

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 6 December 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

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

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

The Chairman will inform the meeting that:

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

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

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

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

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the [Minutes](#) of the Meeting held on 8 November 2018 (Minute Nos. 322 - 330) as a correct record.

4. Declarations of Interest

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

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

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

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

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

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

Part B reports for the Planning Committee to decide

5. Planning Working Group

To approve the Minutes of the Meeting held on 26 November 2018 (Minute Nos. 351 - 352) as a correct record.

To consider application SW/18/503259/FULL – Land at Old Billet Lane, Eastchurch, Isle of Sheppey, Kent, ME12 4JJ.

6. Deferred Item

To consider the following application:

16/508709/FULL – Former Oil Depot, Abbey Wharf, Standard Quay, Faversham, Kent, ME13 7BS.

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 5 December 2018.

7. Report of the Head of Planning Services

40 - 144

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 5 December 2018.

Issued on Tuesday, 27 November 2018

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

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

6 DECEMBER 2018

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 6 DECEMBER 2018

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

DEFERRED ITEMS

Def Item 1 Pg 1 – 39	16/508709/FULL	FAVERSHAM	Former Oil Depot, Abbey Wharf, Standard Quay
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PART 2

2.1 Pg 40 – 46	18/505342/FULL	DUNKIRK	10 Berkeley Close
2.2 Pg 47 – 57	18/504307/FULL	MINSTER	Land rear of 343 Minster Road
2.3 Pg 58 – 67	18/503678/FULL	MINSTER	344 Minster Road
2.4 Pg 68 – 75	18/504824/FULL	SITTINGBOURNE	16 Hawthorn Road
2.5 Pg 76 – 80	17/504283/FULL	MINSTER	2 South Leas Farm Cottages, Lower Road
2.6 Pg 81 – 90	18/503080/FULL	UPCHURCH	Bell Grove Stud Farm, Halstow Lane

PART 3

3.1 Pg 91 – 114	18/504830/FULL	SITTINGBOURNE	Central Park Stadium
3.2 Pg 115 – 120	18/505113/FULL	IWADE	30 Ferry Road

PART 5 - INDEX Pg 121 – 122

5.1 Pg 123 – 125	18/502225/FULL	SITTINGBOURNE	17 Kent Avenue
5.2 Pg 126 – 129	17/504362/FULL	SITTINGBOURNE	27 Volante Drive
5.3 Pg 130 – 132	15/500728/OPEV	SITTINGBOURNE	1 Hales Road
5.4 Pg 133 – 135	18/500067/ENF	SITTINGBOURNE	43 Hugh Price Close
5.5 Pg 136 – 139	17/506219/FULL	SITTINGBOURNE	66 All Saints Road
5.6 Pg 140 – 144	17/503997/FULL	NEWINGTON	Cromas, Callaways Lane

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PLANNING COMMITTEE – 6 DECEMBER 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 - 16/508709/FULL			
APPLICATION PROPOSAL Erection of 10no. dwellings with associated parking and landscaping as amended by drawings and information received on 13 th September 2018.			
ADDRESS Former Oil Depot, Abbey Wharf, Standard Quay, Faversham, Kent ME13 7BS			
RECOMMENDATION Grant subject to conditions and to the issue of SAMMS payments being resolved.			
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is in accordance with national and local planning policy.			
REASON FOR REFERRAL TO COMMITTEE Deferred from Planning Committee on 24 th May 2018			
WARD Abbey	PARISH/TOWN Faversham Town	COUNCIL	APPLICANT NOVA Kent Limited AGENT Angus Brown Architects
DECISION DUE DATE 10/05/17	PUBLICITY EXPIRY DATE 21/03/18	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/505907	Works to reinstate dilapidated quay wall	APP	Oct 2017

INTRODUCTION

- 1.01 This matter was debated at the 24 May 2018 Planning Committee meeting at which an objector and the applicant's agent spoke. The original committee report is attached as an appendix and the recorded minutes of the debate are as follows;

"The Major Projects Officer drew Members' attention to the tabled update. He reported that two further representations had been received, both objecting to the application. The points raised were generally the same as noted in the report. The Major Projects Officer referred to condition (14) in the report and requested delegated authority to amend the wording so that the condition went as far as it reasonably could to facilitate the walkway, and its future incorporation into a Creekside public right of way.

The Development Planner (KCC Highways and Transportation) explained that the scheme had been established in principle in the Faversham Neighbourhood Plan and that vehicle movements would not be significant.

The Conservation Officer referred to his comments in the report and explained that in terms of the impact of the scheme, especially the four-storey element, that the site was derelict at the moment, there were similar scale developments nearby, and he considered the design would uplift the area. He did have some concern with the landscaping at the base of the buildings, along with the detailing of the balconies but advised that there were conditions related to this to ensure suitable details were achieved.

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

Members raised points which included: concerned with the four-storey element of the development; the cantilever aspect of the walkway was a concern, and whether the walkway would match other nearby walkways; the design needed to link up the walkways in the area; concerned to delegate to officers in relation to the walkway; this development did not meet the requirements for the Faversham Neighbourhood Plan or for development in the Conservation Area; happy with the principle of housing, but needed to defer the application as there were many issues to resolve; the footpath did not go anywhere as there was no public right of way at the end of it, and the only other access was a 1.5metre wide footpath, which was not wide enough; landscaping needed to be looked at again; the Faversham Neighbourhood Plan stated that three storeys was appropriate at this location, this was four-storey; this was over-development; the balconies needed to be looked at again; there was no affordable housing on the development; the design needed to be improved; needed 2/3 bedroom properties; and the block nature of the development needed to be broken up.

Councillor Mike Henderson moved a motion to defer the application to refer it back to officers to resolve the issues that had been raised and bring it back to the Planning Committee to debate something more acceptable. This was seconded by Councillor Andy Booth.

Members raised further comments which included: there were a lot of 'grey' areas on this application; and needed to follow the process of what was in the Faversham Neighbourhood Plan.

A Ward Member welcomed development on the site, but raised concern with the height and, in particular, the four storey nature of the scheme.

The Major Projects Officer outlined the issues that Members had set out which included: storey heights; house sizes; to include a variety of sections of heights and sizes, and to clarify details of the walkway, the balconies and soft landscaping.

Members agreed that officers meet with the Ward Members, the opposite side to the creek Ward Member, and the Chairman of the Neighbourhood Plan (this is a mistake and should read as Chairman of the Planning Committee).

Resolved: That application 16/508709/FULL be deferred to allow officers to meet with Ward Members and the Chairman of the Neighbourhood Plan (this is a mistake and should read as Chairman of the Planning Committee) to look again at the storey heights; house sizes; and to include a variety of sections of heights and sizes, and to clarify the details of the walkway, soft landscaping and the balcony design."

- 1.02 This report addresses the issues raised by Members at the 24th May meeting and sets out the argument for approval of the application concisely, and with revised details and additional background information for Members' benefit.

Officers met with the applicant and their agent to discuss Members concerns and following that meeting amended drawings and additional information were supplied by the applicants. Additionally as per the terms of the resolution, Officers arranged to meet Members to discuss the amended drawings and additional information supplied. A meeting was arranged and a ward member attended and was shown the submission.

- 1.03 The amendments have been summarised by the applicants in their Supplementary Planning Statement:

1. *“ Further details have been provided of the proposed balcony railings.*
2. *Further details are provided of the proposed hard and soft landscaping strategy and principles - further details will be required by conditions imposed on a planning permission.*
3. *The Creek Edge will be solid and support the Creekside Walkway.*
 - *The walkway will not be cantilevered:*
 - *The Creek edge to the northern part of the site will be as per the works granted planning permission in 2017; under reference 16/505907/FULL*
 - *The Creek edge to the southern part of the site will be timber faced as shown on the GES drawings;*
 - *The revised drawings show the level of the Creekside Walkway in comparison to the adjoining Provender Walk and the Coach Depot site.*
 - *The Creekside Walkway will be at the same level as levels at Provender Walk enabling level access between Provender Walk and the Abbey Wharf site, if connection can be achieved.*
There is a slight change in levels between the Abbey Wharf site and the Coach Depot site. The Creekside Walkway to be provided as part of the Abbey Wharf redevelopment will be slightly ramped to accommodate this change in levels.
 - *The redevelopment proposals accord with Policy OD2 of the Faversham Creek Neighbourhood Plan by providing a walkway along the frontage with access through the site and with access to sites either side.*
4. *Six moorings are proposed along the Creek Edge in accordance with Policy OD3 of FCNP. It is not a requirement of FCNP that these are to be 'public' moorings.*
5. *The redevelopment scheme is considered by Kent Highways to be acceptable in terms of traffic generation , access route and car parking provisions.*
6. *We have reviewed the mass, materials and elevational treatment of the development.*
 - *A major change is the redesign of the roof line running across the two blocks of townhouses which reduces the overall bulk and mass of the buildings, leaving the gable ended roofs as the prominent feature.*
 - *All but two of the houses will have a maximum ridge height only 0.5m above the adjoining existing development at Provender Walk.*
 - *We have changed the alignment and design of the Creek Front Elevations by*

projecting the central 2 No. houses in each block forward to break up the mass of the buildings fronting the Creek.

- *More variety is proposed in the materials with brickwork proposed for 6 No. of the new townhouses with the central pair in each block being faced with white painted weatherboarding.*

7. *There is no policy limitation on form, mass or storey height in the Oil Depot site specific policies of the FCNP*

- *The reference to “three storeys in height” is only a “suggestion” within the plan.*
- *Paragraph 3.30 of the plan places detailed debate over design into the planning application process – the Neighbourhood Plan sets out points of principle and policy without being too prescriptive.*
- *Paragraph 5.41 of FCNP acknowledges that residential developments may need to be 3/4 storeys for flood risk reasons.*

We would submit that the design consideration is not the number of “storeys” but the bulk, mass and thus height of the buildings proposed and in relation to neighbouring properties.

This application scheme proposes three storey buildings with the upper rooms clearly in the roof space. The buildings as proposed are of a similar height to other developments at Faversham Creek.

We would therefore maintain our view that the proposed development is appropriate in terms of height and mass to the site context and existing development and that the development is in accordance with National and Local Planning Policies, including the Faversham Creek Neighbourhood Plan.

We consider that the matters raised by the Planning Committee and recorded in the Committee Minutes have been addressed in the revised and additional plans and this Supplementary Statement.”

