide additional residential units which would comply with the nationally defined space standards. The extension to the building on the Whitstable Road side and the Westgate Road side represent a substantial improvement compared with the existing appearance and would enhance the character of the Conservation Area.'

6.02 One email of objection has been received from the occupier of a local business. Those comments may be summarised as follows:

- Parking around this area is already hideous with most residents forced to park many streets away from their dwellings as it is.
- *'I own the offices next to this property. I have off-road parking for one vehicle. At 5:30pm when my offices are unoccupied there is a mad scramble from the local residents to park in my space and also the space in front of my off road space, even the shop owner has been known to park in my space as he has nowhere to park. And you want to add a further 4 flats.....get a grip!'*

7.0 CONSULTATIONS

7.01 Faversham Town Council objects to the proposal for the following reasons:

- 1) Lack of parking*
- 2) Over excessive development in the area*
- 3) Over intensive development of the site*
- 4) Loss of retail storage which could affect the premises in the future'*

7.02 The Council's Engineering Manager has commented as follows:;

'There are double yellow lines around the junction of Whitstable Road and Westgate Road acting as corner protection, and these restrictions continue up the east side of Westgate Road to the junction of Minster Road. With a large number of surrounding terraced properties and the parking restrictions in place, there is a high demand for the limited on-street parking capacity available and ideally any new development in the area should accommodate off-street parking whenever possible.'

8.0 APPRAISAL

- 8.01 The main issues to consider in this case are those of the effect of the proposal on the amenities of the area, the character of the conservation area, the street scene and parking issues. For the sake of regularity, I will consider each issue in turn.
- 8.02 In terms of visual amenity, and the effect of the proposal on the conservation area and street scene, I note the proposed use of traditional forms, fenestration and facing materials which helps the design fit the context. The enclosure of the streetscene at first floor level will continue and enhance the terraced nature of the area. The adjoining properties have blank walls to the sides so the new first floor additions should not adversely affect their amenities. I also note that the proposed extensions would be lower than the existing roof ridge, and thus subservient to the host building which will mean that the main building will retain some prominence and the roofline will be less monolithic. .
- 8.03 With regard to the effect of the proposal on the character of the conservation area, the proposed design is an improvement upon the existing flat roofed extension fronting Whitstable Road, and although it's visual impact would be greater than at present, that impact would not be visually negative. As such, I do not believe that the proposal would harm the character and appearance of the conservation area. The replacement of uPVC windows will be a welcome enhancement to the building's appearance.
- 8.04 I note the Town Council's concerns over the loss of the storage areas. The applicant has responded to those concerns as follows:

'It has come to my attention that Faversham Council has raised concerns about the possible loss of storage space should our proposed application proceed. I would like emphasise that the business holds very little stock in storage at any stage – we receive 5 chilled (fresh) and 3 ambient (grocery) deliveries per week. This enables us to work an efficient model whereby we hold very little stock whether in stock rooms or in reserve chillers. 95% of our delivered products are placed immediately on to our shelves.

The overfill product - almost entirely soft drinks - is then placed in storage to replenish stock when sold. This product can be held safely and plentifully in our remaining storage space which includes our office space and our outdoor storage area. We have more than sufficient space available at the site to ensure all products can be stored securely and safely.

Looking forward, we are hopeful that our suppliers new supply partnership with Coop will allow for us to receive 6 chilled and 4 ambient deliveries, further decreasing our need for large stock holding space.'

- 8.05 I note the objections received from the Town Council and the local resident regarding the lack of parking for the proposed properties. Members will note that the Council's Engineering Manager does not raise objection to the proposal. I have also discussed the matter of parking with the applicant, who has replied as follows:

'I confirm I have looked into the possibility of parking on the site. For the following reasons, this has been ruled out -

- *A 2.4 x 4.8 parking space would make access to the courtyard area very difficult, even if the cycle stores were located elsewhere.*

- *Parking on the white line outside the dropped kerb would be possible, but unofficial, on first come basis so it could not be allocated.*
- *The proposal is for persons who would not have the need for parking because the site is on sustainable transport systems.'*

8.06 I would agree with the contention that on-street parking is at something of a premium in the area, but I also note that the location of the site is in a very sustainable position close to the town centre and all its amenities. Usual practise with new development generally entails some form of off-road parking space to be required. However, parking standards in Kent Highways and Transportation's Interim Guidance Note 3 (IGN3) states that in town centre or edge of centre locations a *maximum* of one parking space per dwelling for one or two bedroom flats should be provided, suggesting that on a site in close proximity to the town centre, with all its associated amenities and public transport, a scheme with no off-road parking is acceptable in principle. In terms of Local Plan policies, policy DM7 of Bearing Fruits 2031: The Swale Borough Local Plan states that *'Until such time as a local Swale Borough Supplementary Planning Document (SPD) can be adopted, the Council will continue to apply extant Kent County Council vehicle parking standards to new development proposals.'* The preamble to policy DM7 also states in paragraph 7.2.16 *'Car parking issues for Swale are locally generated ones. The development strategy of the plan seeks to locate new development at settlements where services and facilities are close by and where there is reasonable access to public transport or it can be enhanced, thus reducing the need to travel and offering alternatives to the car and therefore parking.'* Whilst I can appreciate that some may feel this situation to be less than ideal, it is within policy terms, and it would be difficult to refuse the scheme for this reason.

8.07 A similar situation was considered in 2009 in relation to a scheme in Thomas Road, Sittingbourne, under planning reference SW/09/0214, when a scheme for eight flats with only six car parking spaces was refused by the Planning Committee, with a lack of off-road parking being a main reason for refusal. The applicant appealed the decision under reference APP/V2255/A/09/2109858. The appeal was dismissed, but the Inspector ruled that parking issues were not an adequate reason for refusal, noting that;

'I appreciate that the surrounding streets are subject to heavy on-street parking. Notwithstanding this, in terms of public transport this is an accessible site, within walking distance of the town centre and its use need not be dependent on the use of the private car.'

It should also be noted that an appeal for costs was likewise made and, despite the planning appeal being lost by the appellant for other reasons, the Inspector decided that parking issues were not a justifiable reason for refusal in this area (a site further away from Sittingbourne town centre than the current site's position is from Faversham town centre), and the Inspector awarded costs against the Council. In view of the above, whilst I note there are concerns raised with regard to the lack of parking, I would contend that it is not reasonable to refuse the scheme on these grounds.

8.08 The present scheme would provide four small self-contained dwellings. Paragraph 71 of the National Planning Policy Framework (NPPF) 2018 states that *'Local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home)'*. I believe that tis is such a scheme. Policy CP3 of Bearing Fruits 2031: The Swale Borough Local Plan 2018

promotes the delivery of a wide choice of quality homes and requires meeting the housing needs of specific groups; in this case, these small units for rent would create units for either young or older people; two social groups who might find difficulty in finding more affordable private rent housing within the centre of Faversham.

The Conservation of Habitats and Species Regulations 2017

- 8.09 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.
- 8.10 Residential development within 6km of any access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Modifications stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England). These mitigation measures are considered to be ecologically sound.
- 8.11 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 8.12 In this regard, there are likely to be impacts upon the SPA arising from this development and whilst the Council would expect the need for mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff only on larger schemes (at £301 per dwelling unit to be collected via a Section 106 Agreement) and not from small developments like this.

9.0 CONCLUSION

- 9.01 This is an imaginative adaptation of an existing well located site for small housing units with no harmful visual or amenity impacts. Lack of parking is the only downside to the scheme and this is within policy guidance for such a well located site. Moreover there are few equivalent sites where such a scheme could be repeated locally. As the benefits of the scheme far outweigh any potential harm, I recommend that the proposal be approved, subject to the conditions noted below.

- 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 be carried out in strict conformity with the following approved drawings:

513-20 Rev C; 513-21 Rev B; 513-22 Rev B; 513-23 Rev B; 513-24 Rev B; and 513-25 Rev B.

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

- (3) The new flats shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and these flats shall not be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability

- (4) All external facing materials used in the development hereby permitted shall be in accordance with details submitted to and approved in writing by the Local Planning Authority.

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

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

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

Reason: In the interests of residential amenity.

- (6) All external joinery work used in the development hereby permitted shall be in accordance with details submitted to and approved in writing by the Local Planning Authority.

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

- (7) No flat hereby approved shall be occupied until the first floor uPVC windows in the building have been replaced with timber sash windows to a specification approved in writing by the Local Planning Authority.

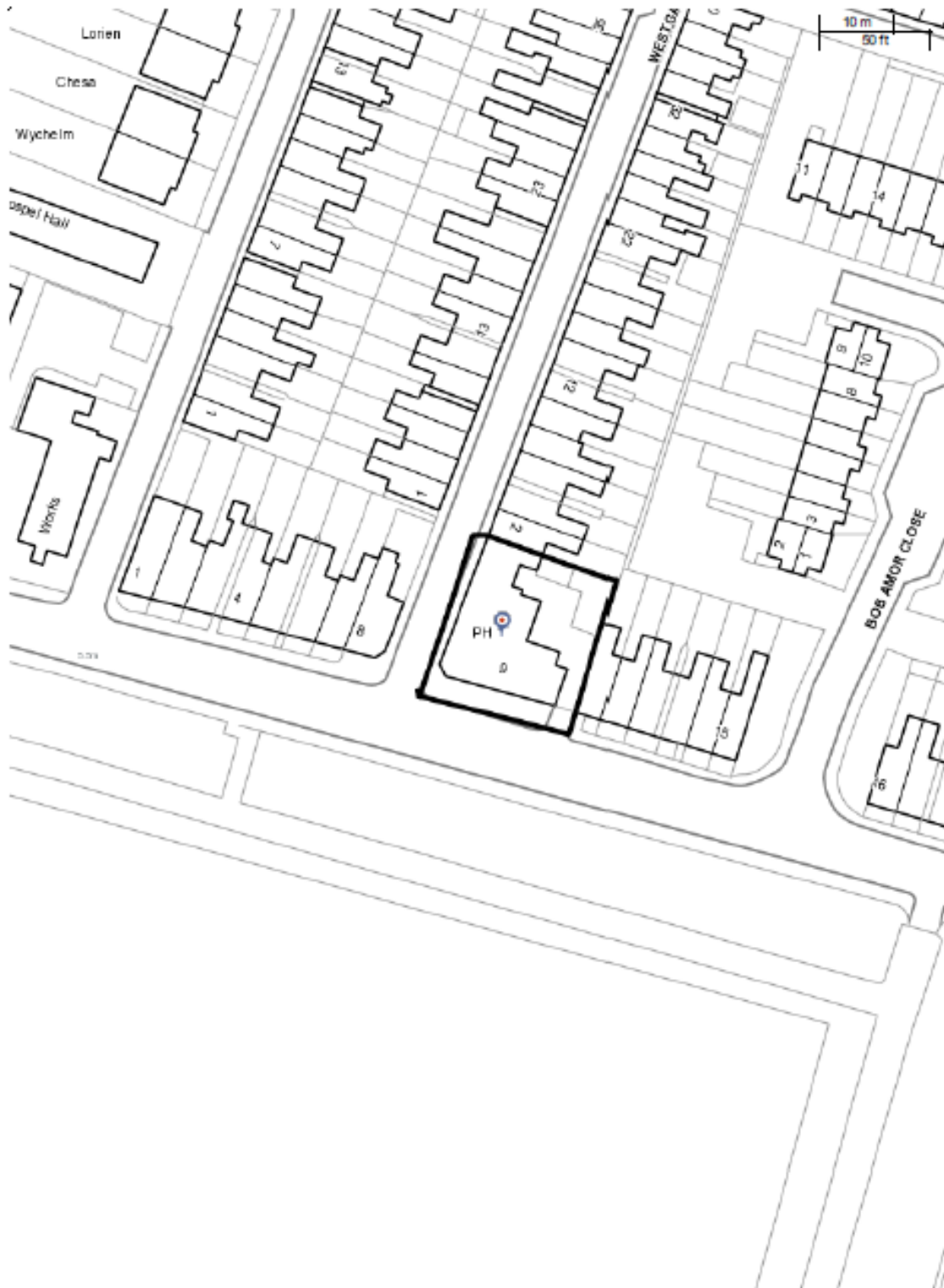
Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

Council's Approach to the Application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018, the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the application was submitted to the Planning Committee, where the applicant/agent had the opportunity to promote the proposal.

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.



18/503140/FULL - 9 Whitstable Road
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| | | | |
|---|---|---|-------------|
| 2.6 REFERENCE NO - 17/502988/FULL | | | |
| APPLICATION PROPOSAL Erection of timber barn | | | |
| ADDRESS Land Adjacent To M2 Warren Lane Hartlip Kent ME9 7XD | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION Proposed barn would be of an appropriate scale for the needs of the site, make use of appropriate external materials, and would not give rise to any serious harm to the character or appearance of the countryside or the AONB. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection. | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Hartlip | APPLICANT Mrs Wendy Buss AGENT Nick Hatton | |
| DECISION DUE DATE 31/08/17 | PUBLICITY EXPIRY DATE 18/12/17 | OFFICER SITE VISIT DATE 14/07/17 | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/14/0205 | Change of use of land to keeping of horses with the provision of 2 stables, hay store, tea room, WC, foal box, cesspit, manure heap, horse trailer, vehicle parking, turning head and gated access. | Granted | 2014 |
| The proposed stables were sited in accordance with the Council's adopted SPG guidelines (further to a previous refusal and dismissal at appeal), and officers considered they would not give rise to serious harm to the AONB. The scheme was approved by planning committee on 22 June 2014. | | | |
| SW/13/0069 | Change of use of land to keeping of horses with the provision of 4 new stables, tack room, hay store, two horse trailers | Refused | 2013 |
| Permission was refused due to the proposed stables being positioned centrally within the field, which would have been prominent and intrusive within the AONB landscape. The Council's decision was upheld in a subsequent appeal, although a second reason for refusal relating to highway safety at the proposed access was not supported by the Inspector. | | | |

1.0 DESCRIPTION OF SITE

1.01 The application site is an equestrian field situated in the countryside to the southwest of Hartlip. It is bordered by the M2 to the north, Warren Lane to the east, woodland to the south, and another equestrian field to the west (approved under 17/500807/FULL) beyond which is Yaughar Lane. There is a dense hedge to the front of the site, and

dense tree planting along the boundary with the M2, but the site itself is largely open and flat. There is an existing single-storey stable block close to Warren Lane, adjacent to an existing vehicle access.

1.02 The site measures approximately 106m x 147m (3.8 acres / 1.5ha).

2.0 PROPOSAL

2.01 This application seeks planning permission for the erection of a barn to be used in association with the existing stables.

2.02 The proposed barn will measure approximately 9m x 9m and 4.5m to the ridge. It will be finished in black stained featheredge weatherboard and black profile roof cladding.

2.03 The applicant proposes to use it for the storage of hay, a small tractor, and other machinery and equipment in association with upkeep of the land for equestrian use.

2.04 Members should note that the scale of the barn has been reduced by half since the application was first submitted (it was originally 18m deep), and since the Parish Council commented on the scheme (as below).

3.0 SUMMARY INFORMATION

| | Proposed |
|--------------------------|-------------------|
| Site Area | 15.ha / 3.8 acres |
| Approximate Ridge Height | 4.5m |
| Approximate Depth | 9m |
| Approximate Width | 9m |

4.0 PLANNING CONSTRAINTS

4.01 The site lies within the Kent Downs Area of Outstanding Natural Beauty, and close to the Queendown Warren SSSI (designated for its rare flora) and an ancient woodland.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

5.02 Development Plan: Policies CP4, DM14, DM24 and DM27 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'.

5.03 Supplementary Planning Documents: 'The Erection of Stables and Keeping of Horses'.

6.0 LOCAL REPRESENTATIONS

6.01 None.

7.0 CONSULTATIONS

7.01 Hartlip Parish Council object to the application. They initially raised concerns in respect of visual harm, particularly for walkers and drivers on Warren Lane and especially during the winter months when the trees would be bare. They also

consider the barn to be overly large and raise concern about the visual impact of the vehicle access (which does not form part of this application and has been approved by PINS). I re-consulted the PC further to amended drawings which reduced the size of the barn: they have maintained their objection but appear to have misread the drawings as they refer to the barn increasing in size rather than decreasing. I have arranged for a further consultation to be sent to the PC to clarify the changes and will update Members of their comments at the meeting.

7.02 Natural England has no comments.

7.03 The Council's agricultural consultant initially considered the proposed barn to be overly large, but further to a significant reduction in its scale he suggests that "*with the inclusion of storage for the tractor and equipment it is perhaps not too unreasonable, on balance.*"

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application is supported by relevant plans and drawings, and the above-noted historic applications are relevant.

9.0 APPRAISAL

Principle of development

9.01 The site lies within the open countryside and the AONB, where it's recognised that the keeping of horses is an appropriate activity. The proposed barn would be used to support an existing, approved, private equestrian use, and the Council's agricultural consultant considers the scale of the building to be appropriate for the size of the holding and the intended use. In that regard I consider the proposal to be acceptable in principle.

Visual impact

9.02 The proposed barn would be constructed using external materials appropriate to a rural, AONB location, including dark stained timber cladding and a dark, pitched roof. In this regard the barn would be of a relatively traditional design and would look very much like a number of other barns within the Borough. I don't consider that it would be particularly harmful to the character or appearance of the countryside or the AONB.

9.03 The barn would be positioned adjacent to the existing stable block and close to the hedgerow at the front of the site. This is in accordance with the Council's adopted SPG relating to equestrian developments, which encourages grouping buildings together, close to access roads, and discourages siting them in the centre of fields where they would be more prominent. Whilst the barn would be visible to walkers and passing drivers I do not agree with the Parish Council that it would be overly prominent or seriously harmful to the visual amenity, especially given its relatively small footprint and low ridge height. Furthermore rural location such as this are where one would generally expect to see such structures, so it would not be entirely incongruous.

Residential amenity

9.04 There are no nearby dwellings that would be affected by this development.

Highways

- 9.05 The development would make use of the existing access point, and parking is provided on the apron between the barn and the stables. I have no serious concerns in this regard. I note the Parish council's concerns in respect of the access but the erection of the barn would not generate additional traffic movements to/from the site over and above the current use of the site for the keeping of horses. I don't consider there to be a justifiable reason for refusal in this respect.

Ecology

- 9.06 Whilst the site is close to an ancient woodland and SSSI, it consists of open, maintained grassland with little potential for any protected species. The barn would be well away from the designated / protected sites and would have little potential to impact them in any serious way. I therefore do not consider there would be any significant impacts to ecology or biodiversity.

10.0 CONCLUSION

- 10.01 This application seeks planning permission for the erection of a barn for the storage of hay and machinery, adjacent to an existing stable building, and in association with the use of the land for keeping horses. The barn is appropriate in terms of scale, design, and position, and the Council's agricultural consultant considers it to be of an appropriate size. Whilst the Parish Council has objected I don't consider there to be any justifiable grounds for refusal.

- 10.02 Taking the above into account I recommend that 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 drawings WB_20170626_01 Rev A and WB_20170626_03 Rev. A.

Reason: For the avoidance of doubt.

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

Reason: In the interest of visual amenity and the character of the Area of Outstanding Natural Beauty.

- 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 and the character of the Area of Outstanding Natural Beauty, 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 and the character of the Area of Outstanding Natural Beauty, 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 and the character of the Area of Outstanding Natural Beauty, and encouraging wildlife and biodiversity.

- 7) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
 - A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reason: In the interests of the character and appearance of the countryside.