2.0 MATTERS RAISED BY MEMBERS

- 2.01 Following concerns raised regarding the four-storey design of the development and the requirements within the Neighbourhood Plan, Members will note the amendments made to the scheme. The most noticeable being the re-design of the roofline which results in the main roof ridge line reduced from 15.798m AOD to 13.150m - a reduction of 2.5m this also reduces the bulk substantially and leaves the gabled ends as the prominent feature, in line with the character of the nearby Provender Walk.
- 2.02 Additionally, there has been a reduction in the maximum ridge height of the buildings this being the height of the apex of the gabled roofs in front of the Creek, from 15.798m AOD to 15.471m AOD - (all units except Plots 7 and 8)
- 2.03 It remains the case that the proposed new blocks relate well to the existing surrounding development, and it is proposed that they would make use of appropriate facing and roofing materials, in line with other Design Quality policies in the FCNP and I consider them to be an acceptable design solution in the context of this site.

- 2.04 I note the points made by the applicant's agent in response to concerns by some Planning Committee Members about the number of storeys contained within the relevant units, and particularly from a conservation & design perspective, the argument to support this form of development given the specific flood zone context is stronger than it was with the previous version of the scheme. I consider that the overall height and bulk is the more important design consideration, of which both have been reduced, than the number of storeys to be provided, although the latter will clearly influence the scope of the former and set some key parameters.
- 2.05 Within Policy DQ1 of the adopted Faversham Creek Neighbourhood Plan, there is no actual maximum height for buildings specified and as such does leave some room for a flexible approach in relation to this policy. The FCNP furthermore provides some scope, given the flood issues here by stating that:
- "ground floor residential use is prohibited" and that "to be viable, residential developments may need to be three [or] four-storeys..."*
- 2.06 I consider that given the reduction in height and the re-design of the roof the buildings will appear as three storey buildings with a room in the roof and their comparable height with the buildings nearby will therefore make the scheme an acceptable proposal.
- 2.07 Whilst Members' view was a preference for 2/3 bedroom properties that is not what is being proposed here and given the context of the site and the surrounding buildings the design and size of the proposed houses is appropriate for the reasons given above. An increased density were the number of units within this site to be increased however would produce new consequences to consider, particularly in relation to additional vehicle parking and movements.
- 2.08 Whilst Members noted there was no affordable housing offered on this site I can confirm that the requirement to provide affordable housing does only apply on schemes in excess of 10 dwellings and thus this site does not meet the legal or Local Plan criteria to provide any.
- 2.09 Members asked for clarification of the details of the walkway, in particular the cantilever aspect of the walkway which was a concern, and whether the walkway would match other nearby walkways and to see how this site would link up the walkways in the area. As such drawing no 2491/PL/28 Rev A and the GES drawing of the vertical shore side walls along with the previously approved details of application 16/505907/FULL clearly show the construction of the walkways and further clarification has been provided to confirm that it will not be cantilevered.
- 2.10 In addition drawing 2491/PL/20 Rev F shows the relevant amended site layout details ,whilst the accompanying Supplementary Planning Statement clearly states the walkway within this application site will be prepared to be enabled to link to the adjoining former Coach depot site to the east. Also it would be possible for it to be linked to the site to the west should the Coastal Path be approved through Provender Walk.
- 2.11 Whilst it does currently appear, as Members suggest, that the walkway along the Creek within the site does not go anywhere, this is the interim position given the situation on the adjoining sites but its provision is in line with the FCNP. The public footpath ZF39 however remains to the south of the site which will provide a route through the site which is acceptable.

- 2.12 Further details and clarification regarding the proposed soft and hard landscaping at the rear, Creekside garden areas has been provided in drawing 2491/PL/20 Rev F landscaping and these details are now acceptable. To retain them as such a planning condition has been included that removes the permitted development rights for these garden areas given the open fronted nature to ensure the design and appearance is not compromised.
- 2.13 Finally, I welcome the proposal to replace the feature tree on the quayside walk area with a more appropriate maritime-based focal point, and the efforts of the planning agent to clarify the position with regard to the matter of quayside treatment and moorings.
- 2.14 The balcony design is now acceptable, subject to them having a traditional metal paint finish, although it is a little disappointing that the applicant was not seemingly willing to offer a bespoke design for these, as previously suggested.

3.0 BACKGROUND PAPERS AND PLANS

Application papers for application 16/508709/FULL
 Application papers for application 16/505907/FULL

4.0 APPRAISAL

- 4.01 National Policy states that sustainable development should be approved when it is in accordance with the development plan, unless there are adverse impacts that outweigh any benefits, or are restricted by the NPPF. As set out in the Faversham Creek Neighbourhood Plan this site is designated for residential development and adopted into Swale Borough Councils Local Plan, Bearing Fruits 2031. Significant weight should therefore be given to the acceptability of the proposal in policy terms. The proposed development would be in line with the aims of the housing policies and would help the Council towards meeting a five year supply of housing.
- 4.02 I consider that the amendments made to the application will result in no significant impact to the visual and residential amenities of neighbouring properties, nor to the surrounding developments as a result of this scheme.
- 4.03 I further consider that the two blocks will relate well to the existing built environment and enhance the character and appearance of the Faversham Conservation Area at the location in question.
- 4.04 I am aware of Members concerns and I do consider that the amendments made to scheme, most notably the reduction in the height and bulk of the roof but also in the revised landscaping arrangement and detail and the clarification of the walkway design and detail has addressed these concerns.
- 4.05 *Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.*
- 4.06 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 4.07 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).

- 4.08 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.
- 4.09 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.
- 4.10 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.
- 4.11 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.
- 4.12 However, the proposed development is of a 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.
- 4.13 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.
- 4.14 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.
- 4.15 Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 4.16 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

- 4.17 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/>).
- 4.18 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.
- 4.19 Since this application will result in a net increase in residential accommodation impacts to the SPA and Ramsar sites which may result from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £239.61 per dwelling. The precise means of securing the payment has not yet been set, and my Officers remain in discussion with the Head of Legal Services regarding the matter. I will update Members at the Meeting.
- 4.20 In conclusion, I consider that the scheme as amended is acceptable and I therefore recommend that planning permission be granted subject to the appropriate conditions below.

5.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings: 2491/PL/20 Rev F, 2491/PL/21 Rev F, 2491/PL/22 Rev E, 2491/PL/23 Rev E, 2491/PL/24 Rev F, 2491/PL/25 Rev C, 2491/PL/26 Rev E, 2491/PL/27 Rev G, 2491/PL/28 Rev A, 2491/PL/29, 2491/PL/30 Rev A, 2491/PL/31, 2491/PL/MP1, 2491/PL/MP02

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

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

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

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

Reason: In order to prevent pollution of water supplies

- (5) No development beyond the construction of foundations shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To prevent pollution of controlled waters

- (6) No development beyond the construction of foundations shall take place until samples of all facing and roofing materials including the specific rainwater goods to be used – including the hopper design to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

- (7) No development beyond the construction of foundations shall take place until a sample board of all hard-surfacing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

- (8) No development beyond the construction of foundations shall take place until, notwithstanding the notation shown on the approved proposed site block plan and proposed site and ground floor plan (2491/PL/20 Rev F, 2491/PL/21 Rev F), 1:5 part elevational detail of each of the different boundary treatments to be used, including for the variable height brick wall design to serve as the boundary treatment along party boundaries between properties within the garden areas to be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

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

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

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

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

- (11) No development beyond the construction of foundations shall take place until, notwithstanding the details shown on the approved elevational drawings, 1:10 elevational detail and 1:1 or 1:2 section of the following construction elements to be submitted to and approved in writing by the Local Planning Authority, and works shall then be implemented in accordance with the approved details:

- a. Eaves detail
- b. Verge detail
- c. Balcony detail (to show handrail, railing design and supporting base)
- d. Painted timber roof feature

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

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

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

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

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

Construction

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

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

- (15) 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.

- (16) 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.

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

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

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

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

Post Construction

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

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

- (20) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved

verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

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

- (21) 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.

- (22) The car ports hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- (23) The areas shown on the submitted plans 2491/PL/20 Rev F, and 2491/PL/21 Rev F, as visitor/shared parking parking/driveway and private access drive shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

- (24) The areas shown on the submitted plans 2491/PL/20 Rev F, and 2491/PL/21 Rev F, as vertical cycle store shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

- (25) The areas shown on the submitted plans 2491/PL/20 Rev F, and 2491/PL/21 Rev F, as vehicle loading/unloading and turning facilities and through routes shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land

so shown or in such a position as to preclude access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

- (26) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings 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.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

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 1

REPORT SUMMARY

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

MAIN REPORT

1.0 DESCRIPTION OF SITE

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

APPENDIX 1

- 1.05 The site is located within Faversham Conservation Area, where particular regard is to be had to preserving and enhancing the special character of the area.

2.0 PROPOSAL

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

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance
Conservation Area Faversham

APPENDIX 1

Environment Agency Flood Zone 2
 Environment Agency Flood Zone 3 139698
 Environment Agency Flood Zone 3A (i) 135664

4.0 POLICY AND OTHER CONSIDERATIONS

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

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

Supplementary Planning Documents: Conservation Areas

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

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

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

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

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

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

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

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

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

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

APPENDIX 1

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

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

Suggested Redevelopments, Designs and Land Uses:

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

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

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

- OD1** – Use classes; the site should be developed for residential purposes (Class C3).
- OD2** – a walkway shall be provided along the frontage, with access through the site and to sites with regard to the Faversham Creek Streetscape Strategy. For access onto Provender Walk, this would require negotiation with the management company.
- OD3** – moorings shall be provided to the Creek frontage and inlet suitable for a variety of vessels of different sizes.

5.0 LOCAL REPRESENTATIONS

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

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

APPENDIX 1

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

APPENDIX 1

- I would object to being overlooked by residents in the proposed development
- We therefore have some concerns about this proposal to build more houses on a site which is known to be prone to flooding
- I think that the overall scheme is very attractive, and the project would fit in very well with the surrounding area

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

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

APPENDIX 1**5.03 Additional comments were received from local residents in December 2017:**

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

5.04 The Faversham Society (Mar 17) comment that :

- i). The principle of housing on this site and the number of houses is in accordance with the Neighbourhood Plan. The Design and Access Statement refers to the Standard Quay site rather than the Former Oil Depot site, Abbey Wharf.
- ii). The proposal does not show how the site is to be accessed. The access should be from Standard Quay. The Belvedere Road end should be closed off.
- iii). We note that KCC Highways have objected to tandem parking and would require seven additional parking spaces. There is also no indication on the drawing of any access for Service Vehicles. We note that Kent Police also comment that the Design and Access Statement makes no reference to crime and point out that the security to Plot #10 is not adequate and that there should be a side gate.