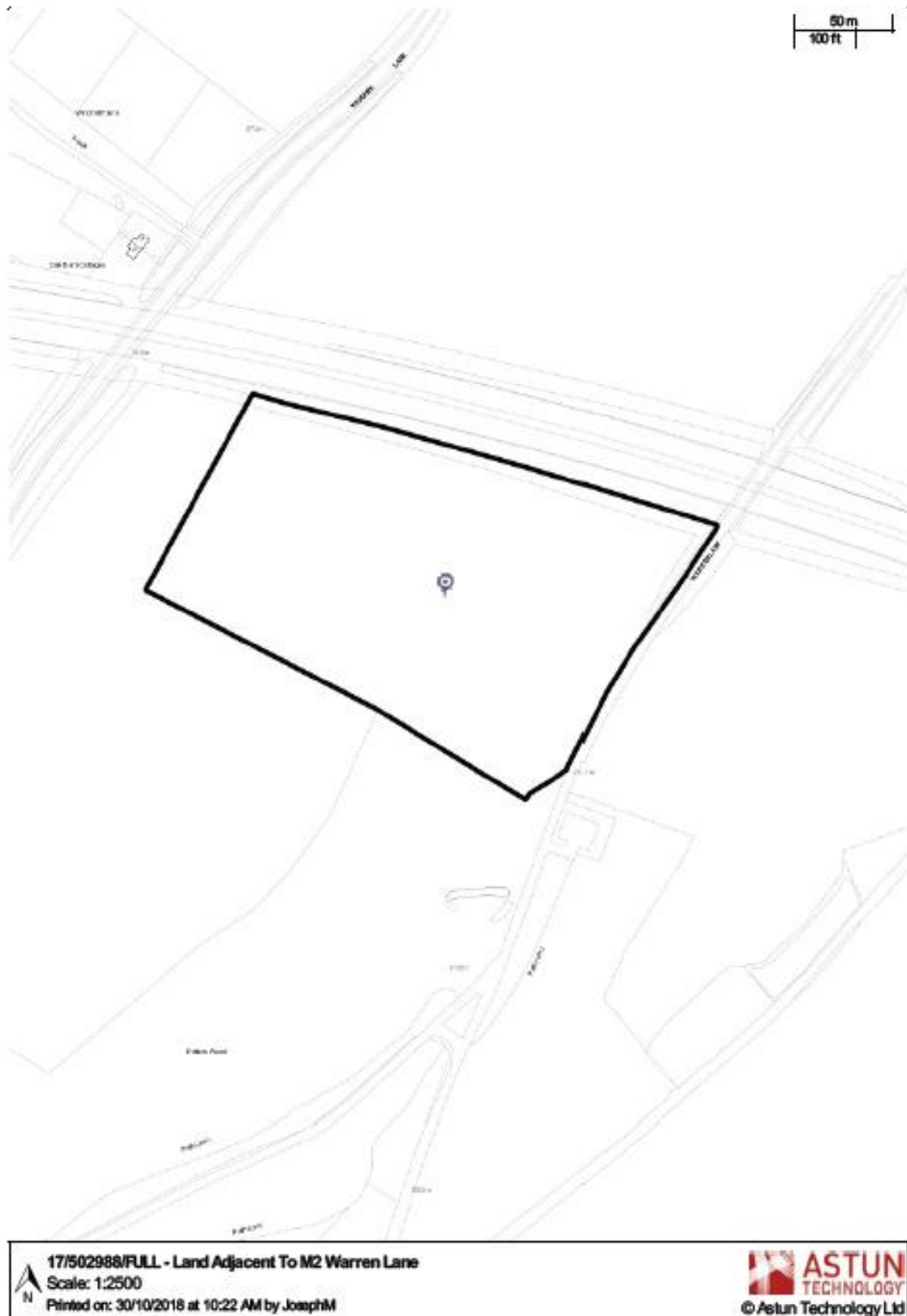
THE COUNCIL'S APPROACH TO THIS APPLICATION

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of changes required to the application and these were agreed. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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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| 2.7 REFERENCE NO - 18/502932/FULL | | | |
| APPLICATION PROPOSAL Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway. (Resubmission of 17/504037/FULL). | | | |
| ADDRESS 172 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LR | | | |
| RECOMMENDATION Grant planning permission subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The scheme is considered to be acceptable in this location. It does not have any material impact on the residential amenity of neighbouring occupiers or the character of the area. The scheme meets all relevant development plan policies. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection | | | |
| WARD Minster Cliffs | PARISH/TOWN COUNCIL Minster-On-Sea | APPLICANT Mr & Mrs Shaw & Conden AGENT Kent Design Partnership | |
| DECISION DUE DATE 13/08/18 EOT 12.11.2018 | PUBLICITY EXPIRY DATE 13/07/18 | | |
| RELEVANT PLANNING HISTORY | | | |
| App No | Proposal | Decision | Date |
| 17/504037/FULL | Proposed residential development of garden land to provide 4no. detached 4 and 5 bedroom dwellings with associated garaging, parking and shared driveway | Refused | 19/03/2018 |
| <i>Reasons:</i> The proposal would cause unacceptable harm to the character and appearance of the area and would constitute over intensive development giving rise to significant and harmful levels of overlooking and an overbearing impact upon neighbouring properties, | | | |
| SW/97/0883 | Detached chalet bungalow | Approved | 28/11/1997 |
| <i>Reasons:</i> Development within the built up area boundary. No detrimental impact on amenity. | | | |

1.0 DESCRIPTION OF SITE

1.01 The application site is located off Scarborough Drive in Minster Cliffs. It is sandwiched between Westcliff Drive and Kings Road and bounded on all sides by residential dwellings. The site is accessed from a gated gap in the building line along Scarborough Drive and is currently the garden to "The Cottage". This entrance point is opposite the junction with Love Lane to the south. To the north of the application site is a detached bungalow with sea beyond.

- 1.02 The whole area gently slopes down toward the north and west along the coastline. The proposal site is a rectangular shape and covers some 0.535 hectares with clearly defined boundary lines on the west and eastern sides. 'The Cottage' which is the existing residential dwelling on the plot is to be retained and incorporated into the general scheme of development.

2.0 PROPOSAL

- 2.01 Planning permission is sought for the erection of 4 two storey detached houses together with three detached garages (Plot No.3 is proposed to have an attached garage). The proposed houses would have a traditional style and design and would be arranged in a linear form with three units (i.e. Nos. 2, 3 and 4) to the east and one unit (i.e. No.1) to the west of a central access road.
- 2.02 Unit No.1 (3 bedroom) would be located on the western part of the site. It would have a footprint measuring 9.5m x 10.5m and would be surmounted by a hipped roof with an eaves height of 5m and a ridge height of 8.7m. It would be sited 28m from the nearest dwelling to the south fronting Scarborough Drive (i.e. Hunter Lodge) and 18m to 20m, respectively, from the closest dwellings to the west fronting Westcliffe Drive (i.e. kinsarvik and Bonny House). It would have a triple garage measuring 9.3m wide, 6.5m deep and 5.1m to its roof ridge. It would directly abut the western boundary of the site, 10m from the rear elevation of the closest dwelling fronting Westcliffe Drive.
- 2.03 The proposed houses on Plot No's 2, 3 and 4 are arranged in a row on the eastern side of the site.
- 2.04 The 4 bed dwelling on Plot 2 would measure 12.5 metres wide, 10.6 metres deep and 8.2 metres to the ridge of its roof. It would have a detached garage to the north, measuring 6.2 metres x 6.9 metres and 5.4 metres high to the ridge of its roof. The proposed dwelling would be sited 21 metres from the nearest house to the east fronting Kings Drive (No.56), 14 metres from the existing bungalow on the site to the north and 4m metres from the proposed dwelling on Plot 3 to the south.
- 2.05 The proposed 4 bed unit on Plot No. 3 would measure 15.3m wide, 12.8m deep and 8.6m high to ridge. This dwelling would have an attached double garage, and would lie 23m from the closest dwelling to the rear fronting Kings Road (Touchwood) and 1 metre from the proposed dwelling on Plot No.4 to the south.
- 2.06 The proposed 4 bedroom dwelling on Plot 4 would measure 12.7m wide, 11m deep and 8.3m high to ridge. It would have a detached double garage with a footprint measuring 6.2m x 6.9m and a height of 5.4m. It would be located in excess of 21m from the dwellings to the rear fronting Kings Road and 24m from the dwelling to the south (i.e. 174 Scarborough Drive).
- 2.07 Each dwelling would have a garden of at least 10m in depth, and each would have at least 2 off street parking spaces.
- 2.08 Access would be taken from Scarborough Drive, and the access road within the site would have a minimum width of 4.1m, with a 5.5m wide passing point near the access onto Scarborough Drive. The plans show a refuse collection point at the front of the site.
- 2.09 The application currently under consideration is a revised submission following a refusal of planning permission for the erection 4no. detached 4 and 5 bedroom

dwellings (ref: 17/504037/FULL) by the Planning Committee on 1st March 2018 on the grounds of its harmful impact on the character and appearance of the area and detrimental impact on the amenities of neighbouring residential occupiers.

2.10 The salient differences between the current and previously refused scheme are as follows:-

- The dwelling on Plot No.1 has been reduced from 5 to 4 bedrooms. Its width has been reduced from 11.2m to 9.5m; its depth reduced from 11m to 10.5m; and its height reduced from 8.8m to 8.5m. It would be sited 4m away from the western boundary of the site rather than 1.7m. A south facing bedroom window has been repositioned.
- The roof of the dwelling on Plot No.3 has been changed from a gabled to a hipped roof and its height reduced from 9m to 8.5m;
- The roof of the dwelling on Plot No.4 has been changed from a full hip to a half-hip and its eaves height reduced from 4.7m to 4.2m and ridge height reduced from 8.7m to 8.3m.

2.11 The applications are identical in all other respects.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

- 3.01 Chapter 4 – Promoting sustainable transport
 Chapter 6 – Delivering a wide choice of high quality homes
 Chapter 7 – Requiring good design
 Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

- 3.02 ST 1 Delivering sustainable development in Swale
 ST 2 Development targets for jobs and homes 2011-2031
 ST 3 The Swale settlement strategy
 ST 4 Meeting the Local Plan development targets
 CP 2 Promoting sustainable transport
 CP 3 Delivering a wide choice of high quality homes
 CP 4 Requiring good design
 DM 6 Managing transport demand and impact
 DM 7 Vehicle parking
 DM 14 General development criteria
 DM 19 Sustainable design and construction

3.03 **Supplementary Planning Documents:**

Kent Design Guide Review: Residential Parking (2008): With no up to date local guidance on parking standards, the recently adopted local plan makes reference to Kent County Council vehicle parking standards for new development proposals. This interim document was published in November 2008 and assesses the provision of parking in new residential development and impact on a locality.

The document looks at factors such as the location of new residential schemes, size of residential accommodation to be provided and transport implications.

4.0 LOCAL REPRESENTATIONS

4.01 A total of 5 responses have been received objecting to the proposal on some or all of the following grounds:-

- Overlooking/ loss of privacy;
- Overdevelopment;
- Too close to site boundaries;
- Development overbearing/ visually intrusive;
- Overshadowing;
- Light and noise pollution;
- Block views;
- Loss of wildlife habitat;
- Increased flood risk;
- Insufficient sewerage and drainage capacity;
- Impact of additional traffic on private unmade local roads; and,
- Contrary to Local Plan policies with regard to affordable housing

5.0 CONSULTATIONS

5.01 Minster-on-Sea Parish Council referred to the comments made on the previous application. It considers this to be a 'windfall site' providing much needed houses of that type within the built-up area. However, the Parish Council's support is conditional on an ecological survey being provided. No such survey has been received.

5.02 Southern Water do not raise objection subject to an informative advising suitable disposal of surface water. Southern Water standing advice is to be followed and the informative suggested will be included on a decision notice.

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

6.0 BACKGROUND PAPERS AND PLANS

6.01 Submission documents include a Design and Access Statement composed by Kent Design Partnership and dated May 2018.

7.0 APPRAISAL

7.01 The main considerations in the determination of this application are:-

- The principle of the proposed development;
- Design and visual impact on the locality;
- The impact on the amenities of neighbouring occupiers;
- Highways and parking;
- Ecology; and,
- Flood risk.

Principle of Development

7.02 The site is located in the built up area, where new residential development is acceptable as a matter of principle.

Impact on Visual Amenity

7.03 Policy CP4 of the Local Plan seeks to ensure that all development will be of a high quality design that is appropriate to its surroundings and Policy DM14 states that all development proposals should be well sited and of a scale, design and appearance that is sympathetic and appropriate to its location.

7.04 The built context of this garden site is varied and comprises a mixture of two storey detached houses and bungalows of broadly traditional design set within irregularly spaced plots fronting Scarborough Drive to the south, Westcliffe Drive to the west and Kings Road to the east.

7.05 The earlier refused application (17/504037/FULL) comprised a row of three detached two storey houses on the eastern part of the site and one two storey detached house on the western part, separated by a central access road. Whilst there were no objections in principle to the development of the site for residential purposes, Members considered that the proposal constituted an over intensive form of development detrimental to the character of the area.

7.06 The revised application currently under consideration has sought to address this concern by amending the size and siting of the unit on Plot No.1 and reducing the height of the houses on Plot No's 3 and 4.

7.07 The dwelling on Plot No.1 is now set back 4m from the western boundary of the site rather than 1.7m and its roof treatment amended reducing the height of its front facing gable projection by approximately 0.7m. On Plot No.3 the height of the proposed house has been reduced by 0.3m and the bulk and massing of the roof has been reduced by the use of a hipped, rather than gabled roof; whilst on Plot No.4 the eaves height of the dwelling has been reduced by 0.3m and its ridge by 0.4m.

7.08 Although these modifications have not resulted in a material reduction in the density of the development, the amended size and siting of the house on Plot No.1, in particular, would significantly reduce the visual impact of the development when viewed from the houses on Westcliff Drive. On balance, it is considered that in its current form the proposal represents an appropriate form of development for this backland site with well spaced dwellings set within relatively spacious garden plots aligned on either side of a central access road with planting and landscaping to enhance the setting of the

buildings. It is recommended that the appropriate landscaping treatment be secured by condition.

- 7.09 In terms of their external appearance, a broadly traditional design approach has been adopted, with buildings of differing heights and a varied roof scape of gables, hips and half-hips and small gable bonneted eaves level dormers and red/brown brick and tile hung elevations with decorative brick plinths, string courses and soldier courses above the windows. It is considered that the development would have a satisfactory appearance, complementing the neighbouring built form and in keeping with the character of the area. Notwithstanding this, it is recommended that in the event of planning permission being granted, a condition be imposed requiring the submission and approval of materials.
- 7.10 In terms of its design and appearance it is considered that the proposal accords with the aims and objectives of Policies CP4 and DM14 of the Local Plan.

Impact on residential amenity

- 7.11 Policy DM14 of the Local Plan seeks to ensure that new development does not adversely affect the amenities of adjoining and nearby occupiers. The previous application (17/504037/FULL) was refused on the grounds that it would result in harmful levels of overlooking and an overbearing impact upon the neighbouring properties.
- 7.12 In the current application, Unit No.1 has been sited 2.3m further away from the western boundary of the site and a first floor rear facing (south) bedroom window which was originally located 2.6m from the boundary has now been positioned 7.8m away. It is considered that the increased distance to the boundary and the modified window arrangement would satisfactorily address the concerns raised with the previous application in terms of dominance and oblique overlooking to the rear gardens of the neighbouring properties on Westcliffe Drive. The reduction in height and changes to the roof treatment on the dwellings on Plot No's 3 and 4 would also serve to ameliorate their visual impact on the occupiers of the residential properties on Kings Road.
- 7.13 The rear elevations of Units 2, 3 and 4 are in excess of 25m from those of the existing houses fronting Kings Road and the flank elevation of Unit No.1 is 20m away from the rear elevation of the nearest houses fronting Westcliffe Drive. In view of this spatial relationship, together with the revisions referred to above, it is considered that the proposed development would have no detrimental impacts on the light, outlook or privacy of the neighbouring residential occupiers and as such, accord with the aims and objectives of Policy DM14 of the Local Plan.
- 7.14 In the interests of the privacy of the occupiers of the neighbouring properties, it is recommended that a condition be imposed to remove permitted rights in relation to the installation of dormer windows and rooflights in the rear facing roof slopes of Units 2, 3 and 4.

Standard of Accommodation Provided for the Future Occupiers

- 7.15 The proposed dwellings are of a satisfactory size and internal layout and would provide a good standard of accommodation for the future occupiers. With garden depths ranging from 10m to 18m the size and quality of the amenity space provision would be satisfactory.

Highways

- 7.16 Whilst I note the objections raised in this regard, the parking provision proposed meets the requirements of the County Highway Authority and the access road is also acceptable in terms of highway safety and convenience. Potential damage to the unmade road as a result of this scheme is not a material planning consideration but a private legal matter between the relevant parties. Finally in this regard, the traffic generated by four additional dwellings would not give rise to an excessive number of vehicle movements which in themselves would harm highway safety or convenience.

Ecology

- 7.17 The proposed development site falls within the 6km zone of influence of the Thames Estuary and Marshes and Members will note the response of Natural England. I have included below a Habitats Regulations Assessment. The applicant has not provided an ecological report and the comments of the Parish Council are noted. However, in relation to the previous application, the KCC Ecologist indicated that this domestic garden does not appear to contain habitats or features that are suitable for protected species but nonetheless, advises that a condition securing the implementation of ecological enhancements should be imposed.

Flood Risk

- 7.18 I note the concerns raised on the basis of flood risk. The site does not lie in an area at risk of flooding. Notwithstanding this, it is recommended that a condition be imposed which requires the submission and approval of drainage details.

8.0 CONCLUSION

- 8.01 It is considered that the proposed development has satisfactorily addressed the previous reason for refusal. The proposed development is acceptable in principle and would not adversely affect the character or visual amenities of the area or harm highway safety and convenience. Therefore it is recommended that planning permission is granted subject to conditions.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

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

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

- (2) The development shall be carried out in accordance with the following approved plans numbered - 13-20-101, 13-20-102, 13-20-05E, 13-20-51C, 13-20-SK13A, 13-20-SK16C, 13-20-SK17B, 13-20-SK18B, 13-20-SK19C, 13-20-SK20A, 13-20-SK21B, 13-20-SK22B, 13-20-SK23A, 13-20-SK24A, 13-20-SK30, 13-20-SK31A, 13-20-SK32, 13-20-SK33, 13-20-SK34, 13-20-SK36, 13-20-SK37, 13-20-SK38 & 13-20-SK39A and Kent Design partnership Design and Access Statement dated May 2018.

Reason: In the interests of proper planning

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

Reason: In the interest of visual amenity.

- (4) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) A programme for the suppression of dust during any demolition works and construction of the development
 - (ii) The areas to be used for the storage of plant and materials on site;
 - (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (iv) Measures to guard against the deposit of mud and similar substances on the public highway

The development shall be carried out in accordance with the approved details.

Reason: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- (5) 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, any means of enclosure, hard surfacing materials, graphic/visual details for the method of marking out of parking spaces, and an implementation programme.

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

- (6) No development shall take place until details of the means of foul and surface water drainage submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

- (7) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling shall be occupied unless the notice for that dwelling of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability

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

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

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

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

- (10) No demolition/construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- (11) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (12) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason In the interest of highway safety

- (13) Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird boxes along with the provision of generous native planting where possible. The approved details shall be implemented and thereafter retained.

Reason: To enhance biodiversity.

- (14) Notwithstanding the provisions of Class B and C, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any

order revoking and re-enacting that Order with or without modification), no dormer windows or rooflights shall be inserted in the rear facing roof slopes of the dwelling houses hereby permitted.

Reason: In the interests of residential amenity

- (15) Before the development hereby permitted is first occupied, the proposed window in the first floor west facing side elevation of the house on Plot No.1 shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and this window shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

INFORMATIVES

- (1) This Appropriate Assessment (AA) 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, and an Appropriate Assessment is required to establish the likely impacts of the development.

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.

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site." The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwellings are occupied.

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 (via the NKEPG), 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 has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff amount takes account of and compensates 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 the agreed tariff mitigates for the individual and cumulative impacts of this scheme.

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.

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.

- (2) Southern Water requests that the applicant contacts it to discuss the requirement for a formal application to; abandon a public sewer; provide foul and surface water drainage; and provide a water supply on 0330 303 0119. Should a sewer be found

during construction the developer should contact Southern Water to discuss its requirements.

- (3) A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable at officer level 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

- 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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| | | | |
|---|--|---|-------------|
| 2.8 REFERENCE NO - 18/501726/FULL | | | |
| APPLICATION PROPOSAL Erection of a 3 storey building comprising of an amusement centre (adult gaming centre) on the ground floor with 2 x single bedroom flats on the upper floors. | | | |
| ADDRESS Land Between 119A And 121A High Street, Sittingbourne, Kent, ME10 4AQ. | | | |
| RECOMMENDATION Grant subject to conditions and receipt of comments from County Archaeologist | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION. The development would provide an additional unit on a vacant plot within the High Street, and therefore would not erode or diminish the retail offering of the Core Shopping Area. The development would also provide two residential flats within a sustainable, central, urban location. | | | |
| REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Whelan. | | | |
| WARD Chalkwell | PARISH/TOWN COUNCIL | APPLICANT Godden Two LLP AGENT Roger Etchells & Co | |
| DECISION DUE DATE 23/05/18 | PUBLICITY EXPIRY DATE 25/05/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/10/0012 | Erection of three storey building to provide shop at ground floor with two flats above (resubmission of SW/06/0033). | Granted. | 2010 |
| The development would have provided an additional retail unit within the Core Shopping Area and two residential flats within a sustainable urban location, and would have sat comfortably within the context of the High Street Conservation Area. That permission has now expired, however. | | | |
| SW/06/0033 | Erection of three storey building to provide shop at ground floor with two flats above. | Granted. | 2006 |
| SW/01/1254 | Shop unit with storage above with associated external works and roads. | Granted. | 2001 |
| SW/97/0025 | Change of use to an AGC / amusement centre. (Olympia Leisure, 62 High Street.) | Refused, allowed at appeal. | 1997 |
| This permission relates to the existing AGC at 62 High Street, where permission was refused by the Council but the subsequent appeal allowed by the Inspector, who considered that such uses would not detract from the wider retail offering, vitality, and viability of the High Street. Further commentary is set out in the main report, below. | | | |

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a vacant plot situated between Wimpy and the (currently empty) former Mothercare units on Sittingbourne High Street. It is enclosed by a close-boarded timber fence to the front and rear, largely overgrown, and backs on to a small parking / service yard to the rear of the High Street units.
- 1.02 The Sittingbourne High Street Conservation Area boundary runs along the front of the site, with the actual plot itself excluded from the designation.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a three-storey building to provide an adult gaming centre (AGC) at ground floor with two one-bed flats on the upper floors.
- 2.02 The scale and design of the building is almost identical to the scheme approved previously under SW/10/0012 and SW/06/0033, with a pitched roof and decorative projecting bay feature to the front, vertically proportioned windows on the upper floors, and a traditional shopfront design at ground floor. The building will stand approximately 13.5m tall (similar height to the Mothercare building), 6m wide, and 24m deep (to match the depth of Mothercare) at two-storey level with a single storey bin / cycle store projecting 6m further along the flank elevation of Wimpy.
- 2.03 The proposed first floor flat would include a bedroom, lounge, kitchen, bathroom, and storage space. The second floor flat would have a bedroom, bathroom, storage space, and combined kitchen / lounge. Both flats would have floor spaces well in excess of the National Space Standards. Access to the flats would be via the rear of the building.
- 2.04 The proposed AGC at ground floor would feature “retail display” windows within the shopfront, an open area for gambling / gaming machines occupying the majority of the floor space, and a small office, toilet, and kitchen area towards the rear. The submitted Planning Statement comments:

- 4.7 The activity proposed for the ground floor is that of an adult only amusement centre (Adult Gaming Centre) consisting of gaming machines, ancillary catering (light refreshments, tea and coffee) and retail sales. Such establishments are found in most shopping centres. Indeed, there is a similar one in this centre at 62 High Street. They have different effects from amusement arcades. There is a statutory obligation to exclude under 18's.
- 4.8 The ground floor premises would be soundproofed and have a window display of goods.
- 4.9 Customer Usage - It is generally accepted that this kind of establishment attracts the same type of person as nearby shops. It also attracts them in similar numbers. There is considerable evidence confirming these characteristics which can be provided if requested.
- 4.10 Appearance - The proposal would be different visually from other non-retail uses. The public perception is that the window displays compare favourably with retail uses let alone other non-retail uses. Such displays have frequently been compared favourably with shops and other non-retail uses by Inspectors dealing with appeals.
- 4.11 Amusement centres of this kind are harmless to nearby traders. They do not cause noise or disturbance.
- 4.12 I am confident that the proposal will:
 - (1) Enable the development of a longstanding 'gap' site to the benefit of the appearance and functioning of the town centre.
 - (2) have no adverse impact on retailing activity;
 - (3) add to diversity, choice and competition in the shopping area;
 - (4) not harm the character or trade of the shopping centre;
 - (5) enhance the vitality of the shopping centre;
 - (6) add to the evening economy;
 - (7) provide 2 new dwellings.
- 4.13 There is considerable evidence confirming these characteristics which can be provided if requested.
- 4.14 It is intended that the shopfront will incorporate an attractive window display of goods for sale to attract the interest of the passer-by. The display will be changed to maintain visual interest. The display can be favourably compared with those of many shops and non-retail uses in the shopping centre and would be preferable to the continued vacancy of the site.