APPENDIX 1

iv). The inclusion of a Creekside Promenade is welcome and this is also part of the requirement of the Neighbourhood Plan. However, it is not indicated how the footpath would connect with the existing path at Provender Walk.

v). At the adjoining Coach Depot the Promenade stops at a dead-end. The existing footpath outside the Coach Depot meets the site boundary on a junction where a bridge or walkway should connect these two sites.

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

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

5.05 Swale Footpaths Group: (Feb 17) commented that the fenced track linking the north end of Belvedere Road to Abbey Road appears on the Definitive Map as ZF 39. It is shown within the red line on "map" as marking the perimeter of the application site, though the applicant did answer "No" to the question whether any diversions or extinguishments were to be sought.

5.06 Faversham Footpaths Group: (Feb 17) commented that the application shows a Creekside promenade but the means of access to it and its status are not clear. In conformity with the draft Faversham Creek Neighbourhood Plan, it is essential that this promenade should be a public right of way and that suitable public access to it should be provided.

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

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

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

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

Following amended drawings being received in August 2017 they commented that the Group is concerned that the revised proposals are in danger of creating a cul-de-sac instead of a continuous Creekside path. We remain convinced that the best solution would be for the applicant to continue the Creekside path through to

APPENDIX 1

Standard Quay. That would then provide the opportunity for Natural England to make a variation order to move the route of the England Coast Path onto that route and to remove the wall blocking access between the Oil Depot site and Provender Walk. It is of course essential that the paths concerned should be designated as public rights of way and added to the Definitive Map.

6.0 CONSULTATIONS**6.01 Faversham Town Council (Feb 17)**

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

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

Alternatively, moving the current access path from the west to the east side would be more beneficial

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

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

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

6.03 Natural England: (Feb 17) The new dwellings are within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and

APPENDIX 1

Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.

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

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

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

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

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

They recommended that:

APPENDIX 1

1. A side gate be installed to the side of plot 10 (as far forward to the building line as possible) in order to protect the side passage, if not already the case.
2. Another side gate be installed between plots 4 and 5, as far forward to the building line of plot 5 as possible, in order to prevent unauthorised access along the passageway between these two plots.
3. Door sets and windows should be PAS24:2012 certified as an added layer of security, particularly those at ground floor level, along with any vulnerable balcony doorsets and windows or easily accessible doors and windows. Or those easily accessible from the rear, given the public promenade area, which may offer opportunities for crime and attack from the rear, unless appropriate boundary treatments are incorporated into the design.
4. public benches installed at various points along the public promenade to the rear of the properties on the promenade. It is very important that the benches should not provide easy climbing aids into the rear gardens.
5. The rear garden gates onto the promenade should also be of sufficient height and construction so as to deter/prevent opportunities for crime and these gates should be fitted with appropriate locks.
6. The car ports should be carefully designed as they may attract further opportunities for crime, they should be well lit and painted in a light colour. The fitting of garage doors would provide an additional layer of security.

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

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

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

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

6.10 KCC SUDS Team: (FEB 17) commented that neither the accompanying Flood Risk Assessment nor its associated Supplementary Statement go into a great deal of detail on the proposed means of surface water management from this development

APPENDIX 1

site. The application form states that the runoff will be directed to the adjacent watercourse, and the FRA states that existing connections will be used (subject to the approval of the Environment Agency and Southern Water). In light of the above, they recommended that a condition is attached to require the submission of a detailed surface water drainage design to be submitted and approved prior to the commencement of construction.

- 6.11 KCC PROW Officer:** (Mar 17): Acknowledged public footpath ZF39 passes through the south east side of the site with a recorded width of 1.5 metres.

The public frontage onto the creek suggests that creek side public access is intended and is welcomed and it may be opportune to seek a connection through to Standard Quay. We would advise a minimum width of 2.0 metres for any Creekside access. He confirmed that should the England Coast Path continue along the side of Faversham Creek then KCC would accept the path as a public right of way so long as the route can be connected to existing highways

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

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

7.0 BACKGROUND PAPERS AND PLANS

- 7.01** Application papers for application 16/508709/FULL

8.0 APPRAISAL

Principle of Development

- 8.01** The NPPF promotes sustainable development and defines this as achieving economic, social and environmental objectives in a balanced way. The presumption in favour of sustainable development that underpins the NPPF includes approving development that is in accordance with the development plan unless there are adverse impacts that outweigh any benefits, or are precluded by the NPPF.
- 8.02** Under Policy OD1, this site was included within the Faversham Creek Neighbourhood Plan. In turn, the NP was adopted into Swale Borough Council Local Plan Bearing Fruits 2031 in July 2017 which stated that the site shall be developed for residential purposes. As such, an assessment has already taken place to determine this is an acceptable site for such a use. However, a determination as to whether this specific proposal is acceptable still needs to be undertaken.

Visual Impact

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

APPENDIX 1

- 8.04 In responding to the question about the number of storeys that the two blocks within the scheme would have in relation to the Design Quality Policies set out in the adopted Faversham Creek Neighbourhood Plan, I would suggest that whilst the proposal does show a technical breach of one element of Policy DQ1, the fact that no actual maximum height for buildings is specified does leave some space for flexibility of approach in relation to this policy. In this case, the overall form of the two blocks is considered to be appropriate.
- 8.05 The proposed new blocks would relate well to the other existing surrounding development, and it is proposed that they would make use of the suggested (appropriate) facing and roofing materials, in line with other Design Quality policies. It is only the number of storeys that presents a conflict. However, in view of the fact that the design for these blocks incorporates a relatively (but not inappropriately) shallow roof pitch and yet manages to achieve an extra level of accommodation in the roof space, such that the overall height of the buildings would be the same as the existing nearby three-storey houses (with their more steeply pitched roof design) at Provender Walk (off Belvedere Road), I consider the case has been made to make use of the proposed 3.5 storey design at this particular site as an exception to the rule.
- 8.06 Clearly any future proposed variations of the storey height requirement set out in DQ1 will have to be considered on individual merit, and there may well be sites where we will necessarily need to seek schemes of 2.5 storeys and less.
- 8.07 The application is supported by a Heritage Statement, which has been fully considered by officers and no objection is made to the amended scheme in relation to the preservation or enhancement of the special character and appearance of the Faversham Conservation Area, subject to the imposition of conditions.
- 8.08 I note that a number of the objectors have raised concern about the impact of the development, in particular the size of the blocks and the resulting impact on the special character and appearance of the Conservation Area. I am of the view that due to the design proposed and considering the proposal in the context of the surrounding area it would not have a significant detrimental impact on the Conservation Area. In fact, I consider that the two blocks will relate well to the existing built environment and enhance the character and appearance of the Faversham Conservation Area at the location in question.
- 8.09 Furthermore, the proposal is in line with other Design Quality Policies of the Neighbourhood Plan including the public access to the waterfront, the town centre and the surrounding areas, the appropriate context of the development to the Creek and the wider Faversham area and as such renders the scheme acceptable.
- 8.10 Whilst a number of elements of the design have been amended during the application process, I do remain focused on the replacement of the glass-fronted balcony design for a metal rail fronted design, this modest but nevertheless important change to the design of the building is welcome, although it is disappointing that a bespoke rail design is not being proposed. However, the detailing of the metal rail and associated handrail to the balcony are subject to the submission of detailed planning condition, which would then allow scope for a higher design standard to be secured.

APPENDIX 1

- 8.11 The garden and parking areas to the front and rear of the housing units are important parts of the design as they will be highly visible from the footway running along the edge of the Creek and from Belvedere Road.

Residential Amenity

- 8.12 This is a matter that has already been considered in general terms when the site was evaluated and then included within the Faversham Neighbourhood Plan as a site suitable for residential development. However, it is clear that there will be some impact on the residents of Belvedere Road and Abbey Street in terms of traffic movements. However, I note KCC Highways and Transportation consider this will fall within acceptable limits.
- 8.13 In general terms, any potential harmful impact on residential amenities would be most felt by the properties to the south and south-east of the site in Lammas Gate and Standard Square, many of whom have written raising concerns about the development given the loss of their view across the Creek. However, the distance from the proposed new dwellings to the rear of these properties is in excess of 25m – and the 21-metre standard typically applied -which is on a par with the distances the existing dwellings, of a similar height in Belvedere Road, are from the Lammas Gate/Belvedere Close properties and I consider there would not be any overlooking to a detrimental degree. It should also be noted that some views of the Creek would be provided between the two blocks and I remain of the opinion that this arrangement is appropriate given the character of the area.
- 8.14 With regards to the residential amenity of future occupiers of the development I am content that given the provision within the site and the design and layout of the private amenity areas facing onto the Creek that this is sufficient space in this town centre location.

Highways

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

APPENDIX 1

- 8.18 The application provides dedicated car parking for each residential unit through a car port and parking space. In addition, six off-road parking spaces are provided for visitor/shared parking to which KCC Highways & Transportation consider this an appropriate level of car parking in this location.

Landscaping

- 8.19 Given the Creekside location the landscaping, both hard and soft needs to be appropriate to the specific site conditions. As such, careful consideration needs to be given to both the areas to the rear of the site, adjacent to the Creek ,plus the areas of private garden amenity spaces for each property and also the access/parking areas to the front of the dwellings.
- 8.20 I do have an outstanding concern regarding the landscaping of the scheme which has not been fully addressed. However, I have included a planning condition requiring the submission of a landscaping scheme, which would show some necessary changes to the layout as currently proposed.
In this respect, it is essentially the area of the site between the new buildings and the creek that is the cause of concern, with the combination of different boundary treatments and planting areas resulting in an overly complicated layout that would be likely to result in future maintenance problems, and is likely to result in a decline in the overall appearance of the scheme. I am, however, confident this can be overcome under the requirements of the attached conditions.

Other Matters

- 8.21 The application proposals provide for a new section of Creekside Walkway across the full width of the application site and thus will provide public access to this part of the Creek, which is not currently available. The provision of public access to the Creek frontage of the Oil Depot Site is in line with the aims of the Faversham Creek Streetscape Strategy by providing part of the 'missing link' for pedestrian access to the Creek on this southern side of the Creek.
- 8.22 However, I am aware that the proposed England Coastal Path championed by Natural England shows the trail to follow the existing Public Footpath route from Standard Quay via Standard Square and Belvedere Road and then runs towards the Creek (to the south of the application site) and passes along the Creekside at the Provender Walk development. However, para 2.1.25 of "England Coastal Path: Whitstable to Iwade" does acknowledge that *"the implementation of the (draft) Faversham Neighbourhood Plan may, through planning agreements, provide further opportunities for access along the Creekside. In such circumstances the alignment of the England Coastal Path would be reviewed and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State"* Additionally should the England Coast Path continue along the side of Faversham Creek then KCC would accept the path as a public right of way
- 8.23 As such, I consider it to be important that whilst acknowledging the applicant's commitment to the provision of a walkway along the Creekside that a condition is attached to the permission to requires its provision and retention and that it be suitably linked to the adjoining sites.

APPENDIX 1

- 8.24 Members will note that in line with Policy OD3 of the FCNP, and as requirement of condition (15) below moorings are to be provided to the Creek frontage.
- 8.25 With respect to surface water drainage, I can confirm that neither the KCC SUDS Team or the Environment Agency raise objection to this application, subject to imposition of suitable planning conditions. Similarly, with regard to foul drainage, please note the comments of Southern Water Services, who also raise no objection. Appropriate conditions are included below, and the development is considered to be acceptable from a drainage point of view.
- 8.26 A tree is proposed at the bend in the Creekside footpath, at the front of the site. Whilst there is arguably a case to place a focal feature at this location, I am less convinced that a tree is the appropriate form for such a focal point, and I would suggest that consideration be given to placing a maritime related object such as a capstan, buoy or anchor at this location. If a suitable disused version of one of these items (or similar) could not be sourced, then an artists interpretation of one such item, or even perhaps a sculptured image of a local character associated with the creek might provide an appropriate focal point at this location. The provision of what would in effect be a public art installation related to the development scheme.
- 8.27 With regard to the mitigation of potential impacts on the Special Protection Areas, and further to Paragraph 6.03 above, a payment of £281 per dwelling is required in order to ensure that potential recreational impacts on the 'Thames Estuary and Marshes', 'Medway Estuary and Marshes', and 'The Swale' Special Protection Areas (SPAs). Members will note condition (16) below.

9.0 CONCLUSION

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

APPENDIX 1**10.0 RECOMMENDATION**

10.01 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

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

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

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

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

Pre Commencement Conditions

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

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

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

Reason: In order to prevent pollution of water supplies

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

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

APPENDIX 1

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To prevent pollution of controlled waters

- (6) No development beyond the construction of foundations shall take place until samples of all facing and roofing materials including the specific rainwater goods to be used – including the hopper design to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

- (7) No development beyond the construction of foundations shall take place until a sample board of all hard-surfacing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

- (8) No development beyond the construction of foundations shall take place until, notwithstanding the notation shown on the approved proposed site block plan and proposed site and ground floor plan (2491/PL/20 Rev C, 2491/PL/21 Rev D), 1:5 part elevational detail of each of the different boundary treatments to be used, to be submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

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

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

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

APPENDIX 1

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

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

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

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

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

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

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

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

Reason: In the interests of the amenities of the locality

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

APPENDIX 1

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

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

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

Construction

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

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

- (18) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

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

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

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

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

APPENDIX 1**Post Construction**

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

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

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

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

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

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

- (25) The car ports hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- (26) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as visitor/shared parking parking/driveway and private access drive shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

APPENDIX 1

- (27) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as vertical cycle store shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

- (28) The areas shown on the submitted plans 2491/PL/20 Rev C, and 2491/PL/21 Rev D, as vehicle loading/unloading and turning facilities and through routes shall kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

INFORMATIVES

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

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

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

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

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

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

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of

APPENDIX 1

a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer.

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

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

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

Habitat Regulations

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

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

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

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of

APPENDIX 1

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

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

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

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

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

APPENDIX 1

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

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PLANNING COMMITTEE – 6 DECEMBER 2018**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 18/505342/FULL			
APPLICATION PROPOSAL Conversion of garage to habitable room and erection of single storey front extension.			
ADDRESS 10 Berkeley Close Dunkirk Faversham Kent ME13 9TR			
RECOMMENDATION - Approve			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Boughton And Courtenay		PARISH/TOWN Dunkirk	COUNCIL APPLICANT Mr Darryl Creed AGENT GBA Designs
DECISION DUE DATE 11/12/18		PUBLICITY EXPIRY DATE 08/11/18	
RELEVANT PLANNING HISTORY including relevant history on adjoining/nearby sites			
At 10 Berkeley Close			
App No	Proposal	Decision	Date
14/50039/FULL	Demolition of conservatory and single storey rear extension	Approved	10/11/2014
SW/08/0218	New porch addition, conversion of garage into kitchen and internal alterations	Refused	21/04.2008
At 8 Berkeley Close			
18/501317/FULL	Erection of a single storey front extension, conversion of existing garage into a habitable space and internal alterations	Approved	29/05/2018
At 38 Berkeley Close			
15/503828/FULL	Erection of single storey front extension and part conversion of integral garage with door to side.	Approved	17/08/2015

1.0 DESCRIPTION OF SITE

- 1.01 10 Berkeley Close is a modern end of terrace estate dwelling located within the Local Plan built up area boundary of Dunkirk. The property is one of a row of five dwellings which are distinctively designed with a flat roofed single garage projecting some 5m forward from the main building line across about half the width of the site. A small flat roofed porch sits alongside the garage to a depth of almost 2m. This is a style prevalent at the time and which is found throughout Berkeley Close and across the Borough.

- 1.02 The site is located on a residential cul-de-sac with mainly similar terraced dwellings with semi or fully paved front gardens. Originally, these houses might have had a short driveway providing room for one car space in front of the garage and a grassed area beside. However, this property now has hardstanding extending across the full width of the frontage of the property, combining a 5m wide gravelled driveway providing off road parking for two cars with a narrow footpath alongside. As the property is positioned close to a bend in the road, the length of the driveway reduces from 5 metres on one side to 4 metres in front of the garage, although the garage is set 5m back from the pavement.
- 1.03 In April 2008, planning permission was refused at this property for the conversion of the garage to create a kitchen on the grounds that additional hardstanding and the loss of soft landscaping to the front of the property, including removal of a prominent bush, would harm the visual amenity of the area and the appearance of the streetscene. This soft landscaping has been removed in the meantime and the frontage covered in hardstanding; as provided for by householder Permitted Development rights.
- 1.04 The property has had a modest single storey rear living room extension replacing a conservatory, but it has not been extended at first floor level.
- 1.05 The adjoining property at no. 8 Berkeley Close, and a property further down the road at no. 38 Berkeley Close, has since been granted planning permission for a garage conversion and a similar front extension where these changes did not result in loss of soft landscaping. The latest of these (next door at 8 Berkeley Close) was approved by Members in May 2018 despite the Parish Council opposing that application

2.0 PROPOSAL

- 2.01 This application seeks permission for conversion of the existing garage to a habitable room (bedroom/office), and for the construction of a flat roofed single storey kitchen extension to the front of the property alongside the garage (replacing the porch). Two off-road parking spaces would remain in front of the garage.
- 2.02 The main garage door would be removed and replaced with a new uPVC window to match existing windows. The external wall below the new window would be constructed of brick to match the existing brickwork.
- 2.03 The single storey front extension would be set back from the front of the existing garage by 1.0 metre. It would thus project 4.4 metres from the front elevation of the house, and measure 2.6 metres wide and 2.7 metres high. The front entrance door would be re-positioned to the front of the extension.
- 2.04 The existing tile hanging to the front elevation will also be replaced with new cement board cladding.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM7 (Vehicle Parking), DM14 (General Development Criteria) and DM16 (Alterations and extensions)

Supplementary Planning Guidance (SPG) entitled “*Designing an Extension – A Guide for Householders*”. Of particular relevance here is the guidance on car parking and front extensions.

With regards to car parking, the guidance states that:

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

With regards to front extensions, the guidance states:

“The Borough Council normally requires that it should have a pitched roof and that its projection should be kept to an absolute minimum. The Borough Council normally requires that front additions are kept to a maximum of 1.2m.”

The SPG sets out a guide to extensions in rural areas of up to a 60% increase in floorspace, but this does not apply to properties within built up area boundaries, as is the case here.

5.0 LOCAL REPRESENTATIONS

- 5.01 None

6.0 CONSULTATIONS

- 6.01 Dunkirk Parish Council objects to the application in a letter containing two photographs showing the rear of a single car parked at the property overhanging the path and stating;

“Dunkirk Parish Council objects to the application.

DPC objects to this type of development as a matter of principle.

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

Recently No 8 Berkeley Close was given consent, against our advice, and the application property is closer to the corner with about 1 metre less frontage to the pavement. It is slightly wider making it possible to open doors for disabled passengers, but this should not outweigh the dangerous aspects of cars parking close to the corner.

With the current on-street parking, the extra pressure on the street would prove dangerous. The property has previously been extended and with this extra extension this would make the overall increase in footprint 67% which is contrary to Swale policy: Planning and Development Guideline No. 5 This guidance also states (for front extensions and porches) BC normally requires it

should have a pitched roof and that its projection should be kept to an absolute minimum. SBC normally requires that front additions are kept to a maximum of 1.2metres and this exceeds this from the existing front door by some measure.”

- 6.02 The agent has responded to the Parish Council's objection to say that the existing parking area is adequate for the two cars that current parking guidance requires, and it is possible for the applicant's car to park within the current curtilage. Photographs demonstrating this have been submitted. The agent has explained that cars potentially overhanging the pavement are due to the presence of a raised sleeper wall set one metre in front of the garage, and that removal of the sleeper wall (as proposed) will increase in length of the drive to 5m at its shortest and 5.9m at its longest, so improving the current situation. It is also proposed to widen the car parking area to the full width of the frontage (6.1m) making it ample for two cars to park side by side (wider than the recommended minimum of 5.4m between walls).
- 6.03 The agent has also noted that the Council's guidance normally requires front extensions to have pitched roofs, but in view of the fact that properties in this estate have flat roofed garages to the front, it is felt that the flat roofed design of the extension is in keeping with the current streetscene.
- 6.04 Finally, although the extension projects more than 1.2m out from the main front wall of the house, the agent notes that it will still be set back behind the line of the garage wall, and that this is similar to that recently approved at number 8 next door.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 18/505342/FULL

8.0 APPRAISAL

- 8.01 The main consideration in this case is whether the site and its surroundings have changed since the previously refused application (SW/08/0218) to the extent that a different decision may be reached now. The key issue in relation to the garage conversion remains whether the proposal is acceptable in terms of design and whether the loss of the garage as a parking space, and providing all parking to the front of the property is acceptable.
- 8.02 The gravelled driveway to the front now provides off-road parking for two cars which is what the current parking standard for a three bedroom dwelling in a village location requires (see IGN3 from KCC). Parking spaces should normally be 2.5m wide, although between walls it is recommended by Kent Highways that this width should be enlarged to 2.7m. Here the area available for parking would be 6.1m wide which more than complies with this guidance for two spaces. The proposal would not lead to new parking or visual amenity problems in the area as cars can already be expected to be parked across almost the entire frontage of the property on the existing hardstanding. As such, I see no prospect of the Council being able to defend a refusal of this application at appeal – past experience has made this clear. I take a view that by converting the garage into a habitable room it will have no impact upon the streetscene as no new issues would arise.
- 8.03 The removal of the sleeper wall will increase the length of the parking area from 5m to 5.9m (1m longer than now) which should reduce the likelihood of cars overhanging the pavement. In my view, the driveway will be adequate for the parking needs of the property.