3.0 SUMMARY INFORMATION

| | Proposed |
|--------------------------|-----------------|
| Site Area | 139sqm. |
| Approximate Ridge Height | 13m |
| Approximate Eaves Height | 11m |
| Approximate Depth | 24m |
| Approximate Width | 6m |
| No. of Storeys | 3 |
| Parking Spaces | 0 |
| No. of Residential Units | 2 |

4.0 PLANNING CONSTRAINTS

- 4.01 As noted above: the site frontage abuts the Sittingbourne High Street Conservation Area boundary.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance) NPPG do not contain specific policies relating to amusement centres. However, such premises fall within the definition of “Main town centre uses” (which includes entertainment uses, sport and recreation, casinos, and bingo halls, amongst others) set out in Annex 2 to the NPPF. Therefore, such activities are subject to the general provisions in Section 2 of the NPPF. These include a requirement that Councils set out clear definitions of primary and secondary shopping frontages in their Local Plan, together with policies setting out which uses will be permitted in such locations. The NPPF does not preclude activities like amusement centres or casinos from primary frontages, provided that they contribute to the mix of uses within the area and do not result in the significant degradation of the areas’ retail function.

5.02 Para. 85 of the NPPF states:

Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Policies should:

- d) *allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;*

5.03 Policies Regen 1 (central Sittingbourne regeneration area), CP1 (strong, competitive economy), CP4 (good design), CP8 (historic environment), DM1 (vitality and viability of town centres), DM7 (vehicle parking), DM14 (general criteria), DM15 (new shopfronts, signs, and advertisements), and DM33 (conservation areas) of the adopted Swale Borough Local Plan 2017 are relevant.

5.04 Of particular relevance are the following policy extracts:

CP1

Actions by public, private and voluntary sectors shall work towards the delivery of the Local Plan economic strategy. Development proposals will, as appropriate:

3. Secure additional non-food retail/leisure growth, taking account of committed schemes and existing centres and provide flexibility over uses in town centres to enable them to respond to the challenges they face;

DM1

In town centres and other commercial areas, planning permission will be granted for development proposals, in accordance with the following:

1. *Within the defined primary shopping frontages, as shown on the Proposals Map, the Borough Council will permit non-retail uses that:*
 - a. *maintain or enhance the primary retail function of the area by adding to the mix of uses to help maintain or increase its overall vitality and viability, especially where providing a service or facility for residents or visitors currently lacking or*

- under-represented in the town centre, or by increasing pedestrian activity in the immediate locality;*
- b. do not result in a significant loss of retail floorspace or the break-up of a continuous retail frontage;*
 - c. do not lead to a concentration of non-retail frontage; and*
 - d. do not result in the loss or erosion of a non-retail use that underpins the role, functioning, vitality and viability of the area.*

Regen 1

A regeneration area for central Sittingbourne, including its town centre, is shown on the Proposals Map. Within this area proposals which support the objective of consolidating and expanding Sittingbourne's position as the main retail, business, cultural, community and civic centre for the Borough, will be permitted.

- A. Development within the area will proceed in accordance with, or complement, a Masterplan to be prepared to support the development agreement between the regeneration partners and will accord with the key objectives of:

 - 1. Providing additional comparison retail space and uses which provide greater vitality, viability, diversity and activity;**
- B. All development proposals will:

 - 1. Accord with Policies DM 1 and DM 2 to maintain and enhance the retail offer of the primary shopping areas, whilst introducing uses there and elsewhere within the town centre which achieve greater vitality, viability and diversity of services and facilities, alongside buildings of architectural excellence. Where town centre vitality and viability is not harmed, other sites able to achieve similar objectives will be permitted within the regeneration area defined by this policy;*
 - 2. Maintain or enhance key non-retail uses which underpin the retail and community functions of the town centre for both day and night time economy;*
 - 3. Provide for residential development of suitable type and scale above commercial premises, or as part of mixed use developments, or on other suitable sites;**

6.0 LOCAL REPRESENTATIONS

- 6.01 The application has been called in by Ward Councillor Whelan.
- 6.02 We have received objections from five separate addresses (including a very lengthy series of objections from a planning agent on behalf of Olympia Leisure – the existing Adult Gaming Centre (AGC) further along the High Street) raising the following summarised concerns:
 - The existing parking area to the rear is over-subscribed and further vehicles will make access to the shop units more difficult;
 - Another “betting shop” will give a sense of deprivation within the town centre;
 - The site should be developed for retail purposes, which will provide employment and encourage visitors;
 - The High Street needs more shops; and
 - The proposal would be contrary to policy DM1.

6.03 The objection on behalf of the existing AGC is more technical in respect of its references to planning policies and AGC practices, and raises the following summarised points:

- Changes in legislation in the early 2000s allowed larger payouts, which increased the number of customers and footfall, and consequently lead to an expansion of these sorts of premises within town centres with Fixed Odds Betting Terminals (FOBTs) overtaking traditional bookmakers in popularity;
- The smoking ban has affected footfall in AGCs, discouraging many elderly and female visitors, leading to a largely male customer profile;
- This lead to an approximately 20% drop in profits nationally;
- The submitted “customer profile” supporting the application is therefore out of date, and footfall is likely to be much lower than anticipated. AGCs therefore contribute little to ‘vitality and viability’;
- A number of footfall surveys from Dover have been provided to demonstrate that other retail units have higher footfall than AGCs / footfall will be lower than projected;
- The “retail display” within the shop front is not representative of the use (nor do the applicants have a retail display in any of the 14 existing AGCs elsewhere), as any retail use is wholly subservient to the use as an AGC, and would not encourage customers other than those intending to use the gaming/betting machines;
- In reality, and as at other AGCs, the windows will most likely be empty or covered in advertisements for the premises, and the display of retail goods would be difficult to enforce;
- The Council has a duty to consider public health, particularly in respect of at-risk persons (or “problem gamblers”) who may use the premises;
- Policy DM1 can’t be interpreted to support the proposed development;
- Approval would lead to a concentration of non-retail frontage;
- No evidence has been provided to demonstrate that a retail use is not viable here;
- Such uses should be directed to secondary shopping areas; and
- There are multiple “machine gaming venues” within Sittingbourne already:
 - o William Hill, Paddy Power, Betfred, Olympia Leisure, Coral, and Mecca Bingo, as well as fruit machines within pubs.

7.0 CONSULTATIONS

7.01 KCC Highways have not commented as the scheme falls below their protocol response threshold.

7.02 Southern Water requests a condition to secure details of surface water drainage and a standard informative in respect of connections to the sewer network (both set out below) to be attached to any grant of permission,

7.03 The Council’s Economic Development Officer does not support the scheme, commenting:

“The top end of the High Street forms part of the core retail area and is well used by the local community. Vacancy rates are low at this end of the High Street, with only two units currently vacant. Whilst it is unlikely the proposed development would have a significant negative impact on overall trade within Sittingbourne town centre, it is also unlikely that it would contribute to the vitality, viability, or wider offering of the High Street. Given the nature of the proposed ground floor use, the offer is limited in as much as the customer base would be over 18s only.”

The current regeneration scheme in Sittingbourne town centre includes delivery of a new leisure offer. Alongside this we would seek to promote and protect the current functions of the High Street.”

- 7.04 The Council's Environmental Health Manager has no objections subject to standard conditions in respect of hours of construction, installation of sound-proofing between the ground floor and the flats above, and hours of use (he has suggested hours to match those at the existing AGC (Olympia Leisure) on the High Street).
- 7.05 The County Archaeologist has no objection subject to a standard condition, as set out below.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is supported by relevant plans, drawings, and a Planning, Design & Access Statement.

9.0 APPRAISAL

Principle

- 9.01 The application site lies within the built up area of Sittingbourne, and within the primary retail area, where policies DM1, CP1, and Regen 1 generally encourage non-retail uses provided that they do not lead to a concentration of non-retail frontage; maintain or enhance the primary retail function by adding to the mix of uses; and do not result in a significant loss of retail floorspace.
- 9.02 In this instance, as the development amounts to a new build on a currently vacant plot, it can't (in my opinion) reasonably be argued that the scheme would result in the loss of retail floorspace that would have a consequent negative impact on the retail offering within the town centre.
- 9.03 The following commentary from the Development Control Practice manual is helpful (**my emphasis in bold**):

17.533 It is clear from the evidence of cases over the years that many local authorities have used "loss of shops" as a front for non-planning objections on the basis of moral antipathy to gambling.

17.5331 In the majority of appeal cases local authorities have found it difficult to sustain arguments that harm will be done by a change of use of retail premises to amusement centres in primary (or core) shopping areas, even if they contravene local plan policies.

*It was proposed to change the use of a shop in Dartford to an amusement centre. An inspector accepted that the centre seemed to have a reasonably bustling atmosphere with an emphasis on value-for-money retailers. **The appeal site he observed was in a prominent location being directly opposite a main high street entrance to an indoor shopping precinct. Its loss would therefore dilute the retail element of the primary shopping frontage at a critical point, which would harm the overall vitality of the centre. While a window display could be provided this would not act as a substitute for a shop and would not act as any real shopping stimulus. It was judged that the centre would be a 'weak' use, which would fail to replicate "the shopping vitality of a true A1 use within the primary frontage"...***

The inspector's decision was quashed in the High Court by consent and remitted back to the SOS The Noble Organisation v SOS & Dartford BC 14/5/02. A judge held that the inspector had not properly reasoned why the appeal proposal did not measure up to being an acceptable alternative function of the premises as compared with a conventional A1(a) shop. Nevertheless, a second inspector upheld the decision of the first inspector, ruling that the change of use would dilute the retail element in a key part of the town centre, which would undermine perceptions of the town centre as an attractive shopping destination. The appeal was dismissed....

However, this decision was quashed in the High Court, but by consent, and a third inquiry resulted. The council now accepted that an amusement centre could be appropriate in a primary shopping area, but argued that much depended upon the vitality and viability of the centre concerned and in the case of Dartford, it was quite fragile. A third inspector agreed that it was desirable in principle to ensure that retail premises should remain in shopping use, particularly within the central parts of the town. However the premises had been on the market for a number of years and had been let only on short term leases. They appeared to be functionally obsolete for modern retail use and consequently their re-use for leisure purposes would assist in diversifying the town's economic base and make a positive contribution to the vitality of the town centre. As to character it was concluded that if the change of use were permitted shoppers would recognise the premises as an amusement centre and regard it as another element in the make up of the town centre."

- 9.04 There are, of course, appeal decisions that have upheld refusals for AGCs in primary retail areas, but these almost exclusively relate to proposals for change of use of an existing retail premises, and not to the provision of an entirely new building on vacant plots. It's therefore hard to draw comparisons.
- 9.05 Taking the broad policy support and national appeal decisions into account I consider that the principle of the proposed development is acceptable.

Non-retail uses, and vitality of High Street

- 9.06 I note that the Council's Economic Development officer objects to the scheme, but I find it hard to convert their objection into a reason for refusal in light of the policy support above.
- 9.07 There is only one other AGC within the High Street and the current proposal would therefore add to the diversity of uses within the core shopping area in my opinion, and the two are situated a reasonable distance apart so as not to oversaturate a particular part of the town centre. Objectors have also suggested that the existing betting shops on the High Street should be counted alongside the proposed AGC as similar uses. Within the High Street there is Paddy Power to the west of this site (adjacent to Lloyds Bank) and Betfred to the east (adjacent WH Smith). If approved this scheme would therefore result in a total of 4 AGC / betting shops within the town centre, spread roughly the length of the Core Shopping Area.
- 9.08 Whilst I appreciate Members may be concerned about the number of gambling establishments on the High Street I would refer to the advice of the DCP at 9.03 above and reiterate that a moral objection to such premises doesn't translate to a planning refusal. There needs to be an identified harm, and in this instance I don't consider the

number of such premises to be overwhelming or harmful to the overall mix of uses within this part of the town centre.

9.09 Within this part of the High Street, from Station Street to Central Avenue, there are 37 units, broken down as follows:

- 19 retail (some empty units, however);
- 10 financial and professional services (banks, estate/travel agents, barbers, etc);
- 5 food outlets (Subway, Wimpy, Greggs, Swell Café, Starbucks);
- 2 betting shops (Betfred and Paddy Power); and
- 1 church.

The dominant feature of this part of the High Street is therefore, to my mind, retail and supporting financial and professional services, and I don't consider that a third gaming/betting shop would alter that mix to the extent that planning permission could justifiably be refused.

9.10 Returning to the Economic Development officer's comments I would agree that it is desirable to protect the retail function of the High Street, but as set out above I do not consider that this development would dilute that retail offering (being an empty plot) or seriously harm the overall retail functioning of the defined Primary Shopping area.

9.11 Members may care to note the Inspector's decision for SW/97/0025, relating to 62 High Street, an existing AGC, in which they comment:

11. I also note that the reliance on shoppers as the main clientele of these establishments means that a location in a busy shopping area is considered to be important for business and that secondary areas are less favoured. In this case, because of the location of the appeal premises, between the main shopping attractions, there is a substantial pedestrian flow along the street. In my opinion this would not be lessened as a result of the proposed use in comparison with a retail use. In coming to this view, I have noted that similar amusement centres attract numbers of customers that correspond to or exceed those visiting nearby shops and business premises. Further to this, these amusement centres attract some additional custom to the shopping centres.

Scale, design, and visual amenity

9.12 The proposed building is, for all intents and purposes, identical to that approved twice before under the 2010 and 2006 permissions noted above. In that respect the scale, design, visual impact, and impact upon the character and appearance of the conservation area of the development have previously been considered and found to be acceptable. While those decisions were some time ago, and a new Local Plan has been adopted in the interim, I do not consider that the site circumstances, the appearance of the wider High Street, or the policy context (in respect of visual amenity) have changed significantly such that a refusal on these grounds would be in any way reasonable or justified. That aside, however, I consider the proposed building to be well designed and appropriate to its context.

9.13 Whilst the ground floor windows would not provide views into the premises (the interior of AGCs are screened from public view) the frontage would nevertheless provide a traditional shopfront using traditional materials (secured by condition below) which would enhance the character and appearance of the conservation area. I have also recommended conditions requiring Flemish Bond brickwork, submission of joinery

details (including the new shopfront), submission of window details, and removal of PD rights for fixture and fittings on the High Street elevation, to ensure the frontage of the building contribute positively to the conservation area.

Public health

- 9.14 An argument has been put forward by one of the objectors that the Council has a duty to consider the health of residents when considering this proposal. It is true that planning takes factors such as this into account (such as when considering takeaways near to schools, for example), but in this instance it seems to me that the potential for harm is mitigated by other legislation. The Gambling Act 2005 includes provisions to restrict access by minors, and the Gambling Commission is currently considering changes to the legislation to reduce the maximum stake for fixed odds betting terminals / gaming machines. Government guidance prevents planning considerations and decisions from duplicating the provisions of other legislation.
- 9.15 Furthermore the Council's Licensing sub-committee agreed, at their meeting on 2nd October 2018, to adopt a Statement of General Principles to be used when considering licensing applications, including considerations in respect of minors, problem gamblers, and other associated issues. That document is due to be considered for adoption by Full Council at the meeting on 14th November 2018. The gaming license for this site was granted, in advance of planning permission, at the Licensing sub-committee meeting on 2nd February 2018, and consideration of that license took those general principles into account (albeit the Statement was still in draft at that time, awaiting committee agreement).
- 9.16 I therefore consider that the Council has considered the impacts of such a development upon the public health, and I do not consider this to amount to a justifiable reason for refusal.
- 9.17 I would also note that the agreed Statement of General Principles includes commentary in regards not being able to refuse such applications on the grounds of moral objections or general distaste for gambling / gaming premises. (See reference to para. 17.533 of the DCP at para. 9.03 above.)

Highways

- 9.18 The site lies within a sustainable, central location, immediately within the High Street and with good access to local shops, services, and public transport links. In such locations the required parking provision for the proposed flats, under current adopted guidance, is nil. Furthermore visitors to the proposed AGC are likely to either walk to the site or make use of public car parks or public transport. In that regard I have no serious concerns in respect of highway amenity or parking provision. I note local objection on parking grounds, but there is some parking to the rear of the premises, which is on private land and any anti-social parking thereon could be controlled by the landowners.

Amenity

- 9.19 The proposed flats have internal floorspace in excess of the minimum required by the national standard, and would provide a good standard of amenity for future occupants. Whilst no outdoor amenity space will be provided this is common to many dwellings above town centre shops, and is acceptable. Residents would be able to make use of the various town centre amenities, and the site is within walking distance of Albany recreation ground.

9.20 I am concerned, however, about the potential for noise and disturbance from the ground floor use (from electronic machine sounds, customers, etc.) to affect the flats above. I have therefore recommended a condition requiring a scheme of soundproofing to be installed prior to first use of the ground floor premises.

10.0 CONCLUSION

10.01 This application proposes the erection of a building to infill a vacant plot on Sittingbourne High Street, with an adult gaming centre (AGC) at ground floor and two flats above. The proposed building is of a good design and would sit comfortably within the conservation area; the proposed AGC would not significantly harm the primary retail function of the High Street; and the proposed flats would provide a good standard of amenity for future occupants. Whilst I note local objection I do not consider there to be any justifiable grounds for refusal.

10.02 Taking the above into account I recommend that 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 complete accordance with drawing 007/18/02.

Reason: In the interest of visual amenity and preserving or enhancing the character and appearance of the conservation area.

- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- 4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in

accordance with a written programme and specification, which has been submitted to and approved by the Local Planning Authority.

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

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

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

Reason: In the interests of residential amenity.

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

Reason: In the interest of visual amenity and preserving or enhancing the character and appearance of the conservation area.

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

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

- 8) No development beyond the construction of foundations shall take place until manufacturer's specifications of the windows, doors, balconies, and balustrades be used on the development hereby permitted 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 visual amenity, and preserving or enhancing the character and appearance of the conservation area.

- 9) No development beyond construction of foundations shall take place until 1:2 plan and vertical part section drawings showing the degree to which all window frames will be set back from the brick face of the building 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 visual amenity, and preserving or enhancing the character and appearance of the conservation area.

- 10) No development shall take place until details of the proposed means of surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Upon approval the details shall be implemented as agreed.

Reason: In the interest of ensuring the development is appropriately drained.

- 11) The brickwork on the front (High Street) elevation of the building hereby permitted shall be laid in Flemish Bond.

Reason: In the interest of visual amenity, and preserving or enhancing the character and appearance of the conservation area.

- 12) No light fittings, pipework, vents, ducts, flues, meter boxes, alarm boxes, ductwork, satellite dishes, or other appendages shall be fixed to the High Street elevation of the building hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of visual amenity, and preserving or enhancing the character and appearance of the conservation area.

- 13) The use of the ground floor of the premises hereby permitted shall be restricted to the hours of 09.00 to 22.00 Monday to Saturday, and 10.00 to 21.30 on Sundays and Bank Holidays.

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

- 14) The use of the ground floor of the premises hereby permitted shall not commence until a scheme of soundproofing between the ground floor and the residential units above has been submitted to and approved in writing by the Local Planning Authority. Upon approval the scheme shall be implemented as agreed.

Reason: In the interest of residential amenity.

- 15) Any other conditions recommended by the County Archaeologist.

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

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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, please contact Southern Water, Sparrowgrove House,

Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link

<https://beta.southernwater.co.uk/infrastructurecharges>

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

THE COUNCIL'S APPROACH TO THIS APPLICATION

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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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|--|--|--|-------------|
| 2.9 REFERENCE NO - 16/507586/FULL | | | |
| APPLICATION PROPOSAL Removal of containers and brick toilet and erection of a data storage facility building with associated off-street parking. | | | |
| ADDRESS Former Raf Mast Site Courtenay Road Dunkirk Kent | | | |
| RECOMMENDATION – Grant SUBJECT TO receipt of comments from the County Archaeological Officer. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council Objection | | | |
| WARD Boughton And Courtenay | PARISH/TOWN COUNCIL Dunkirk | APPLICANT Mynydd Brith Ltd AGENT Robinson Escott Planning | |
| DECISION DUE DATE 03/01/17 | PUBLICITY EXPIRY DATE 20/08/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/14/0393 | Erection of a data storage facility (B8) and permanent historical exhibition (D1). | Appeal against non-determination Dismissed | 03/03/2015 |
| SW/11/1370 | Erection of a data storage facility (B8) and permanent historical exhibition. | Refused and dismissed at appeal | 13/11/2013 |
| SW/10/1128 | Erection of offices and data storage building. | Refused | 28/10/2010 |

1.0 DESCRIPTION OF SITE

- 1.01 The former RAF radar mast at Dunkirk is a grade II listed structure and lies within a secure compound in the designated countryside directly adjacent to the Local Plan defined built-up area boundary of Dunkirk. The existing mast is host to a range of telecommunication equipment. The site is also located within a Special Landscape Area.
- 1.02 To the northwest of the mast, and mostly beyond the immediate fenced compound, is a larger area of land that once formed the RAF Dunkirk Chain Home Radar Station featuring a range of buildings and groundworks, and the remains of other former masts, which is protected as a Scheduled Ancient Monument.
- 1.03 The fenced compound occupies part of the frontage of Courtenay Road which is otherwise a residential area, and it therefore adjoins and sits opposite bungalows and two storey residential dwellings which are within the defined built up area of Dunkirk. The application site itself is a narrow strip of open land along the southern edge of the fenced compound and does not include the mast itself.
- 1.04 The mast is tall enough to have a clear line of sight to central London and is close to high capacity cables under the old A2, which means that it is seen as well

located to provide a secure data storage facility with more than one means of data transfer, and ideal for the development of a secure data storage facility. This application thus follows three previous applications for a data storage facility on the site. Two of these went to appeal and the previous appeal decisions have been attached to this report as Appendix 1 and Appendix 2. The appeal decisions both state that the principle of this facility on the site is acceptable but the first appeal was dismissed due to impact on the residential amenity of no. 7 Courtenay Road, and the second was dismissed as it failed to preserve the setting of the listed mast.

- 1.05 In 2013 a refusal of planning permission (against my recommendation) for a similar building further forward on the site was refused and appealed (see Appendix 1). In that decision the Planning Inspector rejected the Council's argument that the site's countryside location made it unacceptable saying (at paragraphs 15 and 16) that;

"The Council suggests that the location of the appeal site outside the defined built up area of the village renders the proposal unacceptable in principle and has negative implications for sustainability. However, this is a tenuous and somewhat spurious argument.

As previously indicated, the site immediately abuts the built-up area and this, necessarily, tempers concerns that might otherwise arise regarding the effects of development on the wider countryside or the drawing of vehicular traffic into the rural area in contravention of sustainability principles. In any event, in respect of the latter it must be borne in mind that the definition of sustainable development promoted in the NPPF encompasses a much wider range of considerations, including the protection of the historic environment and contributing to the economy, which the appeal proposal would help to fulfil. Indeed, a presumption in favour of sustainable development is inherent in the NPPF. I note that there is a bus service in close proximity, albeit described by the Council as infrequent, that would be likely to reduce reliance on the private car for transport. It is also pertinent that the site is under-utilised brownfield land which the proposal would help to bring back into active use. I therefore find no serious conflict with saved LP Policies SP1, SP3, SP5 or T5, draft RLP Policy CP1 or the NPPF in this particular regard.

I acknowledge that a data storage and exhibition facility does not necessarily demand a rural location. However, such a simplistic approach pays insufficient regard to the particular attributes of the appeal site, as the radar tower itself dictates the logic of the locational choice. The height of the tower is such that it provides a clear line of sight to London that would facilitate wireless data transfer. The scheme would also take advantage of the high quality underground fibre optical network that already serves the site. Moreover, it would not only highlight the historic role of a significant heritage asset but would also provide a means of funding its maintenance. The availability of an alternative site with similar attributes in the wider locality strikes me as most unlikely.

The Appellant builds a very strong case on this basis for departing from saved LP Policies E6, SP5 and SH1 and the NPPF in this regard and I am satisfied that there is no sound reason for taking issue with the arguments thus presented. Indeed, I find that there would be good reasons for the project to go ahead somewhere on this site even if the financially-based 'enabling' argument pursued by the Appellant were to be disregarded. I

therefore conclude that the unique set of circumstances associated with the appeal scheme provides solid grounds for departing from locational policies in the development plan and the NPPF.

This being so, the proposal would not set a precedent for widespread development outside village confines to the cumulative detriment of the countryside or undermine sustainability objectives. Nonetheless, notwithstanding this conclusion, I consider that the harm to the living conditions of neighbouring residents significantly and demonstrably outweighs the benefits of the appeal scheme and that for this reason alone the proposal should not go ahead in its present form.”

1.06 Despite these strongly encouraging words, the Inspector rejected that scheme purely because of the impact of the mass of the building on the adjacent bungalow to the south

1.07 A second appeal against non-determination of a subsequent revised application where the building was sited much closer to the base of the mast was rejected on heritage grounds due to the precise location of the building; see Appendix 2. However, in so doing, the second Inspector again accepted the principle of the development here by saying;

“I note the earlier appeal decision (ref 2197279) found unique circumstances that the principle of a data storage and exhibition facility within the appeal site was acceptable; I see no reason to take a contrary view in this case. Moreover, I accept that the location of the appeal site is restricted by the desire to use the existing mast for secure communications with both London and the continent. In this respect, I have also taken into account the fact that the use of the site for a data storage facility may assist the continued use and maintenance of the mast, which would help secure the listed building for future generations.”

1.08 Accordingly, the Council has twice been advised that a data storage facility on this site is compliant with principles of sustainable development and is acceptable in this location. It has been the specific details of the two schemes that have been determinative in their rejection.

2.0 PROPOSAL

2.01 This application again proposes the erection of a two storey building to be used as a data storage facility with associated parking within the fence compound, albeit in a different location to previous applications. The data storage building would now be located in the south-western corner of the site. car parking and a turning area would be provided to the front of the proposed building and would be accessed by the existing access off Courtenay Road. The plant room will be in a basement to contain noise.

2.02 Six parking spaces are proposed as well as one disabled car parking space. Cycle parking facilities are also proposed as well as additional landscaping to the boundary.

2.03 The proposed building would be set back from the road by 57m and set 5m away from the southern boundary of the compound beyond which are residential properties on Courtenay Road and London Road. The building would measure 31m x 13m and at its highest point would measure 7.7m in height.

- 2.04 The design takes inspiration from the site's military history and buildings of that era, whilst taking the form of a modern building using grey aluminium windows and being finished in a grey green render. The windows to the first floor will be obscure glazed and non openable other than high level windows.
- 2.05 The application was initially submitted in 2016 but has been amended (and re-consulted on) since. It is supported by a range of reports relating to noise, ecology, heritage, archaeology and planning. The application seeks to learn from the results of previous applications/appeals, and in so doing the revised planning statement sets out the main points of the two previous appeal decisions which related to different schemes as follows;

“Appeal 1 – 13th November 2013 (APP/V2255/A/13/2197279) SW/11/1370 (Proposed building located within the south eastern corner of the site close to the boundary with No 7, Courtenay Road). Scheme recommended for planning permission by officers but refused by the Members of the Planning Committee.

- *No significant adverse implications for the living conditions of those residing in the wider local area. A low key activity controllable by condition.*
- *An adverse impact on no.7. No problem found in relation to overlooking and loss of light, but an unacceptable impact found upon the amenity of the front garden area. Unduly oppressive and dominant.*
- *The site is currently under-utilised brownfield land which the proposal would help to bring back into active use.*
- *The data storage facility does not necessarily demand a rural location. However the radar tower dictates the logic of this location choice. The height of the tower is such that it provides a clear line of sight to London that would facilitate wireless data transfer. The scheme would take advantage of the high quality underground fibre optical network that already serves the site. Moreover, it would not only highlight the significant role of a significant heritage asset but would also provide a means of funding its maintenance.*
- *There is good reason for the project to go ahead somewhere on the site even if the financially-based ‘enabling’ argument were to be disregarded. The unique set of circumstances associated with the appeal scheme provides solid grounds for departing from locational policies in the Development Plan and the NPPF.*
- *The proposal would not set a precedent for widespread development outside village confines.*
- *An acceptable design – the building would read primarily in relation to the utilitarian setting of the former RAF compound and, this being so, would be acceptable in visual terms. It would enhance the setting of the listed building whereas a design more akin to that of a dwelling would appear incongruous and detract from this.*
- *Too far from the Scheduled Ancient Monument to create an adverse impact.*
- *Activity associated with the proposal would not be of sufficient intensity to generate problems of highway safety, on-street parking or harm the designated rural lane.*

“Appeal 2 – 3rd March 2015 (APP/V2255/A/14/2222495) SW/14/0393 (Building located away from boundary with no.7 and close to the base of the mast). A non-determination appeal.

- *Poor design, lacking articulation and interest. A monolithic block.*
- *Views of the mast are very important, including a visual link with other bases, the Scheduled Ancient Monument and its wider setting. This location is unacceptable as the proposed building would obscure direct and important views of the tower base and visual association with others in its group.*
- *The proposal would create “less than substantial harm” to the significance of the heritage assets, failing to preserve the setting of the Grade II Listed Building and would harm the significance of the Scheduled Ancient Monument.*
- *Query sufficient consideration to archaeological potential.*
- *Limited value attributed to the proposed interpretive facility due to uncertain provision.*
- *Acceptable in principle, as found by the Inspector who dealt with the last appeal.”*

2.06 As a result of this analysis the current application is described by the applicant as different in the following ways;

- This revised application proposal has arisen following an identified and continuing need to make more efficient use of the site and taking account of the opportunity provided by the mast and the demand for secure wireless data storage. Planning permission is sought for a new data storage facility with associated car parking.
- The location of the proposed building within the south-western corner of the site has been carefully chosen taking account of the Inspector’s findings within the two appeal decisions and also following the advice of West Sussex Archaeology and Historic England. This part of the site is chosen to set the building back well within the site and well away from neighbouring residential properties. It would also be located away from the base of the mast so that views of the mast from Courtney Road remain unobstructed. Also it would be located well away from the north-west corner of the site compound that is within a Scheduled Ancient Monument.
- This facility is sought to make efficient use of the site and the mast, to provide secure wireless storage data. A two-storey building is proposed as detailed on the submitted drawings. The building has been designed further to Council Officer’s advice. We were advised of a need for high quality, sensitive architecture taking account of the first scheme for the site which it was felt achieved a strong resonance with some military sites, an approach advised to be appropriate for this site. We were advised to research other military sites. This research was undertaken by our architect. Photos of buildings which inspired the proposed design are included within the architect’s design and access statement.
- Details of the design and layout are shown on the architect’s drawings and explained within her design and access statement. A two-storey building with a footprint of 340m² is proposed, with space on ground and first floor levels for data storage together with an electrical store and ancillary accommodation including an office. The building is proposed to be located approximately 57m back from the site frontage and with boundary separation to the west and south to allow plenty of space for landscaping.
- It is proposed to use the existing access within the south eastern corner of the site, leading to a proposed parking area with 6 car parking spaces, and 1 disabled parking space together with a cycle parking store. As with the last application, parking provision has been reduced to reflect the anticipated needs of the building with approximately 7 employees. Employees will also

be able to use public transport, with a regular bus services to Faversham and Canterbury (Routes 3, 3A, 3B, and 335). Bus stops are approximately 200m away with safely lit footpaths available.

- The previously proposed museum or exhibition are no longer part of the application proposal. This is to keep the activity on the site to a minimum taking account of neighbour concerns and also following the advice of the Inspector who dealt with the second appeal. Following the meeting with Council Officers in December 2017, information boards explaining the history of the mast site are now proposed to be located outside the application site fronting onto Courtney Road (examples are provided at Appendix 1 of the Heritage Statement).
- A formal case for an enabling development to secure the maintenance of the mast is also not part of the application proposal as the previous officer's report to committee confirmed that this should not be a determining factor. Nonetheless Council Officers have specifically asked for maintenance details to be provided and a list of maintenance needs for the mast is provided at Appendix 2 in the Heritage Statement. However, it should be noted that a Planning Inspector confirmed that "There is good reason for the project to go ahead somewhere on the site even if the financially-based 'enabling' argument were to be disregarded".

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Dunkirk Airfield

4.0 POLICY AND OTHER CONSIDERATIONS

The Swale Borough Local Plan Bearing Fruits 2031 contains the following policies relevant to this application:

CP4 (Design)

CP6 (Community facilities and services to meet local needs)

DM3 (Rural economy)

DM14 (General development criteria)

DM24 (Valued landscapes)

DM32 (Development affecting listed buildings)

DM34 (Scheduled Monuments)

The National Planning Policy Framework (NPPF) contains the following relevant advice:

Paragraph 84. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in location that are not well served by public transport. In these circumstances it will be important to ensure that the development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well related to existing settlements, should be encouraged where suitable opportunities exist.

Paragraph 112. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and

decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).

Paragraph 185. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

- a) The desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
- b) The wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- c) The desirability of new development making a positive contribution to local character and distinctiveness; and
- d) Opportunities to draw on the contribution made by the historic environment to the character of a place

5.0 LOCAL REPRESENTATIONS

5.01 Twelve objection letters were received when the application was originally submitted and these can be summarised as follows:

- This type of development would be better sited elsewhere
- Would create unacceptable noise and disruption to residents
- The proposal will cause smells, fumes, noise and light pollution as well as additional traffic
- The road is too narrow to take any increase in traffic and already suffers from parking problems
- Not in keeping with the rural area
- The height and size of the building is the same as before despite not including a museum, and it will have an impact on nearby single storey residences
- Industrial building in a rural area
- No local employment generation
- Data storage by its very nature does not have to be on this site when there are other suitable sites available
- Worried about the conservation of the listed building, impact on war time remains, as well as effect on local wildlife
- Will create overlooking and privacy issues
- The proposed building would overlook and over shadow no. 7 Courtenay Rd
- There is already a large development of housing planned for the village
- Power supply to the village is often problematic and the storage facility may require air conditioning and generator equipment, with significant water consumption, but no details have been submitted
- Other data storage facilities are below ground
- Doubtful that sewage can be disposed of by the mains sewer
- Noise issues have not been investigated
- Insufficient information contained within the application
- How will security of the site be managed?

5.02 After receiving amendments to the application two further letters of objection were received and can be summarised as follows:

- Out of scale with the village setting
- Put undue stress on poor village infrastructure
- Will dwarf the bungalows which surround it
- Water drainage not detailed
- Is the building for data storage or data collection
- The mast must be an attractive option for siting of a data storage facility
- Noise pollution & greenhouse gas production
- Very busy roads with heavy traffic day and night, which will only add to parking problems
- Light pollution

6.0 CONSULTATIONS

6.01 Dunkirk Parish Council objected at length to the application when originally submitted, pointing out that the developers have not engaged with the local community and carefully analysing the previous planning history. They suggested that;

- Parts of the original reasons for refusals in 2010 and 2013 relating to the site being in the countryside are still relevant. The development remains incompatible with its countryside location
- The first appeal Inspector did not find that the scheme was essential to the wellbeing of the mast or that the benefits of the scheme overrode concerns over impact on the neighbour
- The issue of financially enabling maintenance of the mast is not relevant to this application
- The second Inspector found the public benefits insufficient to outweigh harm arising from the then proposed siting of the building on the heritage interest of the site. The current scheme will still have a significant impact on the listed building and ancient monument
- Light pollution
- Security concerns
- Lack of detail relating to cooling and air conditioning
- Out of scale with the location
- Not sustainable development
- The access is onto a rural lane protected by policy RC7 (now [policy DM26])
- The building's design may follow the style of RAF buildings, but not of partially subterranean buildings as elsewhere on the adjoining radar station site

6.02 In relation to the amended details the Parish Council reiterates its belief that the application is unacceptable in principle as it does not demand a rural location, is not compliant with the newly adopted Local Plan, and that a different location ought to be found. A summary of their comments on the amended details is as follows:

- *“THREE previous appeal decisions.*
[Actually there have only been two]
- *THREE previous planning application refusals.*

[Actually there have only been two – the second appeal was against non-determination whilst archaeological matters were being investigated]

- *It is not compliant with the new 2018 NPPF or the newly adopted Local Plan.*
- *It is outside the specifically tightly designated village envelope, in a tier 5 village where only minor infill **within the village envelope** is likely to be approved.*
- *It is in open countryside, in an area of High Landscape Value - Kent Level.*
- *The applicant has not proven a need for this development on this site.*
- *The applicants have not demonstrated that they have researched other sites, either industrial, brownfield or in the built areas of the Borough, and that suitable sites are not available to meet their needs.*
- *It detracts from the Grade II Listed Building, **with Dunkirk Radar Tower being described as ‘one of the best preserved and most historically important radar sites in England’**. It is still reflective of appeal inspectors' reports that stated "However, whilst the proposed development would not alter the fabric of the listed building or the SAM, **it would nonetheless lead to less than substantial harm** to the significance of the designated heritage assets".*
- *Issues exist with loss of outlook to the detriment of residential amenity, and view of the mast.*
- *Highway issues: traffic generation, vehicular access and highway safety with 24/7 operation. Courtenay Road is a designated Rural Lane in the adopted Plan and should merit protection.*
- *Noise or disturbance resulting from the use is a major concern. With so many fans and air conditioning units required. The acoustic report and the concerns of Environmental Protection Team at Mid Kent Environmental Health suggest silencers must be employed to reduce the predicted noise levels. This is a particular worry with proposed hours of operation being 24/7, 365 days a year. Even a background hum becomes intolerable.*
- *Layout and design of the building, the visual appearance and finishing materials make it stand out from, and blight, the Scheduled Ancient Monument and the Grade II Listed Building. If this had been designed with one floor underground, as many of the bunkers on site are, the visual harm could have been reduced.*
- *Should the committee be persuaded to consent this application, against all the material considerations, then the Parish Council would look for a substantial financial consideration to be offered as a contribution or grant via a S106 to help mitigate the damage”.*

6.03 Historic England initially noted that the position of the building had been revised since the 2015 appeal decision on heritage grounds, saying;

“We note that within this planning application the proposed data storage building has been moved to the south-west of the site, We are content with this position as it does not obstruct any significant views to, from or between the various components of this heritage group.”

Their comments on the amended scheme are as follows:

“We do not object to the proposal as we do not think it poses harm to the heritage significance of the nearby listed mast or scheduled World War II Chain Home Radar Station. We think that the new development has been

carefully positioned to avoid any encroachment into key views of the listed tower or the associated (and scheduled) transmitter group.

We note that the amended proposal does include a maintenance/repair schedule for the listed mast. If carried out in accordance with a sensitive methodology, maintenance and repair of the mast should preserve the listed structure's historic fabric and conserve its heritage significance. We are therefore supportive of this aspect of the proposal, and note that it complies with paragraph 193 of the NPPF, i.e. that "great weight should be given to [a heritage asset's] conservation."

We are also supportive of the additional proposal to provide information boards to inform the public of the heritage significance of the site.

We understand that it is the intention of the KCC Heritage Conservation Team to recommend a programme of archaeological work to ensure that any features of archaeological interest are properly examined and recorded. We are supportive of this recommendation".

6.04 Natural England has no objection to the application.

6.05 Kent Highways originally raised no objection to the application subject to conditions, and in relation to the amended details they have commented as follows:

"Further to my previous comments dated 13th December 2016 on the above planning application I note that there has been no material change from a highways perspective from the plans previously considered acceptable by us. I therefore 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:

- 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 wheel washing facilities prior to commencement of work on site and for the duration of construction.*
- Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.*
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.*
- Use of a bound surface for the first 5 metres of the access from the edge of the highway.*
- Any entrance gates to open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway".*

6.06 The Environmental Health Manager (EHM) has been closely involved in assessing the likely noise implications of this scheme and has sought clarification on noise matters, in response to which the applicants have provided a noise report, which the EHM has described as follows;

“It is a clear, competent report which explains the methodology it used, which is acceptable. Sufficient research concerning the cooling system has been carried out to predict the noise levels that are likely to be generated from an equivalent system, in Vienna, and also how much might be expected to be received at the nearest noise sensitive dwellings. A background noise survey was first carried out so as the predicted levels could be compared.”

Since receiving the report he has made the following comments:

“I have no objections to this planning proposal if the measures outlined in the submitted noise assessment in September 2017 are followed by employing the silencing system.

During the construction process all measures are taken to reduce the production of dust and noise generated”.

I have recommended suitable planning conditions below.

- 6.07 The County Archaeological Officer has yet to comment and Members will be updated at the meeting.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 All plans and documents relating to 16/507586/FULL.

8.0 APPRAISAL

- 8.01 The principle of this type of development has been accepted by two Planning Inspectors in their decisions, but both schemes have been rejected because of the precise position of the building, either too close to the neighbour or too close to the mast itself. I acknowledge that the site is outside of the built up area boundary and as such is subject to rural restraint policies. The applicant has explained in the planning statement why this site is so suitable and such arguments have been accepted by the Planning Inspectors. The site is rare in that it contains the historic listed mast which has a clear line of sight to central London, and in close proximity to the A2/M2 corridor which has a fibre optic cable linking the site to central London. This makes this site uniquely suitable for secure data storage and, according to both Planning Inspectors, suitable for this use, subject to other matters being acceptable.
- 8.02 Whilst this fenced compound is located in the designated countryside, it is flanked on three sides by development and is previously developed land. I therefore do not find this site to be particularly sensitive as the built up area boundary is rather peculiar in it includes land either side but excludes this site itself. The NPPF also supports the reuse of brownfield sites, irrespective of whether or not they are located in the countryside, and it is supportive of modern communications development.
- 8.03 Although neither Inspector found it necessary, I asked the applicant to submit maintenance costs for the mast over the next 10 years which were included as an appendix to the heritage statement. The revenue raised by the data storage facility would go towards these projected costs which total approximately £319,200.00 over the next 10 years which does not include the regular maintenance to the grounds and buildings that surround the mast. Whilst it is clear that the approval of

this application would secure a more stable financial future for the owners of the site, and would provide benefits to the mast, I consider that the principle of development has been accepted by the previous Inspectors irrespective of the enabling benefits, and therefore the application should not be considered as an enabling development.