- 8.04 The garage conversion introduces a window facing the highway in place of the existing garage door. The size and design of this window is in keeping with the other front windows and as such, I consider that the proposal is acceptable in relation to its impact upon neighbouring amenities.
- 8.05 Finally, despite the Parish Council's mention of the previous enlargement of the property, I do not consider that to be excessive, contrary to any policy of SPG guidance, or to alter the parking requirement for the property.
- 8.05 The other part of the application is the proposed kitchen extension, and how this would alter the character of the property and the visual appearance of the street scene. The proposal is potentially contrary to the advice contained within the SPG, which suggests that front extensions should have a pitched roof and not project more than 1.2m. However, as the flat roofed front garages to this and adjacent properties mean that they have an irregular frontage this advice needs to be applied carefully. The extension would be set between two even longer front mounted garages and so would not be intrusive in views along the road. Several other properties within the area, including the adjoining property, have carried out front extensions alongside the garages, and I do not consider this to be sufficiently harmful to the strong character of the area to warrant refusal of the application.
- 8.06 The single storey extension would not project further forwards than the neighbours' garage and would not give rise to any serious overshadowing or loss of light to the adjoining property. There is no identifiable harm regarding the impact of the proposal upon the amenity of the residents of the adjacent dwelling, no.8.

9.0 CONCLUSION

- 9.01 This application for conversion of garage to habitable room and a single storey front extension is considered acceptable and I therefore recommend that planning permission be granted. I do not consider that there are grounds to refuse this application and the Council's very recent approval for a similar scheme on the adjacent attached house would make any refusal of permission here perverse and untenable.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which permission is granted.
- Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (2) The development hereby approved shall be carried out in accordance with the following approved drawings:
- 18.03.PRIV-002 and 18.03.PRIV-004
- Reason: For the avoidance of doubt and in the interests of proper planning
- (3) The materials to be used in the construction of the external surfaces of the extension and garage conversion hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity

Council's approach to the application

In accordance with 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 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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2.2 REFERENCE NO - 18/504307/FULL			
APPLICATION PROPOSAL Erection of two detached dwellings with associated access and car parking. Alterations to the existing access and parking for 343 Minster Road.			
ADDRESS Land At Rear Of 343 Minster Road Minster-on-sea Sheerness Kent ME12 3NR			
RECOMMENDATION GRANT subject to conditions and to the issue of SAMMS payments being resolved.			
SUMMARY OF REASONS FOR RECOMMENDATION As a result of amendments to the access the scheme is acceptable with regards to impact upon residential and visual amenity and provides an adequate amount of parking. The development would provide two additional dwellings in a suitable location.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Booth.			
WARD Sheppey Central	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr Lee Halsey AGENT Michael Gittings Associates
DECISION DUE DATE 10/10/18	PUBLICITY EXPIRY DATE 28/09/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/06/0485	Proposed residential development to rear of 343 and 345 Minster Road, Minster, Sheppey, Kent - comprising fourteen one bedroom retirement flats. (Outline)	Refused Dismissed at appeal	07/06/06 01/03/07
SW/05/1302	Outline application for residential development comprising of 14 retirement homes	Refused	03/02/06
SW/04/0364	Outline application for 5 dwellings.	Refused Dismissed at appeal	01/07/04 10/06/05

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The site is a large parcel of residential garden to the rear of 343 Minster Road. It lies within the built up area boundary and within a predominantly residential area. There are residential dwellings surrounding the site on all sides from Minster Road, Harps Avenue and Blatcher Close.
- 1.02 The residential dwellings surrounding the site are predominantly two storey detached and semi-detached dwellings as well as bungalows but vary in design and style.

- 1.03 The planning history of the site includes two refusals which were subsequently dismissed at appeal stage for residential development. SW/04/0364 an application for 5 new dwellings was refused as it was perceived as harmful backland development and also would cause additional traffic movements that would negatively impact road safety. At the appeal, the Inspector rejected the claims that the site was harmful backland development but dismissed the appeal on the impact of traffic movements and disturbance to 343 and 341 Minster Road.
- 1.04 SW/06/0485 an application for 14 retirement flats was refused on the sole basis that it constituted harmful backland development. However at the appeal, the Inspector rejected that the site represented harmful backland development but dismissed the appeal based on issues with the scale and intensity of the development which would harm residential amenity.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of 2no. two storey dwellings to the rear of 343 Minster Road. The dwellings would measure 9m to ridge height and 5m to eaves with a footprint of approximately 11.5m by 11m. The external finishing materials have not been specified and can be addressed by way of condition; however the houses will be brick built with hanging tiles.
- 2.02 The dwellings will provide 4no. bedrooms, a lounge/dining room, kitchen, utility, a bathroom, 2no. en suites and a downstairs toilet. There would also be an integral garage/store plus each dwelling would have 3no. parking spaces to the front or side and an adequately sized private amenity space to the rear.
- 2.03 A new private access road to the western side of no 343 Minster Road together with associated turning spaces would be created as well as access gates. The existing dropped kerb access will be extended. A 1.8m high close boarded fence will be erected around the site.
- 2.04 The existing dwelling at no 343 would remain unaltered with access from the existing drop kerb and significant parking and turning area to the front of the dwelling.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies ST3, CP3, CP4, DM7 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- 4.03 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

5.0 LOCAL REPRESENTATIONS

- 5.01 Twelves letters and emails of objection were received from neighbours from eleven addresses. Their contents are summarised as follows:

- Concerns over the access suitability and safety
- Increase in traffic
- Loss of existing trees
- Noise disturbance from vehicle movements
- Not enough parking provided
- Overlooking concerns from first floor windows
- Loss of privacy
- Loss of light
- Concerns that the development will harm wildlife
- Soakaways are inadequate in this area
- Existing issues with waterlogging that will be exacerbated with 2 new dwellings
- Concerns that street lighting would cause light pollution and disturbance
- Concerns over how emergency and delivery vehicles will access the site
- Risk of setting a precedent for more developments of this kind
- Will reduce security to existing back gardens

5.02 As more than 3 objections from different addresses were received the relevant Ward Members were contacted and asked whether they would want the application to be called in to be reported to the Planning Committee, as per the Council's Constitution. Cllr Booth requested the application is heard at the next Committee. No response was received from either Cllr Crowther or Cllr Pugh.

6.0 CONSULTATIONS

6.01 **Minster-on-Sea Parish Council** supports the proposal stating:

"Although the proposal fits within the site and is not over-intensive as previous applications appeared, Minster-on-Sea Parish Council's support is conditional on the Kent Highway Services Development Planner's recommendations to do with access, vehicular visibility splay and the provision of another smaller turning area specifically for Plot 1 being considered for adoption [Matt Bembridge / Letter dated 03/09/18] and the emergence of no further irregularities that the Council is aware of."

6.02 **KCC Highways** raised concerns on their original response over a number of issues, primarily to do with inadequate visibility splays and the lack of a swept path to demonstrate access to the site by larger vehicles and emergency services is possible. The agent was forthcoming with amended plans and consequently KCC Highways now raise no objection to the proposal, subject to conditions.

6.03 **Natural England** offer their standing advice.

6.04 **Environmental Health** raise no objection subject to conditions.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 18/504307/FULL.

8.0 APPRAISAL

Principle of Development

8.01 The application site lies within the built up area boundary of Minster where the principle of development is accepted, subject to the relevant policy considerations.

Visual Impact

- 8.02 Due to the positioning of the plot to the rear and the retention of the existing dwelling at 343 Minster Road there will be little visual alteration to the frontage along Minster Road. Much, if not all, of the proposal will be obscured from public vantage points and therefore I consider that the visual impact on the streetscene will be minimal.
- 8.03 I note the mixture of housing types and designs that exist along Minster Road and I consider the two dwellings would sit comfortably within the existing varied street scene without giving rise to any serious harm to the character of the area. Through the various appeal sites it has been established that the Inspector does not view the site as one that would suffer from harmful backland development and has cited that the site is appropriate for development of this kind in principle. Therefore given that the site is to the rear of the general built form along Minster Road I do not consider that this in itself is harmful and would not erode the openness of the area.
- 8.04 Whilst the removal of several established trees is not desirable, they are not protected trees nor are they worthy of such status and therefore I do not object to their loss. Furthermore the proposed plans do show the implementation of additional replacement planting and this will be secured by an appropriate condition as suggested below so that the area remains visually attractive for future residents and also provides a habitat for wildlife.

Residential Amenity

- 8.05 As there are two separate plots proposed for the site, I will assess each in turn, considering their relationship on the surrounding existing dwellings and also on each other. Plot 1 fronts the west with a rear facing towards the east. To the east lie the gardens of dwellings along Harps Avenue. The distance between the rear windows of the dwellings on Harps Avenue and Plot 1 is in excess of 45m which significantly exceeds the Council's recommended separation guidance of 21m on rear to rear windows. I therefore consider this relationship would be acceptable and do not consider that any significant overlooking will occur. To the south flank of Plot 1 lies the rear of gardens of dwellings on Blatcher Close, I note that there is a 17m separation from the rear windows of dwellings on Blatcher Close which is over the 11m flank to rear windows that is normally expected by the Council. I also note that there is only 1 first floor window proposed on this side elevation and it serves an en suite. Whilst I do not have major concerns over the potential overlooking likely to arise from this window, for the sake of thoroughness I have included a condition below, requiring this window to be obscure glazed.
- 8.06 Plot 2 is oriented north/south. To the south lie the gardens of dwellings along Blatcher Close. The distance between the rear windows of the dwellings on Harps Avenue and Plot 2 is 24m which is over the recommended 21m distance. I therefore consider this relationship acceptable and do not consider that any significant overlooking will occur. To the west of Plot 2 lies the rear garden of no. 337 Minster Road, however I note that the flank wall that faces this garden only contains one first floor window which serves an en suite and will be conditioned below to be obscure glazed. The north facing front of the dwelling on Plot 2 is located 40m from the rear of dwellings fronting Minster Road and I therefore satisfied that there will be no significant loss of privacy.
- 8.07 In terms of amenity for the future occupiers of the new dwellings, I do not consider that there will be any significant overlooking from either dwelling. I note that the dwelling on Plot 1 has primary windows that face towards the rear garden of the dwelling on Plot 2,

however there is a distance of 25m so I consider that the overlooking would be minimal.