- 8.04 In terms of employment it is expected that seven staff will be employed to work on a rota basis as the site demands 24/7 presence. It is important to note that the applicant has stated within the planning statement that maintenance and most on site activity would take place during normal office hours, so as to not cause a nuisance to neighbouring residents. Both national and local planning policy supports the provision of employment opportunities in rural areas. As previously discussed the site is previously developed land and as such complies with paragraph 84 of the NPPF that states that the use of this type of site should be encouraged.
- 8.05 A number of objection letters have been received that focus primarily on noise, highway safety, loss of privacy, light pollution and the setting of the listed mast. I do not consider that the proposal would result in significant harm to residential amenity as the proposed building, whilst on a site almost surrounded by residential properties, would be set back in the corner of the site away from neighbours, and therefore not immediately adjacent to any residential properties. The windows at first floor level would be obscure glazed and only high level windows would be openable to ensure no overlooking. Kent Highways have raised no objection to the proposal subject to conditions included below. The Environmental Health Manager has looked over the noise survey and has raised no objection to the proposal provided the development is carried out in accordance with the recommendations included in the report. I have included a condition for this below. Historic England has raised no objection to the proposal in terms of its effect on the listed mast and its setting, and I therefore see no reason to refuse the application on these grounds.
- 8.06 With regards to the proposed design, I am of the opinion that the proposed design fits with the use for which the building will be used. The immediate area is surrounded by modern housing and the proposed finish of the building includes modern materials and different roof heights to add contrast and interest. I consider the design to be suitable for the location, and consider the height (the same as the surrounding two storey dwellings) would not compete with the listed mast. Whilst the render colour of grey green has been suggested by the applicant, I have suggested a planning condition to require samples of the colour finish ensuring that this will fit in well with the surroundings. The plant room for the facility will be below ground level, ensuring the height of the building was kept to a minimum.

9.0 CONCLUSION

- 9.01 In my view the position of this building in the setting of the listed mast is now acceptable. Its scale is more substantial than the residential buildings in the area, but these houses are all some distance away from the proposed development and the proposed development is of a comparable height to the two storey houses. In the setting of the mast which is considerably taller, the proposed building will have its bulk reduced in appearance as the massing is broken up into different forms and articulated into vertical and horizontal art-deco elements.
- 9.02 The IT functionality and the mid C20 aspirations of the architectural language are not at odds with the historic character of the listed building. These IT

communication systems reflect something of the historic use of the RAF mast. I can see no sustainable objections to the principle of the use of the building on the site on design or conservation grounds and the overall approach to the design is acceptable. The functioning of the building will be dependant on continued existence of the mast to enable wireless data transfer, and to that extent the development should help to sustain maintenance of the mast even though this application does not specifically contain any financial commitment to such maintenance. Accordingly, this application is not put forward as an enabling development, nor is a Section 106 Agreement being proposed. The development is justified on its own merits due to the suitability of the location for telecommunications based development.

- 9.03 Whilst the Parish Council continues to focus on the location of the site outside the built confines of Dunkirk, both previous appeal decisions have supported the principle of this form of development here despite this fact. In my view the building will have no significant impact on the character of the countryside and has been designed to fit in with the historical significance of the site. Whilst there have been a number of local objections to the application, consultees such as Kent Highways, Historic England and the Environmental Health Manager have found no reasons to object to the scheme. In my view the proposal represents an opportunity for economic and technological growth, and the use of a brownfield site which is encouraged by the NPPF, the benefits of which outweigh the less than substantial harm to heritage assets that is involved. Taking all these factors in to consideration, I recommend that planning permission is 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 approved shall be carried out in accordance with the following approved drawings:

1078/SP, 1078/101D, 1078/102D, 1078/103D, 1078/104C and 1078/105C.

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

- (3) The area shown on drawing 1078/101D as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the first use of the development hereby permitted.

Reason: in the interests of highway safety and convenience.

- (4) Works shall proceed in accordance with a Construction Method Statement that has been submitted to, and approved in writing by, the Local Planning Authority.

The approved Statement shall be adhered to throughout the construction period.
The Statement shall provide for:

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

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

- (5) The first 5m of the access from the edge of the highway shall be laid to a bound surface.

Reason: In the interests of highway safety.

- (6) The entrance gates to the access shall open away from the highway and be set back a minimum of 5.5m from the edge of the carriageway.

Reason: In the interests of highway safety.

- (7) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any such 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) 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.

- (9) 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.

- (10) 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.

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

Monday to Friday 0800 – 1800 hours, Saturdays 0800 – 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.

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

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

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

- (13) Prior to first use of the building details of noise mitigation measures based on the silencing system recommended in Appendix 4 of the Peter Moore Acoustics Ltd report dated 11 September 2017. (ref; 170102/3) shall be submitted to and approved by the Local Planning Authority. Upon approval the approved details shall be installed in the building before its first use and thereafter this system shall be maintained to meet the intended noise mitigation levels.

Reason: In the interests of residential amenity.

- (14) External finishing materials to be used in the construction of the development hereby approved shall be in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

- (15) All first floor windows in the building shall be obscure glazed and non-opening apart from those parts above 1.7m above finished internal floor level.

Reason: In the interests of residential amenity.

- (16) Prior to first use of the building information boards relating to the history and significance of the site shall be installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

The Council's approach to this application:

In accordance with paragraph 38 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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APPENDIX 1

UNP SCANNED



UK A

PLANNING SERVICES

9-3 NOV 2013

Appeal Decision

Site visit made on 23 October 2013

by Alan Woolnough BA(Hons) DMS MRTPI

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

Decision date: 13 November 2013

Appeal Ref: APP/V2255/A/13/2197279

Former RAF Mast Site, Courtenay Road, Dunkirk, Faversham, Kent ME13 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Russell Cutmore against the decision of Swale Borough Council.
- The application ref no SW/11/1370, dated 27 October 2011, was refused by notice dated 8 February 2013.
- The development proposed is described on the application form as: 'Erection of a data storage facility (B8) and permanent historical exhibition (D1)'.

Formal Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in determining this appeal are the implications of the proposed development for:
 - the living conditions of neighbouring residents, with particular reference to privacy, light and outlook; and
 - objectives of securing sustainable development and protecting the countryside from non-essential development.

Planning Policy

3. The development plan includes certain policies of the Swale Borough Local Plan 2008 (LP) that have been saved following a Direction made by the Secretary of State. Although the Appellant's submissions make reference to policies found in the South East Plan 2009 (SEP), an Order to partially revoke this came into force on 25 March 2013. Consequently, the SEP policies cited no longer have effect.
4. Paragraph 215 of the National Planning Policy Framework (NPPF) advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. I find no significant conflict with the NPPF in respect of any of the saved LP policies cited insofar as they are applicable to this case. I will therefore give them full weight for the purposes of my decision.
5. The Appellant also makes reference to draft statements and policies in the emerging Revised Local Plan (June 2013) (RLP). However, having regard to paragraph 216 of the NPPF, the fact that this plan has yet to be the subject of

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an Examination in Public and an absence of information relating to unresolved objections in relation thereto tempers the weight that I am able to attach to these statements and policies.

Reasoning

6. The appeal site comprises the south-eastern part of a square compound that encompasses the Dunkirk Radar Tower and associated outbuildings, which in turn form part of the former RAF Dunkirk Chain Home Radar Station. The compound lies outside, but immediately adjacent to, the built up area of the village of Dunkirk as defined by the LP. The subject site is located to the immediate south of the tower, which is a Grade II listed building. The former Radar Station is a Scheduled Ancient Monument (SAM). However, this designation does not include the appeal site and takes in only the north-westernmost corner of the wider compound.
7. Planning permission is sought for the erection of a two storey building of modern design, to be positioned within 7 metres of the site's road frontage and 4 metres from the southern boundary with 7 Courtenay Road. It would accommodate a data storage facility on the ground floor, providing secure wireless data storage via the tower site and through high specification cabling available along the M2/A2 corridor. The first floor would house a permanent exhibition reflecting the site's wartime heritage and an associated teaching/seminar room. The scheme is presented as a means of generating a revenue stream sufficient to fund the maintenance of the listed tower.

Living conditions

8. I give little credence to the notion that the proposal would have significant adverse implications for the living conditions of those residing in the wider area by reason of increased site activity. A data storage facility of this kind would be relatively low key in terms of staffing requirements, whilst the level and nature of activity on the site could be controlled by means of a planning permission. Moreover, the exhibition/teaching element of the envisaged mixed use would be a somewhat specialist attraction unlikely to draw large numbers of visitors at any one time, as reflected by the Appellant's intention that viewing would be 'by appointment only'. Such arrangements could also be secured by condition.
9. My concern is focussed instead on the likely impact of the proposed building on the residential amenity of the occupiers of the neighbouring dwelling, No 7. This is a bungalow set a long way back from the road, such that it has a relatively small enclosed rear garden and a much larger front garden. Although the latter is partially visible from the public highway through the gateway to the property, it is largely screened from view by a high frontage hedge. It is readily apparent from the layout of the garden and the presence of decking and seating that it functions as the occupiers' primary external amenity area.
10. I am satisfied that the windows in the southern elevation of the building need not result in a loss of privacy to the neighbours. The Appellant advises that these would be set above eye level in relation to the first floor of the building and, although this has not been demonstrated by means of sections, it is nonetheless clear that measures such as obscure glazing and controls over the means of opening the windows could be applied if necessary. I also find that,

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as the proposal would be located to the north of No 7, its effect on light to that property would not be significant.

11. However, notwithstanding this, I find that neither the Appellant nor the Council's officers have paid sufficient regard to the likely effect of the appeal development on the amenity value of No 7's front garden, having focussed instead on the distance between the proposed building and the kitchen window in the side elevation of the dwelling. I agree that the effect of the proposal on the view through the latter, whilst certainly significant and negative, would not in itself give grounds for dismissing the appeal. Nonetheless, the resulting erosion of outlook from the property's principal external amenity area would be far more serious.
12. The part of the proposed building closest to No 7 would tower over the boundary hedge at an eaves height of more than 6 metres, yet would be less than 4 metres distant from it. Apart from the initial setback from the road, it would extend parallel to this boundary for the whole depth of the front garden. Having inspected the appeal site from this viewpoint, I find that this relationship would be severely harmful to the outlook presently available from No 7's principal external amenity area. The building would appear unduly oppressive and dominant and would greatly erode the enjoyment that could be derived from the use of the garden. Whilst I appreciate that the radar tower is not particularly neighbourly, its lightweight lattice structure and greater distance from No 7 nonetheless ensure that its impact on the occupiers of the latter is more muted.
13. The careful use of materials and existing vegetation, even if supplemented with additional planting, would not constitute adequate mitigation. Planting is, by its very nature, impermanent and could, at best, provide only a temporary screen. The fact that a well-established tree within the appeal site and close to the boundary would almost certainly be lost as a consequence of the proposal adds to my concern, albeit that this alone would not give grounds for dismissal. It would take some years for a replacement specimen to make a similarly valuable contribution to the appearance of the site and it is questionable whether there would be sufficient space between building and boundary to enable it to do so.
14. I conclude that the proposal would cause unacceptable detriment to the living conditions of the occupiers of 7 Courtenay Road by reason of loss of outlook from their primary external amenity area. It is therefore contrary to saved LP Policy E1.

Countryside and sustainability

15. The Council suggests that the location of the appeal site outside the defined built up area of the village renders the proposal unacceptable in principle and has negative implications for sustainability. However, this is a tenuous and somewhat spurious argument.
16. As previously indicated, the site immediately abuts the built-up area and this, necessarily, tempers concerns that might otherwise arise regarding the effects of development on the wider countryside or the drawing of vehicular traffic into the rural area in contravention of sustainability principles. In any event, in respect of the latter it must be borne in mind that the definition of sustainable development promoted in the NPPF encompasses a much wider range of

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considerations, including the protection of the historic environment and contributing to the economy, which the appeal proposal would help to fulfil. Indeed, a presumption in favour of sustainable development is inherent in the NPPF. I note that there is a bus service in close proximity, albeit described by the Council as infrequent, that would be likely to reduce reliance on the private car for transport. It is also pertinent that the site is under-utilised brownfield land which the proposal would help to bring back into active use. I therefore find no serious conflict with saved LP Policies SP1, SP3, SP5 or T5, draft RLP Policy CP1 or the NPPF in this particular regard.

17. I acknowledge that a data storage and exhibition facility does not necessarily demand a rural location. However, such a simplistic approach pays insufficient regard to the particular attributes of the appeal site, as the radar tower itself dictates the logic of the locational choice. The height of the tower is such that it provides a clear line of sight to London that would facilitate wireless data transfer. The scheme would also take advantage of the high quality underground fibre optical network that already serves the site. Moreover, it would not only highlight the historic role of a significant heritage asset but would also provide a means of funding its maintenance. The availability of an alternative site with similar attributes in the wider locality strikes me as most unlikely.
18. The Appellant builds a very strong case on this basis for departing from saved LP Policies E6, SP5 and SH1 and the NPPF in this regard and I am satisfied that there is no sound reason for taking issue with the arguments thus presented. Indeed, I find that there would be good reasons for the project to go ahead somewhere on this site even if the financially-based 'enabling' argument pursued by the Appellant were to be disregarded. I therefore conclude that the unique set of circumstances associated with the appeal scheme provides solid grounds for departing from locational policies in the development plan and the NPPF.
19. This being so, the proposal would not set a precedent for widespread development outside village confines to the cumulative detriment of the countryside or undermine sustainability objectives. Nonetheless, notwithstanding this conclusion, I consider that the harm to the living conditions of neighbouring residents significantly and demonstrably outweighs the benefits of the appeal scheme and that for this reason alone the proposal should not go ahead in its present form.

Other Matters

20. I have considered all the other matters raised. As previously indicated, the Appellant presents a credible case for taking advantage of the existing assets of the former RAF site and, whilst financial considerations are not in themselves determinative, there is much to be said for deriving income from the scheme which would help to maintain the listed tower. Having said this, I am not persuaded by the evidence before me that the appeal scheme is by any means essential to the wellbeing of the existing structure or that the attributes of the proposal, individually or cumulatively, override the importance of safeguarding the amenities of the neighbouring residents.
21. I am aware that the Appellant does not own the whole of the square compound in which the tower is located and acknowledge that this must, necessarily, impose restrictions on layout and design. However, this in itself is not a reason

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for setting aside other interests of acknowledged importance. In any event, it has not been shown that it would not be possible, by means of an alternative layout and/or different design, to accommodate a building within the parameters of the appeal site that would meet the Appellant's requirements yet safeguard the living conditions of the neighbouring occupiers.

22. The appearance of the proposed building is very much at odds with the conventional residential architecture found in the immediate vicinity. However, it is well-designed in itself and a residential-style pastiche would read as particularly odd in what is essentially an industrial-type setting dominated by the radar tower. The building would read primarily in relation to the utilitarian setting of the former RAF compound and, this being so, would be acceptable in visual terms. Indeed, it would enhance the setting of the listed building whereas a design more akin to that of a dwelling would appear incongruous and detract from this. I therefore find no serious conflict in this regard with saved LP Policies E1, SP2, SP5, E14 or E19, draft RLP Statement 9 or Policy CP7 or the NPPF.
23. The building would be too distant from the edge of the SAM to have an adverse effect on its setting. I am also satisfied that the specialist reports submitted by the Appellant address adequately the archaeological and ecological interests associated with the site and thus find no conflict with saved LP Policies E11, E16 or SP2 in this regard. Whilst I have noted the objections submitted by several local residents, activity associated with the proposal would not be of sufficient intensity to generate problems of highway safety, on-street parking or harm to the designated rural lane contrary to saved LP Policies T1, T3, T4, E1 or RC7. Other aspects of local concern, such as the effect of external lighting and hours of operation, could be controlled by conditions.
24. I have taken into account the support for high quality communications infrastructure and expansion of electronic networks found in the NPPF, on which the LP appears to be silent, and have no reason to consider the proposal contrary to saved LP Policies E9 (landscape protection), B2 (new employment), RC1 (helping to revitalise the rural economy) or U3 (renewable energy) or draft RLP Statement 4 (tourism). I find saved LP Policies E24 (alterations and extensions) and C1 (community facilities), although referred to by the Council, to be of limited relevance to my decision. I am also aware that the planning application received the support of officers of the Council and a recommendation of approval. However, neither these nor any other matters are of such significance as to outweigh the considerations that have led to my conclusion on the issue of living conditions.

Conclusion

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

Alan Woolnough

INSPECTOR

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Appeal Decision

Site visit made on 10 February 2015

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 3 March 2015

Appeal Ref: APP/V2255/A/14/2222495

Former RAF Mast Site, Dunkirk, Nr. Faversham, Kent, ME13 9LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Angus Hanton of Mynydd Brith Ltd against Swale Borough Council.
- The application Ref SW/14/0393 is dated 27 March 2014.
- The development proposed is the erection of a data storage facility (B8) and permanent historical exhibition (D1).

Decision

1. The appeal is dismissed and planning permission for the erection of a data storage facility (B8) and permanent historical exhibition (D1) is refused.

Background

2. The Council has indicated that had it still been a position to do so, it would have refused planning permission. The site has a relevant planning history consisting of two earlier schemes for similar developments, planning references SW/10/1128 and SW/11/1370 respectively; both of which were refused. The latter refusal was subject to an appeal decision (ref APP/V2255/13/2197279), which was dismissed. In that case the Inspector found unacceptable detriment to the living conditions of the occupiers of 7 Courtenay Road. The appellant points to this decision as a material consideration, and I have considered it in greater detail later in this appeal decision.

Main Issue

3. The main issue is the effect of the proposed development on the Grade II Listed Former RAF Mast and the Scheduled Ancient Monument (World War II Chain Home Radar station at Dunkirk, 200m north east of Christ Church).

Reasons

4. The appeal site is located in the south-eastern part of a square compound which encompasses a former RAF Mast (also referred to as a transmitter tower), which is a Listed Grade II Building. The north-western corner of the appeal site compound itself, and beyond, is designated a Scheduled Ancient Monument (SAM), which is of national importance, and described as World War II Chain Home Radar station at Dunkirk, 200m north east of Christ Church. The list entries for the SAM and the listed building explains that their significance derives from the fact that they have a historical value; illustrative

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in demonstrating a technological evolution of radar technology in the 1930s-1940s, with the SAM representing the first use beyond the experimental phase of radar technology. There is also an associative value in the direct connection with radar usage in the Second World War, and 'vital' use of the system in the Battle of Britain.

5. My site visit confirmed that the listed mast itself, whilst truncated and altered for Cold War uses and beyond, still serves as a physical reminder of the form and function of the Chain Home station from the Second World War. Indeed, the list description identifies the Dunkirk Radar Tower as 'one of the best preserved and most historically important radar sites in England'. This connection is reinforced by the retention of the ground structures and layout of the wider SAM compound, including the concrete bases of former mast visible from within the appeal site. As a result, the visual linkage between both the SAM and the Listed Building, and their wider setting enables observers to understand the purpose and operation of the site's use.
6. The appeal site is enclosed by palisade fencing along Courtenay Road. Nevertheless, the mast itself is visible from the road, with views towards the north-west and the SAM possible from within the site. Planning permission is sought for the erection of a flat roofed two storey building, together with associated parking. The design, siting and footprint of the proposed building have changed since the earlier dismissed appeal. In particular, whilst the new design would be two rather than three storeys in height, and have a smaller overall footprint, it would be located much closer to the base of the mast.
7. The proposed building would lack articulation and interest, appearing as a monolithic block sited adjacent to the tower base. Furthermore, with its north-west/south-east axis, the building would obscure direct and important views of the tower base and the visual association with others in its group. As a result, the proposed siting and height of the building would prevent the ability to see and compare the bases of the transmitter group by obscuring the visual linkage between the listed building and the SAM, and harming the ability to appreciate and understand the historical interconnected function between both. I also note that the footprint of the proposed building may be sited on or close to areas containing archaeological potential, especially in the form of a possible machine gun post. This area was not specifically excavated as part of the archaeological evaluation (October 2011). In the absence of clarity within the evidence, given the significance of the heritage assets and their linkage with the possible archaeology, any loss of, or harm to, these assets could be significant.
8. The appellant points to public benefits arising from the proposed development. These include the provision of a permanent historical exhibition within the proposed building. In itself, this could help better reveal the significance of the designated heritage assets. However, there is no evidence before me that demonstrates such a facility would be secured in the future; for example there is no guarantee that the historical exhibition would necessarily be retained by future occupiers of the building, or to the frequency it would be open for 'by appointment' use. The absence of such information means that I can only afford this benefit limited weight in favour of the proposal.
9. I note the earlier appeal decision (ref 2197279) found unique circumstances that the principle of a data storage and exhibition facility within the appeal site

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was acceptable; I see no reason to take a contrary view in this case. Moreover, I accept that the location of the appeal site is restricted by the desire to use the existing mast for secure communications with both London and the continent. In this respect, I have also taken into account the fact that the use of the site for a data storage facility may assist the continued use and maintenance of the mast, which would help secure the listed building for future generations.

10. However, whilst the proposed development would not alter the fabric of the listed building or the SAM, it would nonetheless lead to less than substantial harm to the significance of the designated heritage assets. Paragraph 134 of the National Planning Policy Framework (the Framework) requires that this harm is weighed against the public benefits. Having given considerable importance and weight to the desirability of preserving the listed building or its setting or any features of historical interest of the listed building and the conservation of the SAM, I do not find that the public benefits of the proposal outweigh the harm I have identified.
11. I therefore conclude that the proposed development would fail to preserve the setting of the Grade II Listed Former RAF Mast and harm the significance of the Scheduled Ancient Monument (World War II Chain Home Radar station at Dunkirk, 200m north east of Christ Church), matters which are not outweighed by any other considerations. Accordingly, the proposal is contrary to Policies E1, E14 and E19 of the Swale Borough Local Plan 2008, which, amongst other aims requires development proposals to protect and enhance the natural and built environment. It would also be contrary to the Policies of the Framework, which amongst other aims seeks to conserve heritage assets in a manner appropriate to their significance.
12. For the reasons given above I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

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| | | | |
|---|---|--|-------------|
| 2.10 REFERENCE NO - 18/503259/FULL | | | |
| APPLICATION PROPOSAL Material change of use of land for stationing of caravans for residential occupation with associated development (hard standing, utility building and cess pit). | | | |
| ADDRESS Land At Old Billet Lane Eastchurch Kent ME12 4JJ | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION Proposal would provide a shared stopping pitch for three related traveller families, in an acceptable location and without significant harm to local amenity. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection, and Called in by Cllr. Tina Booth. | | | |
| WARD Sheppey East | PARISH/TOWN COUNCIL Eastchurch | APPLICANT Mr & Mrs V and C Brown AGENT Heine Planning Consultancy | |
| DECISION DUE DATE 12/09/18 | PUBLICITY EXPIRY DATE 22/08/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 16/502333/FULL | Variation of condition 1 of SW/04/1330 to allow three mobile homes and an ancillary building. | Granted | 2016 |
| This permission varied the consent on a nearby site to the north along Old Billet Lane, to allow an additional caravan to cater for household expansion. | | | |
| SW/04/1330 | Stationing of 2 caravans for permanent residential use by a gypsy family. | Granted. | 2004 |
| Permission was granted by the Planning Committee for permanent residential use of a nearby site to the north along Old Billet Lane as it would not have given rise to significant harm to the character of the countryside or local residential amenity. | | | |
| SW/79/0563 | Erection of stables and garage block. | Granted. | 1979 |
| Permission granted for erection of stables and garage on detached garden serving 4 Coastguard Cottages. | | | |

1.0 DESCRIPTION OF SITE

1.01 The application site is a small parcel of land on Old Billet Lane, which is an unmade track off Plough Road, to the west of Eastchurch. The land, along with neighbouring plots, formerly served as a detached garden for 4 Coastguard Cottages, one of a small row of cottages fronting on to Plough Road.

- 1.02 The site measures approximately 35m x 12m, and is accessed directly from Old Billet Lane. It is enclosed to the front by a post and rail fence, and to the sides by low fences shared with neighbouring plots. Permission was granted in 1979 (SW/79/0563) for the erection of a stable block and garage on the site, which remain in situ. The garage is towards the front of the site, facing the vehicle access and with an area of grass and a concrete pad to the side; the stables lie to the rear of the garage, lengthways across most of the site; to the rear of the stables is an area of grass leading to a static caravan across the rear of the plot. All of the structures appear to have been unused for a considerable time.
- 1.03 The plot immediately to the south remains in use as a detached garden for one of the cottages, and during my visit I noted garden and play equipment on it. The plot to the north contains a small static caravan, touring caravan and storage container, but none of them appear to be in regular use.

2.0 PROPOSAL

- 2.01 This application seeks permission for change of use of the site from a garden to a residential caravan site, to allow the stationing of a static caravan and touring caravan, the erection of a utility building, the laying of hard-standing, and the insertion of a cess pit.
- 2.02 The site is intended to be used by three traveller families as a shared stopping place. The families are all related:
1. Mr Vanslow & Mrs Carol Brown; and their sons
 2. Mr Vanslow Brown & Ms Leah Stagnall, and their son (5yrs); and
 3. Mr Thomas Brown & Ms Lisa Marie Smith, and their daughter (2yrs).
- 2.03 The submitted Planning Statement sets out that the site would be permanently occupied by Mr & Mrs Brown (senior), while the sons would park up in a touring caravan periodically on a shared basis, dependent on whoever's need was greatest at the time. **It is not proposed to have all three families living at the site at the same time.** The Planning Statement comments:
- "The site would be shared by the family and occupied according to whoever's need is greatest at the time. But it is expected that Mr and Mrs Brown would occupy the mobile home and one of their two sons would have use of the touring caravan."*
- 2.04 The submitted layout plan shows that the existing stable block would be moved to the rear of the site (the existing caravan being removed); a static caravan positioned in the centre of the site with garden area surrounding; the utility building to the front of the static caravan with a touring caravan space to the front of that; and three parking spaces to the very front of the site, adjacent to the existing access. The cess pool would be positioned at the front of the site. The existing garage is to be demolished.
- 2.05 The static caravan would be of standard scale and design, although the Planning Statement notes the precise size and design can't be prescribed in the application as the families frequently trade caravans when travelling.
- 2.06 The proposed utility building will measure approximately 3m x 4m x 3.5m high, with a pitched roof. Internally it will provide a utility room, bathroom, and toilet.

3.0 SUMMARY INFORMATION

| | Proposed |
|--------------------------|---------------------|
| Site Area | 0.04ha (420sqm) |
| Parking Spaces | 3 |
| No. of Residential Units | 1 |
| No. of Caravans | 1 static, 1 touring |

4.0 PLANNING CONSTRAINTS

4.01 The site lies within an area of Potential Archaeological Importance

5.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

5.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments and the NPPF was updated earlier this year. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

5.02 I consider that the following extracts from paragraph 8 are particularly pertinent:

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

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

5.03 In relation to rural housing the NPPF (at paragraph 79) states;

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- c) *the development would involve the subdivision of an existing residential dwelling;*
or
- e) *the design is of exceptional quality, in that it:*
 - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

5.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water*

quality, taking into account relevant information such as river basin management plans; and

- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Planning Policy for Traveller Sites (PPTS)

- 5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims now are:

“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.” (para. 3 PPTS)

To help achieve this, Government’s aims in respect of traveller sites are:

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. *for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

- 5.06 In terms of plan making the PPTS advice is that;

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) *promote peaceful and integrated co-existence between the site and the local community*
- b) *promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) *ensure that children can attend school on a regular basis*

- d) *provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) *provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) *avoid placing undue pressure on local infrastructure and services*
- g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

5.07 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

5.08 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) *the existing level of local provision and need for sites*
- b) *the availability (or lack) of alternative accommodation for the applicants*
- c) *other personal circumstances of the applicant*
- d) *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) *that they should determine applications for sites from any travellers and not just those with local connections”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). I note that the mini paragraph above was added in the 2015 re-issue of PPTS.

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). I note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). I note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

- 5.09 Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

The implications for this change in definition has affected the issue with regard to defining need, and this matter is addressed through the policies set out in the Council adopted Local Plan, which is explored below.

- 5.10 The Council has responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) had also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. Further permanent permissions have since been granted. A further number of pitches enjoy temporary permissions.
- 5.11 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which was intended to deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25 April 2014). The Local Plan was subject to examination in November 2015 and formally adopted in July 2017.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 5.12 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Minster and Warden Farmlands character area, where the document advises that boundary planting should be restored / introduced to enhance the character of the narrow, enclosed lanes. It also advises that key views of the coast should be protected. I do not consider that landscape impact is a significant potential objection to development here.

Bearing Fruits 2031: The Swale Borough Local Plan 2017 adopted 26 July 2017

- 5.13 The Council's GTAA's published in 2013 and suggested a pitch target of 85 pitches to 2031. The revised PPTS (2015) changed the planning definition of a gypsy and traveller, and therefore changed the number of pitches that needed to be identified. Evidence to the Local Plan's Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life.
- 5.14 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period is based on a figure of 61 pitches to 2031, leaving (at the time of the Local Plan EIP) a need per year of less than one pitch, meaning that no formal pitch allocations will be needed, and future site provision could reasonably be expected to be catered for via windfall planning applications. Draft Local Plan Policy DM10 was then revised to deal with these windfall applications. Accordingly, a Part 2 Local Plan was not required - see paragraphs 11 to 14 of Part 3 of the Inspector's Interim findings of March 2016 (attached to this Statement). The Inspector confirmed that the Council's approach to this matter was well reasoned and pragmatic and she also accepted (in her paragraph 14) that the Council's approach would result in a Plan that will be effective and consistent with national policy.
- 5.15 The commentary on Issue 7 in the Inspector's final report of June 2017 (also attached) at paragraphs 85 to 91 confirms this line of thinking. The Inspector's support for the Council's approach to pitch requirements is re-affirmed in paragraph 90. At that time 51 permanent pitches had been approved by the Council since the GTAA was commissioned and the remaining pitch supply need to 2031 was just 0.2 pitches per annum. Despite formal objections, the Inspector discounted any concerns about site supply by referring to this very small remaining need (over the full plan period) and adding that the early review of the Plan (required for other reasons) would deal with any concern about the five year supply situation. Since then a further 12 permanent pitches have been approved and site supply (63 pitches permanent pitches since 2012) now exceeds the need estimate accepted by the Local Plan Inspector.
- 5.16 It has recently been suggested (at the Spade Lane appeal hearing on 31 October 2017 – see decision attached) that the Local Plan Inspector ordered an early review of the Plan due to concerns over the accuracy or adequacy of the 2013 GTAA. Whilst the Council has commissioned a new GTAA to inform the review of the Plan this is not so, and it is clear from paragraphs 5, 18 to 20, 51 and 95 to 106 of the Local Plan Inspector's final report that it was due to the need to consider strategic highway capacity to meet the Borough's proposed housing targets (not to review the GTAA evidence) that the early review of the Plan was deemed necessary
- 5.17 The Local Plan has now been adopted, and thus the position has been formalised. The key adopted plan policy to deal with windfall planning applications for new sites

now is DM 10 (Gypsy and Traveller sites). Policy DM10 of the adopted Local Plan states:

Part A: Retention of sites for Gypsies and Travellers

Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.

Part B: Gypsy and Traveller sites

The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:

 - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
 - b. *where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
 - c. *the proposal is for an extension to, or stationing of, additional caravans at an existing site.**
2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
3. *Can achieve an integrated co-existence between all communities;*
4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*
6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*

12. Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.

5.18 Relevant adopted Local Plan policies are:

- **ST3** (The Swale settlement strategy). This seeks to guide development to sustainable locations. In this regard urban centres are preferred with sites in open countryside outside any built-up area and with poorest access to services being least favoured. Here, new development will not be permitted unless it has an intrinsic reason for being there and it will protect and/or enhance the countryside. The appeal site is in such a poorly located position and subject to the strictest restraint on new development.
- **DM24** (Conserving and enhancing valued landscapes). This policy seeks to safeguard the AONB and other areas.
- **DM26** (Rural lanes). This policy replaces policy RC7 with the same aim of conserving the character of rural lanes including Plough Road (off which Old Billet Lane is accessed).

Five year supply position

5.19 The revised pitch requirement to 2031 that was accepted by the Local Plan Inspector amounted to 61 pitches. In the Council's Hearing Statement submitted in January 2018 the total number of pitches approved since 2013 with permanent planning permission was 63. This figure has now changed.

5.20 In February 2018 an appeal decision granted a permanent personal planning permission for two pitches at Windmill Farm, Yaugher Lane, Hartlip. In May 2018 the Council approved a revised site layout for 40 pitches at Brotherhood Woodyard (BW), Dunkirk resulting in a net pitch increase of 11 pitches (each with a static and touring caravan). Finally, in June 2018 the Council approved a brand new twin pitch site at London Road, Newington. The result of this is that 15 further pitches have been approved in 2018, taking the overall supply since 2013 to 78 pitches, 17 above the agreed need.

5.21 Of these, 21 pitches have not been implemented including one at Breach Farm Paddocks (previously classed as implemented), 11 at BW, and two at Newington. Total completions stand at 57 including the 2013 permission for 19 additional pitches at BW, or 38 without those 19 pitches which have been disputed at recent appeals. For the sake of caution (and to replicate the approach taken by the Spade Lane Inspector) the Council has worked out the five year supply figures with and without assuming implementation of the 2013 planning permission at the BW site.

5.22 If the five year supply is now calculated on the basis of the last monitoring year, the maths is as follows:

- GTAA target to 2031 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement $[(23/ 14 \text{ years}) \times 5] = 8.21$ pitches
- Annual need $[6.57/5] = 1.64$
- Total 5 yr supply = 8
- Land supply in yrs $(8/1.31) = \underline{\underline{4.88 \text{ years}}}$

5.23 If supply is being calculated **live**, we should include the whole of the recent approval at Brotherhood Woodyard (BW) in supply (a net increase of 30 pitches), rather than the existing 19 pitches (assumed not to be delivered or suitable for gypsies and travellers with caravans in the wrong place, possibly occupied by non-gypsies/travellers, and with no space for tourers), and the following updates are required:

- Need should come down by one pitch, reflecting the approval at Windmill Farm of two pitches, but the removal of Breach Farm Paddocks.
- The supply of sites should be increased by 32 (30 at Brotherhood Woodyard, and two at Newington) from 8 to 40.

5.24 The maths is then as follows:

- GTAA target to 2030/31 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement $[(23/13) \times 5] = 8.85$ pitches
- Annual need $[8.85/5] = 1.77$
- Total 5 yr supply = 40
- Land supply in yrs $(40/1.77) = \mathbf{22.6 \text{ years}}$

5.25 In other words the Council can show almost 5yrs supply, or well in excess of 5yrs supply, either way the numbers are calculated, even if the 2013 approval at BW is deleted from the figures as per the logic of the Spade Lane decision.

5.26 If you assume the 2013 permission at BW was implemented, 19 is added to the end of year completions figure and live figure (57) and deducted from the live supply (now 21). And then recalculate – still well over 5 years in either case.

6.0 LOCAL REPRESENTATIONS

6.01 6 letters of objection have been submitted by local residents, raising the following summarised issues:

- Old Billet lane is narrow, and vehicles to service / empty the cess pit will block access;
- Additional damage and maintenance to Old Billet Lane arising from additional vehicles;
- There is no cess pit so a new one would have to be installed;
- No pedestrian access to the application site;
- Plough Road is narrow in sections and has no pedestrian footway;
- The site is a garden and lies between (detached) gardens for other cottages;
- Loss of privacy and amenity in adjacent gardens;
- Overlooking of Coastguards Cottages;
- Permission has been refused for dwellings in the countryside previously, this should be treated the same;
- The site is remote from shops and services;
- The site is visible from Plough Road and development would be prominent in views;
- Visual impact on the countryside;
- Change of use should have been applied for before the land was sold off;

- The site is within an area of potential archaeological importance;
- Potential for further applications for similar developments on neighbouring parcels;
- SBC is on target to meet its gypsy and traveller pitch requirement, and *“fully expects to achieve its target by virtue of ‘windfall sites’ without the need to create new sites that are unattached to those which already exist”*;
- There are no exceptional mitigating circumstances put forward to justify use of this site (referring to policy DM10); and
- The proposed caravan and utility building would be within 15m of a septic tank on neighbouring land, which would contravene building regulations.

7.0 CONSULTATIONS

7.01 Eastchurch Parish Council objects on the following summarised grounds:

- *“The application is for a gypsy site for use as a business address - stated in the application details”*;
- The site is surrounded by residential gardens belonging to neighbouring properties;
- Harm to character and appearance of the countryside;
- Site too small for the number of proposed caravans;
- The site is too small for a cess pit and venting would be harmful to the amenity of the neighbours;
- There would be no grazing area for the proposed stables;
- No family connection in Eastchurch, and the family is based primarily in Surrey;
- The site is isolated and will poorly serve school and health requirements of the applicants and their children;
- Access is along an unmade dirt track which is unsuitable for regular vehicle use, and large vehicles for servicing the cess pit will damage the track.

7.02 Minster Parish Council (the neighbouring parish) neither object nor support the scheme, but comment that they will support Eastchurch Parish Council in whatever stance they take. They do raise a specific query as to whether the site is suitable for keeping horses, however.

7.03 The KCC archaeologist comments that the site is within an area where there have previously been significant remains, but has no objection subject to a standard condition (as set out below).

7.04 No other comments received.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The above-noted historic applications are relevant, particularly SW/04/1330 which granted consent for use of land to the north (now known as Brambles) as a residential gypsy site, and 16/502333/FULL which granted consent for an additional caravan at that site.

8.02 The current application is supported by relevant plans, drawings, and supporting statements.

9.0 APPRAISAL

Principle

- 9.01 Firstly: I am satisfied that the applicants and their family fall within the PPTS definition of Gypsies / Travellers. They have provided a comprehensive list of previous stopping places, and I have spoken to the Gypsy Council who has confirmed they know of the family and their history. I have also not been provided with any evidence to discount their Traveller status.
- 9.02 The grant of planning permission (SW/04/1330) for Brambles, a gypsy site just to the north of the current application site, establishes that the use of land on Old Billet Lane for residential gypsy/traveller pitches here is generally acceptable. The committee report for that application sets out:
- “The settlements of Eastchurch and Minster-on-Sea are both a short car drive from the application site. Although it would be preferable for the use to be located closer to a settlement where a range of services were available, this issue does not in itself amount to a reason for refusal in my view.”*
- 9.03 I concur with this assessment, in that Eastchurch village centre is close-by (1.75km / 1.09 miles by road or 1.9km / 1.2 miles by Public Right of Way) and offers a range of services including school, dentist, shop, pub, and bus connections. Minster High Street is roughly 2.5km / 1.6 miles to the west and also offers schools, shop, takeaways, pub, and bus stops. The Council has previously taken the view that 2km is an acceptable distance to services.
- 9.04 Furthermore the site is not within any designated area (AONB, etc.), flood risk zone, groundwater source protection zone, or land instability zone; and there are no listed buildings within the immediate area.
- 9.05 One of the objections received comments that policy DM10 identifies Swale will meet its remaining need for gypsy / traveller sites from windfall sites. The current application site is not allocated and does not form part of an existing site, and therefore meets this windfall criterion.
- 9.06 I therefore consider that the principle of such development in this location is acceptable,

Landscape and visual impact

- 9.07 I note concerns in respect of the visual impact of the development upon views from Plough Road and the wider character and appearance of the countryside. However, there is space within the plot to allow for soft landscaping which would screen and soften views of the site from public vantage points. Subject to such screening I do not consider that the site would be any more prominent or visually harmful than existing neighbouring sites featuring outbuildings, various structures (storage containers, etc.) and boundary fencing / walls. I also do not consider that – subject to appropriate planting – it would be any more harmful than the existing site circumstances, where the garage and stable block are entirely unscreened.
- 9.08 I consider the proposed amenity building to be of an appropriate scale and design, and do not consider that it would be a significantly prominent or intrusive feature in the landscape when viewed in context with garages and outbuildings on the neighbouring plots, or against the current site circumstances.

Amenity

- 9.09 The plot is of a sufficient size to provide an acceptable standard of amenity for future occupants (even taking into account one of the applicant's sons and their family parking up on the touring caravan spot) and in that regard I have no serious concerns.
- 9.10 I note objections from local residents in respect of loss of amenity and privacy within the neighbouring detached gardens. I appreciate that residents of Coastguard Cottages do make use of these detached gardens, but it must be recognised that the houses also benefit from private amenity areas immediately to the rear, and these detached gardens are an additional area of space beyond that. Furthermore the two immediately adjoining detached gardens do not particularly enjoy much privacy at present – the boundaries are enclosed by low post and rail fencing and there are clear, unobstructed views of the three plots from Old Billet Lane and Plough Road. I also note objections in respect of overlooking of Coastguard Cottages, but do not consider this particularly likely given the intervening distance, existing boundary fences, and the fact that caravans are single storey.
- 9.11 Whilst I can appreciate the neighbour's objections I am of the view that, were this an application for a bricks and mortar bungalow (on an otherwise acceptable plot – rural restraint policies aside) officers would also recommend approval as amenity harms can be acceptably mitigated to the point that a refusal could not be reasonably sustained. This application is also for a dwelling, albeit a moveable one, but the same rings true in that perceived harms can be mitigated.
- 9.12 I recognise objections commenting on the potential for additional sites to dominate the local settled community, however I do not consider that 2 gypsy / traveller sites on a lane with 8 dwellings could be considered overbearing or dominating.

Highways and parking

- 9.13 Local objections are noted but I do not share their concern. Normal residential use of this site would not generate vehicle movements to the extent that it would give rise to any serious or significant harm to highway safety or amenity, in my opinion. There are passing places along Old Billet Lane if two vehicles are travelling opposite directions, and any additional vehicles would make use of the existing junction with Plough Road, the same as existing residents.
- 9.14 Concern has been raised in respect of HGVs (to service the cess pit) blocking the road, but this would be relatively infrequent, temporary, and such obstruction would be visible from Plough Road thus providing vehicles the chance to wait somewhere. The proposed driveway for the plot would also provide opportunity for a smaller lorry to pull in off the lane.
- 9.15 I also note concern in respect of maintenance and repair of the lane. This is a common concern along many unmade roads on the Island, and it amounts to a private legal matter.
- 9.16 The site would provide appropriate parking and turning space, and I have no serious concerns in respect of this.

Other matters

- 9.17 Whilst the site is within an area of archaeological potential Members will note that the County Archaeologist has no objection subject to a standard condition.
- 9.18 I note concern in respect of use of the stables for keeping horses, and I am inclined to share these concerns as the close proximity of the stables to the caravan and also to neighbouring gardens would cause problems in terms of smell and general disturbance. The site would also be entirely inadequate in terms of grazing and exercise space. I have asked the agent to clarify the intended use of these stables, as many other gypsy and traveller sites use them as utility rooms. Given that a new utility room is proposed, however, Members may wish to consider delegating to officers to have the stables omitted from the plans, which would leave space for the static caravan to be repositioned slightly, resulting in a larger amenity area in the centre of the site and potential for more substantial boundary planting.
- 9.19 I appreciate objections in respect of the proposed cess pit, however the site is not within a groundwater source protection zone (where the Council would usually exercise caution under relevant Environment Agency guidance) and the matter therefore falls under Building Control Regulations.
- 9.20 The Parish Council's reference to use of the site for business is somewhat misguided, in my opinion. The submitted Planning Statement notes that it would be helpful for the applicants to have a permanent address for business purposes, it does not suggest that they will be using the site to carry out any work. Condition 3, below, also prohibits business use.
- 9.21 The site lies within the SAMMS contribution zone, but the development is below the threshold for contributions as agreed by the Council and Natural England. I have set out an assessment under the Habitat Regulations below. Furthermore I do not consider the site to have potential for any protected species (because it consists of maintained grass, concrete, and buildings with flat roofs where bats generally do not roost), and do not consider that the proposed development would be significantly harmful to wildlife or ecology.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 9.22 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 9.23 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).
- 9.24 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.
- 9.25 The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

- 9.26 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.
- 9.27 The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 9.28 However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.
- 9.29 Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwellings are occupied.
- 9.30 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.
- 9.31 Based on the correspondence with Natural England (via the NKEPG), 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 has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff

amount takes account of and compensates 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 the agreed tariff mitigates for the individual and cumulative impacts of this scheme .**

- 9.32 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.
- 9.33 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.

10.0 CONCLUSION

- 10.01 This application proposes change of use of a piece of land to provide a residential pitch for a traveller family, with the parents occupying a static caravan and their two son's families using the proposed touring pitch as required. The site is in a sustainable location within walking distance of shops, schools, healthcare, and public transport links, and views into / out of the site can be mitigated by soft landscaping. I note objections to the proposal but do not consider them to amount to a justifiable reason for refusal.
- 10.02 Taking the above into account I recommend that 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) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 3) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 4) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

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

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

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

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

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

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

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

Reason: To ensure the use does not prejudice conditions of highway safety.