The rooms of the new dwellings would be of an acceptable size and whilst the Council usually recommends a rear garden depth of 10m I consider that given the large width of the gardens that the slightly reduced depth of 6.8m for Plot 2 can be justified and would still provide an acceptable standard of amenity for future occupiers.

- 8.08 Whilst I note that there will be some additional vehicle movement as a result of the development of the site, I do not consider that two dwellings will produce a significant volume of traffic and that it will have a minimal impact on the amenity of both existing 343 Minster Road and also adjacent neighbour 341 Minster Road.

Highways

- 8.09 There are 3no. parking spaces provided to the front of each dwelling which is in excess of recommended guidance of 2 spaces for a 4 bedroom dwelling (as set out in Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking), I therefore consider that this is acceptable. I have included a condition (15) below to ensure the retention of these parking areas.
- 8.10 Initial concerns were raised by KCC Highways, regarding the access onto the site as well as the layout of the site to accommodate turning areas and also access for emergency vehicles. The agent was forthcoming with amended plans, showing a sufficient visibility splay as well as designated turning spaces and as such the Highway Authority have no objection to the proposal provided certain conditions (11), (12), (13), (14) and (15) are included. I therefore have no issue with the development from a Highways safety perspective.

Other Matters

- 8.11 I note that several objections refer to the issue of waterlogging which it is stated is already an issue in the area and concerns have been raised that the issue will be exacerbated with the addition of more hardstanding as a result of this development. However, I believe this issue can be mitigated by way of landscaping condition requesting full details of the hard and soft landscaping proposed to ensure that where possible permeable surfaces will be used and that there will be sufficient planting and grassed areas to minimise the impermeable surfaces. I also note that the existing willow tree is proposed to be retained, the only trees being removed are those that would be directly lost in order to create the proposed access road.
- 8.12 Concerns are raised relating to the wildlife in the area and whilst Natural England just offer their standard advice and do not directly comment on the application if there are any protected species on the site then they are afforded protection under separate legislation.
- 8.13 Due to a recent appeal decision in Newington (ref. 17/503997/FULL), the Council is now seeking developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for each new dwelling. The agent has confirmed the applicant is willing to pay this fee. The precise means of securing the payment has not yet been set, and my Officers remain in discussion with the Head of Legal Services regarding the matter. I will update Members at the Meeting.

9.0 CONCLUSION

- 9.01 In conclusion there is an extensive history on the site of previous schemes refused permission and subsequently dismissed at appeal. However, whilst the previous schemes at the site may have been dismissed Inspector's appeal decisions have indicated that the development of the site itself does not constitute harmful backland development and previous refusals were based on the intensity of the development proposed and concerns of overlooking and overbearing to the surrounding residents. This scheme is much smaller for just two dwellings which will have minimal associated noise and disturbance. I am satisfied that the development accords with policy and would not cause significant harm to residential or visual amenity.

- 10.0 RECOMMENDATION** – GRANT Subject to the securing of SAMMS payments, and 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) 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 development shall be carried out in accordance with the following approved drawings: 2440/2 (received 15/08/18) and 2440/1/B (received 02/11/18).

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

- (4) Before the development hereby permitted is first occupied, the proposed windows serving en suites to the side elevations of the new dwellings shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside finished floor level and shall subsequently be maintained as such.

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

- (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, 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.

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

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

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

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

- (8) 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.

- (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, 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.

- (10) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings 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.

- (11) Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). The Plan agreed shall be implemented throughout the development period. This shall include details of the following:

- a) Parking and turning areas for construction and delivery vehicles and site personnel
- b) Timing of deliveries
- c) Provision of wheel washing facilities
- d) Temporary traffic management / signage

Reason: In the interests of highway safety.

- (12) The sight lines shown on the approved plan 2440/1/B (received 02/11/18) shall be provided prior to the commencement of the use hereby permitted and shall thereafter be 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.

- (13) The 2 metres by 2 metres pedestrian visibility splays behind the footway on both sides of the access shown on approved plan 2440/1/B (received 02/11/18) shall be provided prior to the occupation of the development hereby permitted and shall thereafter be maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above footway level within the approved sight lines.

Reason: In the interests of highway safety.

- (14) The access road to the site shown on the approved drawing 2440/1/B (received 02/11/18) shall be constructed and completed prior to the occupation commencement of the use hereby permitted.

Reason: To ensure that a satisfactory means of access is provided for the site.

- (15) The area shown on the submitted plan as loading, off-loading and parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted.

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

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

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

- (17) No development beyond the construction of foundations shall take place until details of the access gate shown on approved drawing 2440/1/B (received 02/11/18) have been submitted to the Local Planning Authority and approved in writing.

Reason: In the interests 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. The applicant/agent was advised of changes required to the application and these were submitted for consideration.

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.

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.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).



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2.3 REFERENCE NO - 18/503678/FULL			
APPLICATION PROPOSAL Erection of a 2 bedroom chalet style bungalow on land to rear gardens of 344 and 346 Minster Road.			
ADDRESS 344 Minster Road Minster-on-sea Sheerness Kent ME12 3PE			
RECOMMENDATION Grant subject to conditions and to the receipt of satisfactory Unilateral Undertaking regarding SAMMS payments			
SUMMARY OF REASONS FOR RECOMMENDATION Following amendments, the scheme is acceptable with regards to impact upon residential and visual amenity and provides an adequate amount of parking. The development would provide an additional dwelling in a suitable location.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Booth			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mrs Lynne Creed AGENT Deva Design	
DECISION DUE DATE 12/12/18	PUBLICITY EXPIRY DATE 05/11/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/503733/FULL	Installation of a dropped kerb to serve no. 346 Minster Road and creation of off road parking.	APPROVED	18.09.18
SW/12/1266	(No. 344) Two storey side and rear extension and conversion of garage to habitable room.	APPROVED	21.11.12
SW/12/0882	(No. 344) Two storey side and rear extension and conversion of garage to habitable room.	REFUSED	10.08.12
SW/93/0730	(No. 344) Renewal of planning permission SW/88/842 for change of use from residential to rest home.	APPROVED	08.10.93
SW/88/0842	(No. 344) Change of use from residential to rest home.	APPROVED	23.08.88
SW/85/0604	(No. 344) Change of use to residential.	APPROVED	23.07.85

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located in the rear gardens of No. 344 and 346 Minster Road, a pair of two storey, semi-detached dwellings situated on a corner plot between Minster Road and Glenwood Drive. The plot measures roughly 31m in length x 11m in width and is accessed via an existing dropped kerb on Glenwood Drive.
- 1.02 The area is characterised by a mix of housing designs and scales, though I note the properties immediately south of the site are two storey semi-detached dwellings and the properties immediately to the north of the site are detached bungalows.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of one detached chalet bungalow. It will measure 13m x 8m, with an eaves height of 2.8m and maximum height of 7m. Two small pitched roof dormer windows are proposed on the northern roof slope, and three roof lights are proposed on the southern roof slope. One parking space will be provided to the front of the dwelling, and the rear garden will have a minimum depth of 10m. The property will have a lounge, dining room, utility, bathroom and kitchen on the ground floor, and two bedrooms (one with an en-suite) and a bathroom on the first floor.
- 2.02 I raised concern regarding the potential for overlooking of the garden of the new property from No. 344 Minster Road. The agent was informed of this and was recommended to include a small single storey extension to the rear of the proposed dwelling, in order to create an area of private outdoor amenity space. Amended plans were subsequently submitted showing a small rear extension which measures 3m x 3.9m, and would have a flat roof with a roof lantern situated in it.

3.0 PLANNING CONSTRAINTS

- 3.01 None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Policies ST3, CP3, CP4, DM7 and DM14 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'
- 4.03 Supplementary Planning Documents: 'Designing an Extension: A Guide for Householders'

5.0 LOCAL REPRESENTATIONS

- 5.01 Four objections were originally received from neighbouring properties. Their contents are summarised below:
- Object to the noise and disturbance caused by the development.
 - Object to the general appearance of the north and west elevations.
 - Bungalows in Saxon Avenue will be directly overlooked by proposed property, which is located close to the common boundary. This will severely compromise privacy.
 - There is an abundance of wildlife on the site and removing trees, shrubs and green space will be detrimental to the natural environment.
 - Building houses in back gardens will have a direct effect on the open nature of the area and will cause over condensation of development.
 - Parking situation in Glenwood Drive has already caused the junction with Minster Road to become dangerous, particularly during evenings and weekends. More cars and congestion will exacerbate the problem.
 - Adding a dropped kerb in Glenwood Drive will result in further issues with parking.
 - Drainage system in the area is already insufficient when it rains and another house will just make it worse.

- Removing a large area of garden which helps to absorb rain water will mean water goes straight into the sewage system instead.
- 5.02 When amended plans were submitted, neighbours were reconsulted on the application. Three further objections were received from properties who had originally objected to the proposal, reiterating the points they previously raised.
- 5.03 Seven objections in total to the proposal were received from four properties, and as such, I contacted the relevant Ward Members and asked whether they would like the application to be called in to be heard at Planning Committee, as per the Council's Constitution. Cllr Booth requested the application is heard at the next Committee. Cllr Pugh stated he would have to declare an interest as one of the local residents is his cousin. I received no response from Cllr Crowther.
- 5.04 Minster-on-Sea Parish Council supports the application.

6.0 CONSULTATIONS

- 6.01 KCC Highways – Proposal does not meet the criteria to warrant involvement from the Highways Authority.
- 6.02 Natural England – See standing advice.
- 6.03 Environmental Health – No objections subject to hours of construction condition.
- 6.04 Southern Water – Request informative is added stating a formal connection to the public foul sewer is required.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Documents and plans submitted as part of 18/503678/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site lies within the built up area boundary of Minster where the principle of development is accepted, subject to the relevant policy considerations.