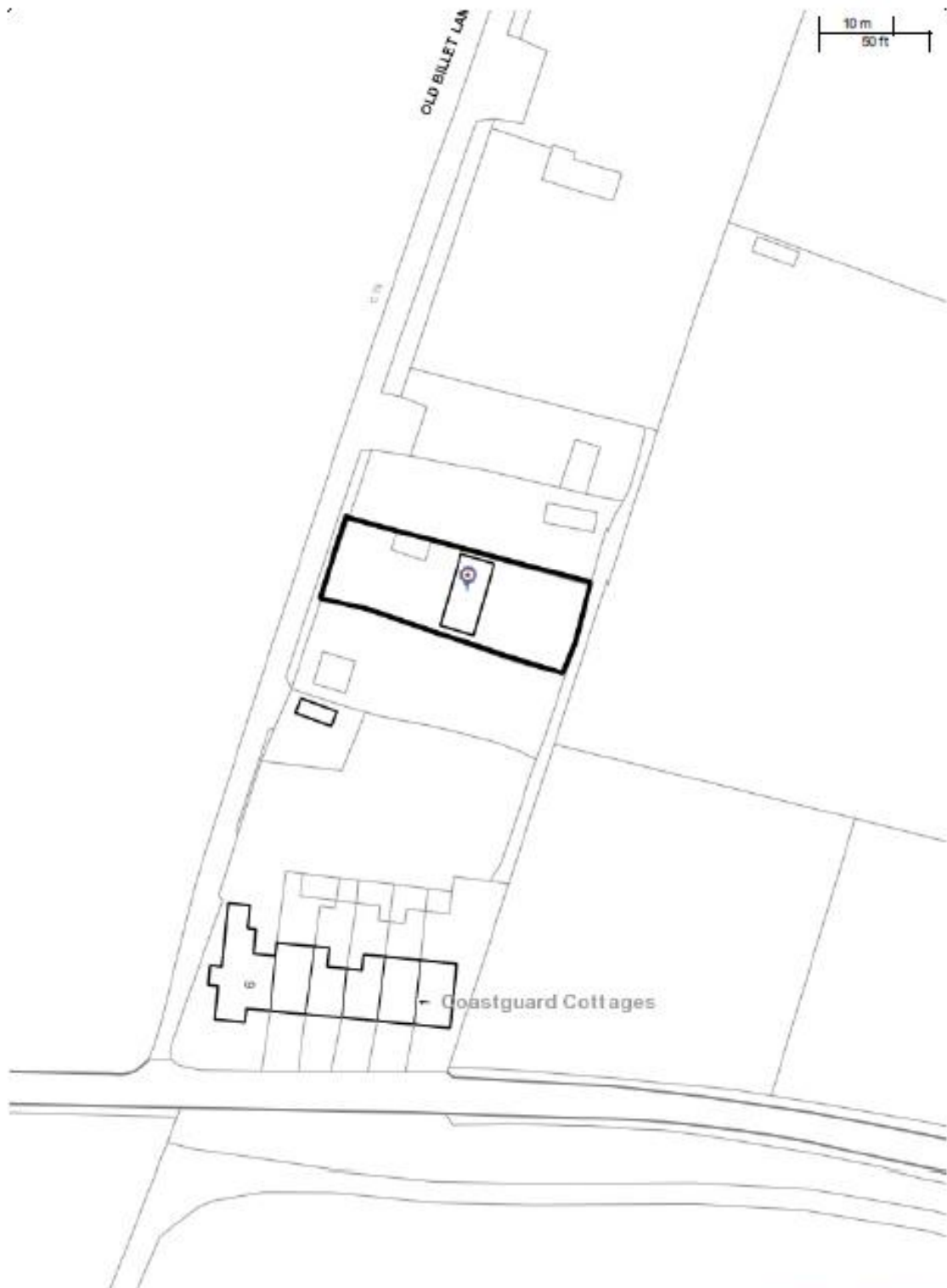
THE COUNCIL'S APPROACH TO THIS APPLICATION

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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.



18/503259/FULL - Land At Old Billet Lane
Scale: 1:700
Printed on: 30/10/2018 at 12:04 PM by JosephM



| | | | |
|--|---|---|-------------|
| 2.11 REFERENCE NO - 18/503616/FULL | | | |
| APPLICATION PROPOSAL Conversion of existing dwelling to create 3no. dwellings and insertion of two dormer windows. | | | |
| ADDRESS 2 Arthur Street Sittingbourne Kent ME10 1BA | | | |
| RECOMMENDATION Grant planning permission subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is acceptable in principle and would provide satisfactory additional residential units without detriment to the character or visual amenities of the area or harm to the amenities of neighbouring occupiers, highway safety and convenience. | | | |
| REASON FOR REFERRAL TO COMMITTEE Referred to Committee by Ward Councillor | | | |
| WARD Chalkwell | PARISH/TOWN COUNCIL | APPLICANT Mr John Whiteley AGENT Designscape Consultancy Limited | |
| DECISION DUE DATE 19/09/18 EOT 15/11/18 | PUBLICITY EXPIRY DATE 21/08/18 | | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| 18/501182/FULL | Conversion of existing dwelling to create 4no. apartments and insertion of three dormer windows. Demolition of existing outbuilding and erection of 1no. detached single storey apartment | Refused | 27/04/2018 |
| <i>Summarise Reasons</i> Inadequate size and poor layout of flats and the number and siting of the dormers would harm the visual amenities of the area. | | | |
| 17/504789/FULL | Conversion of existing dwelling to create 4no. apartments and insertion of two dormer windows. Demolition of existing outbuilding and erection of 1no. detached single storey apartment. | Refused | 16/11/2017 |
| <i>Summarise Reasons</i> Inadequate size and poor layout of flats; overlooking/ loss of privacy to neighbouring occupiers; and, flat roofed design and bulk of dormers would harm visual amenity | | | |
| SW/06/1234 | Single storey side extension | Approved | 12/12/1999 |
| <i>Summarise Reasons</i> | | | |

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located on the corner of Arthur Street and Hawthorn Road. It comprises a two storey Victorian end terrace house with one off-street parking space and garden containing a timber summer house. The building was originally in use as a shop and unlike the other properties within the terrace which front Arthur Street, the principal elevation of the application premises fronts Hawthorn Road.
- 1.02 The surrounding area is residential in character comprising a mixture of terraced and semi-detached houses and flats. To the north, the site is bounded by a two storey Victorian terrace fronting Arthur Street and to the south-east by Freeman Court a recent two storey flatted development. Immediately opposite the site, on the western side of Hawthorn Road is a chalet style bungalow and row of two storey semi-detached houses whilst the north-western side, comprises two storey Victorian terraced houses.

2.0 PROPOSAL

- 2.01 The application seeks full planning permission for the conversion of the existing property into three flats and the formation of two dormers in the south facing roof slope.
- 2.02 The proposed accommodation would comprise a two bed duplex apartment with a habitable floor area of 40.68 sqm (Unit 1); a ground floor one bed flat with a habitable floor area of 36.05 sqm (Unit 2); and, a one bedroom flat occupying part of the first floor and roofspace with a habitable floor area of 32.95 sqm (Unit 3).
- 2.03 The external works to the building would involve the formation of two dormer windows in the south-west facing roofslope. The dormers would each have a width of 1.2m and a depth of 2m and be surmounted by a tiled hipped roof.
- 2.04 The existing garden would be subdivided into two private gardens serving Flat No's 1 and 2 and a small communal area. The existing parking space would be retained and the existing summer house used for communal storage.
- 2.05 The application has been amended during the course of its consideration. As originally submitted the scheme included the erection of a detached building in the garden to provide a one bedroom flat. In the interests of the amenities of the future occupiers of the development this has now been deleted from the application.
- 2.06 Members will note that planning permission was refused in April 2018 (18/501182/FULL) for the conversion of the existing dwelling into four apartments and the insertion of three dormer windows together with the erection of a detached single storey apartment for the following reasons:
1. *The proposed conversion of the existing dwelling and replacement outbuilding would result in the creation of a number of units of inadequate size and poor layout leading to a cramped and over intensive form of development, harmful to the amenities of the future occupiers and the amenity of the surrounding area. The development would be contrary to policy DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 and the adopted Supplementary Planning guidance entitled The Conversion of Buildings into Flats & Houses in Multiple Occupation.*

2. *The dormer windows would result in an unacceptable form of development on a prominent roofslope by virtue of the amount of dormer windows and their siting within the roofslope, giving rise to significant harm to visual amenities. This would be contrary to policy CP4 and DM16 of Bearing Fruits 20131: The Swale Borough Local Plan 2017 and paragraph 5.5 of the Council's adopted Supplementary Planning Guidance entitled 'Designing an Extension, A Guide for Householders'.*

2.07 A subsequent appeal against the Council's refusal of planning permission was dismissed on 10th October 2018, the Inspector stating that:

'the proposed units would be cramped and have poor layouts which would not provide appropriate living conditions for the future occupiers...Consequently, this highly visible roof would become dominated by dormer windows, which are not a characteristic of the nearby street scene.'

2.08 The salient differences between the appeal proposal and the scheme currently under consideration are as follows:-

- the number of units within the existing building has been reduced from four to three;
- a detached outbuilding containing a 1 bed unit has been omitted; and,
- the number of dormer windows has been reduced from three to two.

3.0 PLANNING CONSTRAINTS

3.01 Potential Archaeological Importance

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) both advocate the provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no material amenity issues being raised.

4.02 The Swale Borough Local Plan- Bearing Fruits 2031 – Policies ST3, CP3, CP4, DM7, DM14 and DM16.

4.03 Supplementary Planning Documents – The Conversion of Buildings into Flats & Houses in Multiple Occupation. Designing an Extension- A Guide to Householders. Kent Design Guide Review: Interim Guidance Note 3- Residential Parking

5.0 LOCAL REPRESENTATIONS

5.01 Five responses have been received objecting to the proposal on some or all of the following grounds:-

- inadequate parking provision;
- exacerbate existing parking congestion/ problems on Hawthorn Road and Arthur Street;
- new residents are likely to own cars;
- dormer windows out of character and visually intrusive;

- the site would be opened up due to the removal of fencing and have a detrimental impact on the visual amenity of the street scene;
- over intensive form of development;
- overlooking and loss of privacy due to dormers and rear facing windows;
- increased noise and disturbance from additional cars and residents;
- unacceptable noise impact to poorly insulated terraced houses on Arthur Street; and,
- noise disturbance during building works

As 3 or more objections had been received ,in line with the Council’s Constitution the Ward Members were contacted to request whether or not they wished the application to be reported to Committee.

Subsequently , Councillor Whelan stated in his email :

“With the number of complaints from residents I feel obligated to call this in.”

6.0 CONSULTATIONS

- 6.01 Kent Highway Services – advise that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
- 6.02 Natural England – No objection. Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site (s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The application is accompanied by existing and proposed plans and elevational drawings together with a transport statement. This document indicates that the site is in a highly sustainable location in close proximity to public transport and services.

8.0 APPRAISAL

Principle of Development

- 8.01 The site is located within the defined built area some 115m beyond the Sittingbourne town centre boundary and Central Sittingbourne Regeneration Area. Therefore, the principle of residential development in this sustainable central location with easy access to a range of services, facilities and transport options is acceptable and accords with the aims and objectives of policy ST3 of the Local Plan.

Impact on the Character and Visual Amenity of the Area

- 8.02 The application property is located within a well established residential area comprising a mixture of dwelling types including a development of flats immediately

to the south-east of the site at Freeman Court. In its assessment of the previously refused scheme (18/501182/FULL) the Local Planning Authority considered that the sub-division of the property into five self-contained units would be in keeping with the residential character of the area. Therefore, bearing in mind that the current scheme would be a significantly less intensive form of development providing a total of 3 units rather than five, it is considered that it would not give rise to any particular harm to the character of the area.

- 8.03 Policy DM16 of the Local Plan states that planning permission will be granted for alterations and extensions to existing buildings subject to a number of criteria, inter alia:-
- they are of an appropriate design and quality which responds positively to the style and character of the building;
 - are appropriately scaled in relation to the building; and,
 - maintain the character of the street scene.
- 8.04 The application dismissed on appeal included the formation of three dormer windows in the south-western roofslope of the building. In relation to their visual impact on the street scene, the Inspector concluded that:-
- ‘The three proposed dormer windows occupy a large part of the roofslope, and do not align with the windows below. This would result in a congested appearance to this prominent roofslope, and the fenestration on the roof would appear awkward relative to the windows below. Consequently, this highly visible roof would become dominated by dormer windows, which are not a characteristic feature of the street scene. Moreover, notwithstanding that their small pane appearance would reflect the window styles below and that the cladding surrounding them would be limited, the proposed dormer windows would be out of keeping with their context. Therefore, the proposals would be harmful in this respect.’*
- 8.05 In the current application the size and design of the proposed dormers is identical to those previously refused however, the number has been reduced from three to two. It is considered that the proposed dormers would have a significantly less cluttered appearance, an improved relationship with the windows below and would now be clearly subservient to the main roof.
- 8.06 It is noted that dormers are not a characteristic feature of the street scene along Hawthorn Road and Arthur Street. However, given that the application premises, with its principal elevation to the side, has a siting and relationship to the street scene which is at odds with the existing pattern of development, it is considered that in their amended form the proposed dormers would not appear so prominent or out of character in the street scene as to warrant a refusal of planning permission
- 8.07 On balance, it is considered that in their amended form, the proposed dormers would satisfactorily overcome the previous reason for refusal and accords with the aims and objectives of policy DM16 of the Local Plan.

Standard of Accommodation Provided for the Future Occupiers

- 8.08 The Council’s adopted SPG entitled ‘The conversion of Buildings into Flats and Houses in Multiple Occupation’ sets out the minimum floor space requirements for flat conversions.

- 8.09 The application dismissed on appeal comprised four flats within the main building together with a further unit contained within an outbuilding within the garden. In relation to living conditions of the future occupiers the Inspector concluded that:

'the units would not achieve the habitable floor area required by the SPG'... and that 'the proposed units would be cramped and have poor layouts which would not provide appropriate living conditions for the future occupiers'.

- 8.10 In the current application the number of flats within the main building has been reduced to three and the unit within the rear garden has been omitted. The habitable floor areas, room sizes and internal layouts of each unit now meets or exceeds the minimum requirements specified in the SPG and would provide a satisfactory standard of living accommodation for the future occupiers.
- 8.11 As originally submitted a communal garden was proposed. However, owing to officer concerns with regard to the privacy of the occupiers of the ground floor flats, this has now been subdivided into two private gardens and a small communal area. It is considered that this arrangement would provide amenity space of a reasonable size and quality commensurate with this location close to the town centre.

Impact on the Amenities of Neighbouring Residential Occupiers

- 8.12 The Local Planning Authority considered that the previously refused development would have had no detrimental impacts on the amenities of the occupiers of neighbouring residential properties.
- 8.13 It is noted that concern has been raised from neighbouring occupiers regarding overlooking from the proposed dormers on the front elevation (south-west) and the existing windows on the rear elevation (north-east). Given that the proposed dormers would face the nearest property on the opposite side of Hawthorn Road at a distance of approximately 21m it is not considered that there would be any undue overlooking or material impact on the privacy of the occupiers. Freeman Court is situated to the south-east of the application site, however, due to the position of the dormers within the roofslope and the angled relationship between the buildings there would be no direct window to window overlooking or loss of privacy.
- 8.14 There are two existing windows in the rear elevation of the building which serve a first floor bathroom and a bedroom within the roofspace. Although these windows would be retained in the current scheme, they would serve as a secondary light source to a living room and bedroom and would be obscure glazed and fixed shut. It is recommended that a condition be imposed to secure this arrangement in the interests of the privacy of the neighbouring occupiers in Arthur Street.
- 8.15 It is noted that concerns have been raised with regard to potential noise from the future occupiers. Given that the property is already in use as a four bedroom dwelling capable of accommodating a large family, it is considered that the conversion of the building into three flats with an estimated occupancy of 6 to 7 individuals would be unlikely to generate levels of noise or disturbance above and beyond what is commensurate with the locality.

Highways and Parking

- 8.16 The Local Planning Authority had no objections to the previously refused application in terms of parking provision and highway safety.

- 8.17 Like its predecessor, the current proposal would provide one off-street parking space. With regard to parking provision, Policy DM7 of the Local Plan specifies that applications will be determined in accordance with the Kent County Council standards which in town centre/ edge of centre locations such as this, indicates that reduced or nil provision is acceptable. Therefore, given that one parking space will be provided and the number of units reduced from five to three, the proposed provision is acceptable.
- 8.18 Neighbour concern regarding highway and pedestrian safety has been noted. However, it is considered that the number of potential vehicle movements associated with two additional residential units within this built up area would not unduly compromise highway safety.

Impact upon SPA and Ramsar Sites

- 8.19 The Habitat Regulations Assessment is set out below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under ten dwellings. The cost of mitigation will be met by developer contributions on developments over ten dwellings. In view of this it is not considered that the development would have a harmful impact on the special interests of the of the SPA and Ramsar sites.

Other Matters

- 8.20 The comments of neighbouring occupiers with regard to the impact of the proposed development on the visual amenity of the area, residential amenity and parking and highway safety have been addressed above.
- 8.21 Concerns regarding noise and disturbance during building works have been noted. A condition is recommended to preclude evening and early morning working.

9.0 CONCLUSION

- 9.01 It is considered that the proposed development has satisfactorily addressed the previous reasons for refusal. The proposed development is acceptable in principle and would provide satisfactory additional residential units without detriment to the character or visual amenities of the area or harm to the amenities of neighbouring occupiers, highway safety and convenience. Therefore it is recommended that planning permission is granted subject to conditions.

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 shall be carried out in accordance with the following approved plans numbered – 303/75, 303/76, 303/77 Rev A, 303/100 Rev B, 303/101 Rev C and 303/102 Rev C.

Reason: In the interests of proper planning

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

Reason: In the interests of visual amenity.

- 4) The development shall not be occupied 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, any means of enclosure, hard surfacing materials, graphic/visual details for the method of marking out of parking spaces, and an implementation programme.

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

- 5) 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.

- 6) No demolition/construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 7) Before the development hereby permitted is first occupied, the proposed living room window at first floor level in the north-east elevation of the building and the proposed bedroom window at second floor level in the north-east elevation of the building shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

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

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 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

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment (AA) 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, and an Appropriate Assessment is required to establish the likely impacts of the development.

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.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwellings are occupied.

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 (via the NKEPG), 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 has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff amount takes account of and compensates 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 the agreed tariff mitigates for the individual and cumulative impacts of this scheme.**

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.

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.

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 – 8 NOVEMBER 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 – 47 Brier Road, Sittingbourne**

APPEAL ALLOWED

Committee Refusal Against Recommendation

Observations

This decision relates to the scheme which Members considered and decided to refuse after having had a site meeting. The Inspector's view is that the site is large enough to accommodate a dwelling and that the size of the plot will add to the variety of plot widths locally.

- **Item 5.2 – 17 to 20 Arthur Street, Sittingbourne**

APPEAL DISMISSED

Delegated Refusal

Observations

Whilst the Inspector did not find harm from the proposed development in relation to the living conditions of future occupiers or those in dwellings A and B ,they did not find that this outweighed the significant harm the scheme would have on the living conditions of the adjoining dwelling no 19 Arthur Street .

- **Item 5.3 – 27 Woodlands Road, Sittingbourne**

APPEAL DISMISSED

Delegated Refusal

Observations

This decision clearly shows that the scheme being proposed would clearly result in a small sized plot in a prominent location which would be harmful to the character and appearance of the surrounding area contrary to Local Plan Policy CP4.

- **Item 5.4 – 22 Power Station Road, Sheerness**

PART ALLOWED / PART DISMISSED

Delegated Refusal

Observations

An unusual decision whereby, the Inspector has decided to issue a split decision for this application due to the fact that she considered that as the first floor side extension and the proposed rear dormer window were in her opinion clearly severable , being both physically and functionally independent from each other . Therefore due to the lack of harm caused by the first floor side extension she granted permission for this element but refused permission for the rear dormer as she found it would unacceptably harm the character and appearance of the dwelling.



Appeal Decision

Site visit made on 22 August 2018

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2018

Appeal Ref: APP/V2255/W/18/3199746
47 Brier Road, Sittingbourne, Kent ME10 1YJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Muehlthaler against the decision of Swale Borough Council.
 - The application Ref 17/502909/OUT, dated 1 June 2017, was refused by notice dated 24 November 2017.
 - The development proposed is the erection of a two bedroom detached dwelling.
-

Decision

1. This appeal is allowed. Planning permission is granted for the erection of a two bedroom detached dwelling in accordance with the terms of the application, Ref 17/502909/OUT, dated 1 June 2017, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have determined the appeal on this basis. Submitted drawings (1221/II and 1221/IB) include some illustrative details of access, appearance, landscaping, layout and scale. These are considered on an indicative basis only.
3. The decision notice refers to Grove Park Road rather than Grove Park Avenue. Based on the evidence submitted and my observations, the correct street name appears to be Grove Park Avenue and as such this has been used in this decision.
4. During the course of the consideration of this appeal the revised National Planning Policy Framework (the Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, in particular on Grove Park Avenue.

Reasons

6. Grove Park Avenue is a residential no-through road. The part closest to the appeal site forms a T shape at the end of the road and is fronted by two storey

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

Appeal Decision APP/V2255/W/18/3199746

residential houses, mainly semi-detached but with some detached properties. Due to the bends in the road the width of these properties' frontages are varied. Evidence submitted shows that garden sizes also vary, particularly at this end of the road. However, the extent of these garden areas is not visible in the streetscene. Furthermore, I note that land slopes upwards from the entrance to Grove Park Avenue to the appeal site.

7. When viewing the site from Grove Park Avenue, the front garden and hardstanding to No. 24, which is partly enclosed by what appears to be a retaining wall, adjoin on one side. Between the site and No. 23 are the end of the rear gardens to Brier Road properties. These sit at a higher level than Grove Park Avenue with boundary treatment including fencing and planting visible. This results in a domestic character to this part of Grove Park Avenue.
8. The majority of the appeal site is in use as the rear garden to 47 Brier Road. The land has been built up so the garden is broadly level with the ground level of the host property, which results in a retaining wall and steeply sloping grass verge fronting Grove Park Avenue. A public footpath runs along the side of the property.
9. Based on what I have seen and read, I find that two storey detached dwellings form an integral part of the character of this area. Furthermore, I acknowledge that as a result of the bends in the road, the size of the plot frontages and accesses and the orientation of dwellings relative to the road vary. Whilst the detailed design would be secured at reserved matters stage, I find that a dwellinghouse on this site would accord with these characteristics and make a positive contribution to the pattern and form of development in this location.
10. Matters of layout and scale are also not for determination at the outline stage. Therefore, the detailed layout of the proposal would be considered as part of a reserved matters application. However, I find that the plot would be of a sufficient size and shape to accommodate a dwellinghouse without being cramped.
11. From the evidence presented, I find that there is an assortment of sizes and shapes of garden areas in the part of Grove Park Avenue that forms the immediate context for the proposed development. This variety is a key part of the character of the area. Consequently, I find that the size of the garden area proposed would enhance this variety and therefore the character of the locality.
12. I note that indicative drawings have been submitted showing that the land could be excavated, which would ensure that the proposed dwelling would be at a similar level to Grove Park Avenue properties. This provides me with assurance that development at this level could be achieved. As such, I consider that a dwelling of the size shown on the illustrative drawings would be similar in height to nearby houses. Furthermore, given the reasonable separation distances from the closest properties I find that the proposed dwelling would not be overbearing. The topography of the street is a positive part of its character and the indicative proposals to further reveal this difference in levels would, in my view, celebrate this relationship.
13. The proposed dwelling would have a more direct relationship with Grove Park Avenue than Brier Road, and would be viewed as part of this backdrop of existing built form by occupiers in Brier Road. Furthermore, I observed that nearby properties on Brier Road have a relationship with 23 Grove Park Avenue

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similar to that proposed. Therefore, within this existing context, the proposed dwelling would not result in a harmful loss of openness to the rear of Brier Road properties, and as such the development would not harm this aspect of the character of the area.

14. Therefore, in these respects I conclude that the proposal would have no significant detrimental effect on the character and appearance of the area. As a result, it would not be contrary to policies CP4 and DM14 of the Swale Borough Local Plan – Bearing Fruits 2031(2017). Amongst other matters, these policies seek to ensure that development is of a high quality design, appropriate to its surroundings and set general development criteria including the reflection of the positive characteristics and features of the site and locality.

Other Matters

15. Issues including the principal of residential development on this site, effect on living conditions of existing occupiers including overlooking and loss of privacy, air quality, the impact on the adjoining footpath, parking, water run off and quality of the living conditions for future occupiers have been drawn to my attention. These matters are largely identified and considered within the Council officer's report and the Council did not feel that these were reasons to refuse the application, noting that this is an outline application with all matters reserved. Moreover, I have been provided with no substantive evidence which would prompt me to disagree with the Council's original conclusions on these matters.
16. I note comments in relation to the impact on property values. However, it is a long established principle that planning is concerned with land use in the public interest. Therefore, the protection of purely private interests such as property values should be afforded little weight. I have also had regard to concerns raised relating to precedent. Notwithstanding this, each proposal must be considered on its own merits and I confirm that I have determined this appeal accordingly. As a result, these other matters do not lead me to differ from my overall conclusion.

Conditions and Conclusion

17. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans as this provides certainty.
18. I have also attached conditions which set out guiding principles for reserved matters, these conditions include providing details on access, landscaping appearance and scale of the proposal. Moreover, a condition relating to the details of site levels is required in the interests of character and appearance. Conditions regarding windows and the maintaining of separation distances are necessary in the interests of the living conditions of existing and future occupiers.
19. The Council has recommended part of a condition restricting permitted development rights for the proposed new dwelling. However, Planning Practice Guidance notes that these conditions should only be used in exceptional circumstances. I do not consider that the circumstances of this case (a single new dwelling in a residential area) amount to exceptional circumstances, nor

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have I been presented with evidence to justify this. Therefore I do not consider that this condition meets the test of necessity and so it is not included below.

20. As issues of landscaping and access are reserved matters, the details as suggested within the Council's conditions relating to landscaping and parking would be included in the subsequent determination of these reserved matters. Therefore these conditions would not meet the test of necessity so are not included. The Council have recommended a condition requiring details of retaining walls to ensure adequate foundations are in place. These details would not be relevant to planning and therefore the condition is not attached.
21. In view of the scale of development, its location and likely construction period, I am not persuaded that a Construction Method Statement is required and as such, I have omitted the suggested condition accordingly. I have however attached conditions in relation to working hours and hours for impact pile driving to protect living conditions of existing occupiers.
22. For the reasons above, and subject to the conditions listed, I conclude that the appeal should be allowed.

H Miles

INSPECTOR

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Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1221/II, Site Plan – 17/502909/OUT – 47 Brier Road.
- 5) The details submitted pursuant to condition (1) above shall show that the new dwelling shall not be sited less than 21 m from the nearest first floor rear (north facing) window of 47 Brier Road, and the new property shall not include any rear (south facing) window above ground floor level serving a habitable room. The development shall then, be completed strictly in accordance with the approved details.
- 6) 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.
- 7) Demolition or construction works shall take place only between 0730-1900hours on Monday to Friday and 0730-1300hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) Any impact pile driving in connection with the construction of the development shall take place only between 0900-1700hours on Monday to Friday and shall not take place at any time on Saturdays, Sundays or on Bank or Public Holidays.

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Appeal Decision

Site visit made on 22 August 2018

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2018

Appeal Ref: APP/V2255/W/18/3203199

17 to 20 Arthur Street, Sittingbourne, Kent ME10 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Jan Harding against the decision of Swale Borough Council.
 - The application Ref 18/500381/FULL, dated 19 January 2018, was refused by notice dated 22 March 2018.
 - The development proposed is a ground floor flat (one bedroom) and first floor flat (two bedroom) on land Adj to 17-20 Arthur Street, Sittingbourne.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.
3. The Council's reason for refusal refers to dwellings under construction opposite the appeal site fronting Arthur Street (annotated as dwelling A and B on the submitted plans, and referred to by these letters in this decision). I observed that these properties are now complete.

Main Issues

4. The main issues are: the effect of the proposed development on the living conditions of neighbouring occupiers, in particular dwellings A and B Arthur Street and 19 Arthur Street; and the quality of living conditions for future occupiers in terms of their outlook.

Reasons

Living Conditions – dwellings A and B Arthur Street

5. Two houses are situated opposite the appeal site. They are orientated on a diagonal and the closest property to the appeal site (dwelling A) is surrounded by a garden to the side and rear which is enclosed along this boundary by a close board fence. Dwelling B is adjacent and has its main garden to the rear.

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6. As the garden area of dwelling A extends along the majority of the side boundary it is already overlooked to some extent by the upper floor windows of 17-20 Arthur Street. Therefore the proposed first floor window would not create any new views towards this garden. As such I do not consider that the single additional bedroom window proposed at first floor would give rise to such increased overlooking that it would be significantly harmful to the occupiers of this property. Views towards this garden from ground floor windows would be screened by the existing boundary treatment.
7. Due to its distance further from the proposed dwellings, the effect of any overlooking on dwelling B would be reduced compared with dwelling A. Whilst the proposed first floor window would result in a slightly different angle of view towards the garden of dwelling B than currently exists, I do not find that there would be a harmful level of overlooking to dwelling B.
8. For the reasons above I do not consider that the proposed development would result in a significantly harmful effect on the living conditions of neighbouring occupiers of dwellings A and B in terms of overlooking. Therefore, in this respect, the proposal would not be contrary to policy DM14 of Bearing Fruits 2031 - the Swale Borough Local Plan (2017) (the Local Plan) which requires that development will cause no significant harm to amenity.

Living Conditions – 19 Arthur Street

9. The proposed development is shown as extending around 2.7m beyond the rear elevation of the adjoining flats at two storeys in height. The ground floor window at 19 Arthur Street which would be closest to the proposed development serves the living room.
10. This two storey volume directly adjoining the boundary would result in a large bulk and mass very close to this window. The combination of the height and depth in such proximity would result in an overbearing impact on the outlook from these windows and would have a harmful effect on the living conditions of the occupiers of this property for this reason.
11. Evidence is submitted which shows an existing fence close to the ground floor rear windows resulting in a relatively limited existing outlook to the rear. Given this situation, the outlook that does remain would be particularly important to the living conditions of the occupiers and any encroachment onto this would be felt even more keenly.
12. The rear windows at 19 Arthur Street face broadly northwards and the proposed building would be situated along the western boundary. Additionally, adjoining the appeal site is the mass of Hawthorn House which would limit light to these windows from the west in the existing situation. Therefore, due to the orientation and the existing built form the proposed building is unlikely to restrict any light to these windows over and above the existing situation.
13. I am also pointed to the fact that the windows at 19 Arthur Street are wide, however this would not overcome the concerns relative to outlook raised above.
14. For the reasons above I find that the proposed development would have a harmful effect on the living conditions of the neighbouring occupiers which would be contrary to Local Plan policies, in particular Policy DM14 which states that development proposals should cause no significant harm to amenity.

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Living Conditions – future occupiers

15. The side elevation of Hawthorn House is adjacent to the proposed flats. The proposal shows a small gap on both sides of this shared boundary which would provide some separation between the existing and proposed buildings.
16. Both of the proposed flats would have a rear outlook and aspect from their kitchen/living/dining rooms. Whilst it is likely that Hawthorn House would be visible in the periphery of one side of this outlook, due to its distance from the window and the angle of view in which it would be visible, it would not infringe on the proposed flats' main rear aspect. Therefore, as any impact would be likely to be limited, I do not find that Hawthorn House would have a significantly overbearing nor oppressive effect on the living conditions of future occupiers of the proposed units.
17. For the reasons above, I conclude that the proposed development would provide acceptable living conditions for future occupiers and in this respect would not be contrary to the aims of Policies ST1 which aims to deliver sustainable development, CP3 which seeks sustainable and high quality designed homes, CP4 which requires good design in development proposals, and DM14 which states that development proposals should cause no significant harm to amenity, of the Local Plan.

Other Matters

18. I note the LPA's position that due to the site's position within 6km of the Medway Estuary and Marshes Special Protection Areas and Swale Special Protection Area the proposal has potential to affect these sites' features of interest. However given my conclusions in respect of the main issues, it is not necessary to pursue this matter further in this case.
19. I am aware that directly adjoining neighbouring occupiers have not objected, and that letters of support have been received (I am also mindful of the objection that has been received). I have considered these representations in my deliberations.
20. I appreciate that the development would reduce the potential for fly tipping and that it would improve the appearance at this end of the development. It would also make good use of an area of vacant land through the provision of two new flats, and would contribute to the local housing stock. Furthermore the scheme would be provided with adequate parking and amenity space to meet the needs of the future occupiers.

Conclusion

21. Whilst I do not find harm in relation to living conditions of future occupiers or those in dwellings A and B and there are some benefits as detailed in the above paragraph, this does not outweigh my finding in respect of the unacceptability of the scheme's effect on the living conditions of the occupiers of 19 Arthur Street.
22. For the reasons above, this appeal is dismissed.

H Miles

INSPECTOR

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Appeal Decision

Site visit made on 22 August 2018

by **H Miles BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2018

Appeal Ref: APP/V2255/W/18/3197160
27 Woodlands Road, Sittingbourne ME10 4SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Margaret Thomsett against the decision of Swale Borough Council.
 - The application Ref 17/505462/FULL, dated 8 October 2017, was refused by notice dated 22 December 2017.
 - The development proposed is demolition of existing domestic garage and construction of new two bedroom two storey dwelling house with integral garage.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. Woodlands Road is characterised by mainly semi-detached, two-storey, residential dwellings set along both sides of the entrance road and around a turning circle. The evidence submitted shows that the pattern of development includes gardens increasing in size from the entrance to the road to the furthest edge of the turning circle. The extent of these gardens is visible in glimpsed views between the houses. 27 Woodlands Road has a relatively generous garden and benefits from a gated lane to the rear, providing vehicle and pedestrian access to School Road. The land slopes down from the house to the bottom of the garden, where a single storey garage is located. The appeal site is formed in the main by the end part of this garden.
5. School Road is bordered on one side by the mainly low level buildings and external circulation, parking and play space of Canterbury Road Primary

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School, and single storey garage blocks on the other. The land slopes down from the appeal site towards the junction with Canterbury Road. As its name suggests, I find the character of the road is strongly influenced by the school. Whilst the scale and building line of the school buildings vary, their characteristics of being public buildings, set in their own grounds, being single storey where they front the road, and having play and circulation areas providing relief to the built form are a positive part of the pattern and form of School Road. The low level, modest nature of the garages does not detract from this civic context. This results in School Road having a positive community and practical character, contributing to the local distinctiveness and sense of place found in this road.

6. Large residential buildings are sited at the end of School Road on the corner with Canterbury Road (with one under construction at the time of my site visit). However I observed that their relationship is primarily to the main Canterbury Road and additionally due to their distance, they do not form the immediate setting of the appeal site. I did not observe any other residential properties fronting School Road.
7. The proposed dwelling would front School Road. A house sited with its principal elevation, access and therefore main relationship with School Road would not be in keeping with either the civic form or pattern of the school nor the utilitarian garages in this road. Further, its two-storey residential form would be at odds with the single storey characteristic of School Road. Due to the topography of the land, its height would be exacerbated by the higher land levels at the appeal site. This factor would also increase its prominence, drawing attention to its uncharacteristic appearance. For these reasons I find that the dwelling would be harmful to the character and appearance of School Road.
8. The gardens to Woodlands Road form a distinctive pattern, increasing in size away from the entrance to the road. 27 Woodlands Road sits in a part of the road with longer gardens, and subdividing this plot would significantly decrease the remaining garden to the host property. The resultant small sized plot would be out of keeping with the pattern of development identified above and as such would be harmful to the character and appearance of the area in this respect. Whilst I note that the gardens are not easily visible in the streetscene, nevertheless, the subdivision of the plot would cause harm to the intrinsic character of the area.
9. My attention has been drawn to a recent appeal decision¹ and LPA decision² where permission was refused for new dwellings. The full details of these cases are not before me and therefore I afford these specific circumstances limited weight. Nonetheless, I note that in both cases the sites are somewhat distant from the appeal site and, from the evidence presented I determine that, the site in the appeal decision has no road frontage, and the site in the LPA decision was fronting a residential road. Therefore these decisions do not alter my assessment above.
10. Therefore I conclude that the proposed development would have a harmful effect on the character and appearance of the area contrary to the aims of Policy CP4 of Bearing Fruits 2031 The Swale Borough Local Plan (2017) (The

¹ APP/V2255/A/14/2216263
² 17/502909

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Local Plan) which, in part, requires high quality design that is appropriate to its surroundings and Policy DM14 of the Local Plan which, amongst other things, requires that development should reflect the positive characteristics and features of the locality and be of a design that is appropriate to the location.

11. I have had regard to all policies that have been provided in the submitted evidence and the Framework however I find that those listed above are most relevant to this case.

Other Matters

12. I note the comments from Natural England that this proposal may result in impacts on coastal Special Protection Areas and Ramsar Sites, and that mitigation measures are recommended to be secured to mitigate the potential effects of development. I am not presented with any mechanism to secure this and therefore I have no certainty that this mitigation would occur. However, given my conclusions in respect of the main issue, it is not necessary to pursue this further in this case.
13. I have considered the sustainability of the site in terms of its proximity to Sittingbourne town centre shops services and public transport, and that this would be a small windfall site that would provide housing. However these issues are not sufficient to mitigate the harm to the character and appearance of the area identified above.

Conclusion

14. For the reasons above, this appeal is dismissed.

H Miles

INSPECTOR

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Appeal Decision

Site visit made on 18 October 2018

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2018

Appeal Ref: APP/V2255/D/18/3207802

22 Power Station Road, Minster on Sea, Sheerness, ME12 3TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Buck against the decision of Swale Borough Council.
 - The application Ref 18/500742/FULL, dated 6 February 2018, was refused by notice dated 13 June 2018.
 - The development proposed is described as a 2nd floor side extension and loft conversion with dormers and velux windows.
-

Preliminary matter

1. Since the Appeal application was refused by the Council the National Planning Policy Framework 2012 has been replaced by the National Planning Policy Framework 2018 (Framework). I consider that the changes in the new Framework do not have a material impact on the consideration of the merits of the Appeal proposal.

Decision

2. The appeal is dismissed insofar as it relates to the loft conversion with dormers and velux windows. The appeal is allowed insofar as it relates to the 2nd floor side extension at 22 Power Station Road, Minster on Sea, Sheerness, ME12 3TL in accordance with the terms of the application, Ref 18/500742/FULL, dated 6 February 2018, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan in-so-far as it relates to the proposed 2nd floor side extension: APD-ME12 3TL-01 Rev.D
 - 3) The external materials to be used in the construction of the 2nd floor side extension hereby permitted shall match those of the existing building.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host dwelling.

Reasons

4. The Appeal site is situated within a mixed modern housing development which includes a variety of detached and semi-detached houses with varied sized

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gaps between them. The dwellings are varied in their design and materials and include a number of pitched roof single storey side projections, pitched roof front porches and modest sized dormer windows. Within the locality in general there are a mixture of residential and commercial properties of various sizes and designs.

5. The Appeal dwelling occupies a discrete position located at the end of a row of three dwellings that are set at right angles to Power Station Road. It comprises a detached red brick house with an attached pitched roof garage to the side and a dominant front gable feature. The two dwellings to the north are semi-detached and constructed from pale coloured bricks. They are separated from the Appeal dwelling by the driveway and parking area that serves 20 Power Station Road (No.20). All three dwellings are separated from the public open space to the south by a private drive and a row of trees and shrubs and to the west the Appeal site sits alongside the deep rear gardens of 20 and 22 St Katherine Road.
6. Collectively and amongst other things policies CP4, DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Local Plan) and the Framework, seek to ensure that new development reinforces local distinctiveness and reflects the positive characteristics and features of the site and the locality. New development should be sympathetic to local character, maintain a strong sense of place and conserve or enhance the built environment. Domestic extensions should respond positively to the style and character of the host building and reinforce local distinctiveness.
7. The Swale Borough Council Designing an Extension – A Guide for Householders, Supplementary Planning Guidance (SPG), states that it is advisable to set side extensions in from the front wall of the existing dwelling and for its roof design to reflect that of the host dwelling. In areas where dwellings are predominantly detached or semi-detached the Council is anxious to avoid a terracing effect and loss of openness. With this in mind it advises that a gap of 2 metres between a first-floor extension and the side boundary is normally required. With regard to dormer extensions it advises that they should be in proportion to the host roof and that normally they should have pitched roofs. A series of smaller dormers is preferable to one large dormer extension.
8. No details of any public consultation carried out prior to the publication of this SPG have been submitted. In addition, the Appellant has stated that it was adopted in 1993. Accordingly, weight is given to it only in so far as it is consistent with the Local Plan policies above and the Framework.
9. The proposed two storey side extension would be built as a continuation of the main dwelling and would project over the existing garage. Its detailing and materials would match those of the host dwelling and the front and rear gable features would remain dominant in views from the open space, the street scene and the rear garden environment. Whilst the proposed extension would project to within two metres of the side boundary with No.20, it would not result in a terracing effect. A sense of space between and the separate identity of the two dwellings would be retained. Also, the resultant width of the gap between the two dwellings above ground floor level would be consistent with other dwellings in the locality.

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10. The proposed new window in the front gable would align appropriately with the windows below and the proposed velux rooflights would be modest in form and either discretely positioned or in alignment with the windows below.
11. In these respects, the proposed extension and alterations would respect the character and appearance of the host dwelling. This is subject to the use of matching materials which, as suggested by the Council, could be secured through the imposition of a condition. A condition which required the works to be carried out in accordance with the submitted drawings would also be necessary in the interests of certainty.
12. However, the proposed rear dormer would dominate the rear roof-slope of the host dwelling. Due to its combined height, width, flat roof and the positioning of windows just below the flat roof the dormer extension would appear incongruous and top heavy. It would dominate the rear of the dwelling and the appropriately proportioned and balanced appearance of the roof of the dwelling would be lost. The existence of flat roofed commercial buildings in the locality and large flat roofed dormers elsewhere would not address this harm. With regard to the latter none of the examples referred to by the Appellant are directly comparable to the Appeal proposal as they relate to dwellings and locations that are quite different to the Appeal property.
13. It is acknowledged that large rear dormer extensions can, in certain instances, be constructed within the permitted development tolerances set out in the Town and Country Planning (General permitted Development) (England) Order 2015. However, where a roof extension requires planning permission, it needs to be determined in accordance with the provisions of the Development Plan and having regard to all other material considerations.
14. In this instance the harm that would be caused by the proposed rear roof extension would outweigh the usual availability of permitted development rights. It would also outweigh the benefits for the Appellant and his family that would result from the additional accommodation, the existence of flat roofed buildings and the existence of modest sized dormer windows in the locality. This harm could not be satisfactorily addressed through the imposition of conditions.
15. I conclude that the proposed rear dormer roof extension would unacceptably harm the character and appearance of the host dwelling. It would therefore conflict with policies CP4, DM14 and DM16 of the Local Plan, the Framework and the objectives of the SPG. Conversely the proposed first floor side extension would respect the character and appearance of the host dwelling and so would comply with the above policies and advice.

Conclusion

16. I consider that the proposed first floor side extension and the proposed rear dormer extension are clearly severable, being physically and functionally independent. Therefore, having regard to the lack of harm caused by the proposed first floor side extension I propose to issue a split decision.

Elizabeth Lawrence

INSPECTOR

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

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