Visual Impact

- 8.02 I consider the proposed chalet bungalow is of an acceptable scale and design and I consider it would sit comfortably within the existing varied street scene without giving rise to any serious harm to the character of the area. Concern was raised by neighbours regarding the design of the north and west elevations. Two dormers are proposed on the northern roof slope and their design is in line with the advice of the Council's adopted SPG, being small in scale and with pitched roofs. With regards to the western elevation (the rear), I consider the design is simple and will not lead to any unacceptable impacts to visual amenities.

Residential Amenity

- 8.03 The new property will lie approximately 8.5m from No. 344 and 7m from No. 346 Minster Road. I note it would be the side elevation of the proposed bungalow that will face the rear of these properties, and in this flank wall, the front door will be situated, and a window to the family bathroom on the ground floor. The Council considers windows to the rear of properties should be at least 11m from the flank wall of other houses to the rear. The proposal will reduce this distance to between 8.5m and 7m for No. 344 and No. 346 respectively. The main issue that will arise from these distances is the overlooking that could occur at the development's private garden. Following amendments adding the single storey rear extension, I believe the proposal will provide adequate private amenity space for future occupiers and as such, consider this separation distance acceptable.
- 8.04 I also note the proposed development will reduce the scale of the gardens at No. 344 and No. 346 significantly. The Council usually recommends a rear garden to have a depth of 10m, and in this case, the depth of the gardens will be reduced to approximately 7m at the shallowest point. However I take into account the large width of the gardens, which I believe will provide an acceptable amount of private amenity space at both properties.
- 8.05 The dwellings to the north of the proposed bungalow, No. 2 Glenwood Drive and Autumn Lodge, Saxon Avenue would lie approximately 12m and 13m respectively, from the proposed dwelling. I note both these neighbouring properties are bungalows, so the amount of overlooking that will occur will be reduced to what I consider would be an acceptable level. There are dormer windows proposed in the northern roof slope which serve bathrooms. I believe there is potential for these windows to overlook the neighbouring bungalows to the north of the site, a concern that has also been raised by neighbours. Therefore I consider it appropriate to attach condition (3) below requiring these windows to be obscure glazed to prevent overlooking between the properties.
- 8.06 The proposed dwelling would provide a good standard of amenity for future residents and internal spaces are all of an appropriate size in my opinion. The rear garden is 10m deep, and as such I consider it is of a suitable size.

Highways

- 8.07 One parking space will be provided to the front of the chalet bungalow, which will be accessed via the existing dropped kerb. The Council does not usually support frontage parking, but in this case, I note many surrounding properties also have parking to the front, so it will not appear incongruous in the street scene. I also note the areas reserved for soft landscaping on the frontage of the property and consider that this will help soften the impact of the development.
- 8.08 The size of the proposed parking space is smaller in width than KCC minimum standards, however I note the area to the front of the property could comfortably provide parking for one vehicle. I note that only one parking space is required for two bedroom dwellings in this area (as set out in Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking), and as such I consider the parking provision at the new dwelling is acceptable. I include condition (4) below to ensure the retention of this area for parking. Concern has been raised by neighbours regarding the impact of the proposal on the parking situation in the area. However as set out above, the proposal provides parking provision that is in line with the KCC recommended amount and therefore I do not consider the proposal will have a harmful impact upon the surrounding roads.

Impact on SPA and Ramsar Sites

- 8.09 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £239.61 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee, which will be secured by way of a unilateral undertaking.

Other Matters

- 8.10 Concern has been raised by neighbours regarding the loss of green space, however I consider appropriate landscaping can be secured by condition. With regards to issues relating to drainage, the landscaping condition will also ensure there is green space to the rear of the new dwelling to absorb water, and the paved driveway is either built with a permeable surface or has a surface water drainage system in place.

9.0 CONCLUSION

- 9.01 In conclusion I consider the proposal does not give rise to any unacceptable impact to residential or visual amenity and the parking provision at the new dwelling is suitable. As such I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

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

Reason: In the interests of visual amenity.

- (3) Before the development hereby permitted is first used, the dormer windows in the northern roof slope of the chalet 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.

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

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

- (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, 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.

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

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

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

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

- (8) 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.

- (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, 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.

- (10) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the 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.

- (11) The development shall be carried out in accordance with the following approved drawings: DC/311, DC/433 and DC/434 (all received on 16.10.18).

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

INFORMATIVE

- (1) 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>

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).

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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.

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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.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).

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 submitted for consideration . Also 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.



2.4 REFERENCE NO - 18/504824/FULL			
APPLICATION PROPOSAL Change of use of part of shop to provide a 1no. one bedroom flat for shop owners residential use (Resubmission of 18/503588/FULL)			
ADDRESS 16 Hawthorn Road Sittingbourne Kent ME10 1BB			
RECOMMENDATION Grant subject to conditions and to the issue of SAMMS payments being resolved			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal does not result in an increase in built form and utilises part of the existing shop to create a one bedroom flat. I do not consider there will be any additional overlooking issues, nor do I consider that there will be increased harm in terms of residential amenities and parking pressures. The proposal now complies with policy with regards to floorspace requirements and I see no significant reason to raise objection.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Whelan.			
WARD Chalkwell		PARISH/TOWN COUNCIL N/A	APPLICANT Hawthorn Convenience Store AGENT Mr Ken Crutchley
DECISION DUE DATE 09/11/18		PUBLICITY EXPIRY DATE 10/10/18	OFFICER SITE VISIT DATE 26/09/18
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/503588/FULL	Change of use of part of shop to provide a 1no. one bedroom flat.	Refused	30/08/18
15/509793/FULL	Single storey bedsit for use by store manager for security of shop premises.	Refused	11/03/16
SW/06/0919	New side extension for Strops Hairdresser and changes to existing front elevation of number 16.	Approved	22/09/06

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies within the built up area boundary and consists of an off licence shop with a flat above and a hairdressers attached to the south east side. The site fronts Hawthorn Road with a rear garden that backs onto Arthur Street. There is existing hardstanding for parking to the front of the shop, together with an existing access to a small amenity space to the rear.
- 1.02 The streetscene is predominantly residential with a mixture of semi-detached and terrace dwellings as well as flats.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the change of use of part of a shop to provide a one bedroom flat. Minimal external building works are proposed but which include the insertion of windows to the rear elevation. The remaining shop space will continue to operate as an off licence with a new wall inserted, separating the flat from the store.
- 2.02 Access to the flat would be gained from Hawthorn Road via an existing side access that runs parallel to the adjacent Hairdressers and also through the shop itself. The flat would have access to a small private amenity space to the rear.
- 2.03 The proposal would provide a one bedroom flat for the shop owner, with a small kitchen/lounge, separate bedroom and ensuite all within part of the existing shop space.

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).
- 4.02 Development Plan: ST3, CP3, CP4, DM7, DM14 of Bearing Fruits 2031: The Swale Borough Local Plan.

5.0 LOCAL REPRESENTATIONS

- 5.01 Five letters and emails of objection were received from neighbours from five separate addresses. Their contents are summarised as follows:
- Overlooking and invasion of privacy for residents of Arthur Street
 - Concerns that a reduction in the parking provision of Arthur Street will occur as a result of the proposal
 - Removal of antisocial railing that borders the site and that the existing fencing will be removed
 - Access to the side would cause an invasion of privacy and is too narrow making it unsuitable.
 - The close proximity of the building would feel intrusive and overshadowing to residents.
 - Light pollution already impacts residents of Arthur Street from first floor dwellings, concern that a ground floor dwelling will be the same.
 - Footprint of the flat seems very small.
 - Another residence created will also increase noise nuisance in this vicinity.
 - Oppose any disturbance to the plants bordering the site.
- 5.02 As more than 3 objections from different addresses were received the relevant Ward Members were contacted and asked whether they would like the application to be called in to be heard at Planning Committee, as per the Council's Constitution. Cllr Whelan requested that the application is heard at the next Committee.

6.0 CONSULTATIONS

- 6.01 **Natural England** offer their standing advice.
- 6.02 **KCC Highways** state that “this development proposal does not meet the criteria to warrant involvement from the Highway Authority”
- 6.03 **Environmental Health** raise no objections subject to conditions.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 18/504824/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application is within the built up area boundary where the principle of development is acceptable subject to other considerations. In this instance the impact on the visual and neighbouring amenities must be considered.

Visual Impact

- 8.02 I note that there are minimal works proposed to the external face of the existing building with the addition of two new windows on the rear elevation and the replacement of a side door with a window being the only notable changes and as these are to the rear will be hidden from public viewpoints. I therefore consider that from a visual perspective there will be no significant harm.

Residential Amenity

- 8.03 I note the objections received in relation to this application, particularly those relating to the 15/509793/FULL refusal and consider that it is important to highlight that this scheme is very different from the 2015 refusal and does not seek to extend the building but instead seeks to convert what is already present at the site. The current proposals would involve no additional extensions merely the replacement and insertion of windows and doors.
- 8.04 In terms of overlooking whilst I note the concerns raised by objectors in relation to the existing first floor flat above, this application only applies to the ground floor aspect so I will not be assessing their concerns with the existing flat. In relation to the current application there are two windows proposed at ground floor level which will face north east into the rear garden. I do not consider that these windows will give rise to any significant overlooking even when taking into account the difference in land levels at the site as argued in the objections, and the acute angles to the existing dwellings. The site is bordered by a 2m high fence which will be maintained as a result of this proposal so the overlooking of properties in Arthur street will be minimal. There is one window proposed to the side elevation of the existing building however this will only serve a bathroom so I do not envisage any significant overlooking issues. However for the sake of thoroughness I have included a condition below ensuring that this window must be obscure glazed.
- 8.05 I have concerns regarding the access and its usability, however, I acknowledge that it has been used as such previously and although I note the impracticality of having a narrow access as the entry to this new dwelling, I also note that access can also be gained through the shop itself.

- 8.06 It is not just the amenity of the surrounding residents that must be considered but also the amenity of future occupiers of the flat. Application 18/503588/FULL was refused due to providing a poor outlook to the bedroom and also due to undersized floorspace. These issues have been addressed in the current application as more of the shop has been converted to residential use and the room layout/arrangement has been altered. I now consider that the proposal meets the minimum SPG requirements for floorspace and therefore will offer a satisfactory amenity for future occupiers. The rearrangement of the internal space within this development would provide a better outlook from the proposed bedroom and would also allow sufficient light to the habitable room.

Parking

- 8.07 The plans show that parking provision is available to the front of the shop, occupying one of the spaces designated for the shop and hairdressers. I consider from the information provided that the parking implications of the proposal would be acceptable as Kent Highway Interim Guidance Note 3 requires a maximum of 1 space for a 1 bedroom flat/dwelling in an edge of centre location such as this..
- 8.08 Notwithstanding the above, I note that the flat is proposed for the owner/occupier of the shop so technically there will be no additional parking demand at present as the owner has been parking in the space to the front of the shop anyway.

Other Matters

- 8.09 Other issues raised by objectors such as relating to the ownership of land are private matters and therefore I will not be discussing these. However, the plans confirm that the existing antisocial railing would be retained. The issues relating to the first floor of the building are not relevant as it is not included in this application and therefore should not be considered here.
- 8.10 I am mindful that the proposal would result in the loss of part of the floorspace of the shop. However – this would not be significant and it is not envisaged that it would result in the loss of the unit as there would still be sufficient space for the existing shop to continue operating.
- 8.11 Due to a recent appeal decision in Newington (ref. 17/503997/FULL), the Council is now seeking developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for this new dwelling. The agent has confirmed the applicant is willing to pay this fee. The precise means of securing the payment has not yet been set, and my Officers remain in discussion with the Head of Legal Services regarding the matter. I will update Members at the Meeting.

9.0 CONCLUSION

- 9.01 The proposal does not result in an increase in built form and utilises part of the existing shop to create a one bedroom bedsit. I do not consider there will be any additional overlooking issues, nor do I consider that there will be increased harm in terms of parking pressures. The proposal now complies with policy with regards to floorspace requirements and I see no significant reason to raise objection.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings 180931 Rev 001, 180932 Rev 001 and 180933 Rev 001 (received 14/09/18).

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

- (3) Before the development hereby permitted is first used, the proposed window in the south east elevation, serving the en suite shall be obscure glazed and 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.

- (4) No demolition/construction activities shall take place, other than between 0800 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- (5) Before any building works commence on the site, details of the sound insulation provided between the residential unit hereby permitted and the existing first floor flat and shop premises shall be submitted to the Local Planning Authority. If the current level of sound insulation is deemed to be insufficient, a scheme of improvement shall be submitted to the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation of the new residential unit.

Reason: In the interests of residential amenity.

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.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).

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.



2.5 REFERENCE NO - 17/504283/FULL			
APPLICATION PROPOSAL Proposed change of use of quarantine room/office/reception/storage to dwelling for disabled person (retrospective).			
ADDRESS 2 South Leas Farm Cottages Lower Road Brambledown Minster-On-Sea ME12 3SW			
RECOMMENDATION Grant planning permission subject to conditions.			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed change of use is acceptable in principle and would provide a residential annexe for a mobility impaired person without further detriment to the character or visual amenities of the countryside or harm to the amenities of the occupiers of neighbouring residential properties.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey Central	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mrs Rachel Burden AGENT
DECISION DUE DATE 20/04/18	PUBLICITY EXPIRY DATE 03/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/01/0908	Lawful development Certificate for use of the whole site adjacent to 2 South leas farm cottages as part of the curtilage.	Grant	05.02.2003
<i>Summarise Reasons</i> Permitted development under the GPDO			
SW/91/1083	Erection of three domestic kennels and buildings for the rearing of game birds and poultry.	Refused	28.10.1991
<i>Summarise Reasons</i> Detrimental impact on the visual amenities of the countryside and unacceptable harm to the amenities of the occupiers of neighbouring residential properties.			

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is located in the countryside, within an isolated enclave of houses and farm buildings some 400m to the south of Lower Road (B2231). It comprises a two storey timber clad semi-detached house set within a roughly rectangular garden plot measuring some 70m x 50m with an area of approximately 0.35ha. The site contains a number of blocks of disused kennels and cages associated with an unauthorised animal and bird sanctuary which has now ceased to operate. The building, the subject of this application, is located towards the south-eastern corner of the site. It was previously in use as a quarantine room and office and is currently occupied as a residential annexe.
- 1.02 The site is bounded to the north and south by two small parcels of agricultural land in the ownership of the applicant; to the east, by open fields in arable use; and, to the

west, by a semi-detached cottage (i.e. No.1 South Leas Farm Cottages) and beyond this, a large barn and detached house.

- 1.03 The site is accessed from Lower Road via an unmade farm track.

2.0 PROPOSAL

- 2.01 The applicant is seeking retrospective planning permission for the use of a quarantine room/ office/ reception/ storage building as a residential annexe for a disabled person.
- 2.02 The building is located at the south-eastern corner of the site. It has a footprint measuring 19.78m x 7.07m with brick and timber clad elevations surmounted by a flat asphalt roof with a height of 3m. The accommodation comprises a lounge, two bedrooms, kitchen, dining room, bathroom, store and utility room. The building is currently occupied by Mr Burden, the applicant's husband.
- 2.03 The applicant has indicated that Mr Burden suffers from several chronic health conditions that have severely hampered his mobility and that the main house with first floor bedrooms and ground floor bathroom, is inaccessible and unsuitable for his needs. Letters from Mr Burden's GP and physiotherapist have been submitted in support of the application.

3.0 PLANNING CONSTRAINTS

- 3.01 There are no planning constraints pertinent to the consideration of this application.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 Chapter 2 – Achieving Sustainable Development
Chapter 12 – Achieving Well Designed places
Chapter 15 – Conserving and Enhancing the Natural Environment

Bearing fruits 2013: The Swale Borough Local Plan 2017

- 4.02 Policy ST1 – Delivering sustainable development
Policy ST3 – The Swale settlement strategy
Policy CP4 – Requiring good design
Policy CP7 – Conserving and enhancing the natural environment
Policy DM11 - Extensions to, and replacement of, dwellings in the rural area
Policy DM14 – General development criteria

5.0 LOCAL REPRESENTATIONS

- 5.01 No responses have been received.

6.0 CONSULTATIONS

- 6.01 Minster-on Sea parish Council has objected to the application on the grounds that insufficient information (i.e. incomplete application form and lack of elevations) has been submitted to allow it to make '*an accurate judgement of the proposals suitability for retention.*'

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The submission documents include a location plan, block plan, existing and proposed floor plans and letters from Mr Burden's GP and physiotherapist.

8.0 APPRAISAL

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

Principle of Development

- 8.02 There are no policy objections in principle to the development of residential annexes within rural areas subject to the considerations outlined below.

Impact on the Character and Visual Amenity of the Countryside

- 8.03 Members are advised that in October 1991 a retrospective planning application (SW/91/1083) was refused for the retention of a number of kennels and buildings on the site for the rearing of game birds and poultry for the following reasons:-

- 1) *The development is contrary to policy RS6 of the Kent Structure plan, which states, among other things, that development will not normally be permitted in rural Kent unless it is demonstrated to be necessary to agriculture, forestry, the winning or import of minerals or other land use essentially demanding a rural location. The District Planning Authority does not consider that the development fulfils any of these requirements and is an incongruous development detrimental to the visual amenities of this open countryside location.*
- 2) *The proposal is an over-intensive development detrimental to the amenities of neighbouring residential properties.'*

- 8.04 An appeal against the Council's refusal of planning permission was dismissed in November 1992 and although subsequent enforcement action resulted in the cessation of the use, a number of structures, including the building currently under consideration still remain on site.

- 8.05 In February 2003 a Certificate of Lawfulness (SW/01/0908) was granted for the enlargement of the curtilage of No.2 South Leas Farm Cottages which resulted in the annexe building falling within the garden of the property rather than on the associated agricultural land.

- 8.06 Historically the Local Planning Authority had significant concerns regarding the visual impact of the building, the subject of this application. Notwithstanding this, given that:-

- it has been in situ for almost thirty years;
- it has now become an established feature in the landscape;
- it is not particularly prominent in long views across the fields from the east; and,
- it is viewed against the backdrop of the existing houses and farm buildings;

it is not considered that the character or visual amenities of the surrounding rural landscape is unduly comprised.

- 8.07 It is considered that the continued occupancy of the building as a residential annexe for use by a disabled person has no material detrimental impacts on the character of the area. However, it is recommended that conditions are imposed to allow the Local

Planning Authority to review the situation in future and to preclude the use of the building as a separate dwelling.

Residential Amenity

- 8.08 The residential annexe is located some 50m away from the nearest residential property at No.1 South Leas Farm Cottages and it is considered that the continued occupancy of the building as a residential annexe would have no detrimental impacts on the amenities of the occupiers.

Other Matters

- 8.09 The comments of Minster-on-Sea Parish Council have been noted. However, the application is valid and photographs showing the elevational appearance of the existing building will be presented to Members at the Committee meeting.

9.0 CONCLUSION

- 9.01 The proposed change of use is acceptable in principle and would provide a much needed residential annexe for a disabled person without further detriment to the character and visual amenity of the countryside or harm to the amenities of neighbouring occupiers. Therefore, it is recommended that planning permission is granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:-

- 1) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No.2 South Leas Farm Cottages.

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

The Council's approach to this application:

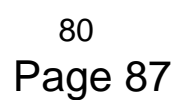
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focussed on solutions. We work with applicants/agents in a positive and proactive manner by:

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

In this instance the application was:

- Considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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



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2.6 REFERENCE NO - 18/503080/FULL			
APPLICATION PROPOSAL Variation to condition 4 of application SW/10/0485 (change of use from stabling for private use to commercial stud farming and livery) to allow unrestricted overnight use of an existing caravan/mobile home by the applicant, employees and customers of the stud farm.			
ADDRESS Bell Grove Stud Farm Halstow Lane Upchurch Sittingbourne Kent ME9 7AB			
RECOMMENDATION Grant planning permission, subject to the receipt of satisfactory unilateral undertaking in respect of SAMMS payments.			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The applicant has submitted sufficient justification to demonstrate a financial and functional need for a permanent dwelling on the site.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Upchurch	COUNCIL	APPLICANT Mr Tye Simms AGENT Architectural Designs
DECISION DUE DATE 21/09/18	PUBLICITY EXPIRY DATE 27/07/18		
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
SW/10/0485	Change of use of use from stabling for private use to commercial stud farming and livery to site a caravan on site for use of permanent member of staff and owners of pregnant mares for 4 nights in any week and all day time use.	Granted.	28.05.2010
<i>Summarise Reasons The proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or highway safety.</i>			
SW/13/1563	Variation of condition 4 of SW/10/0485 to allow unrestricted overnight use of caravan/ mobile home by employees and customers of the stud farm	Refused.	21.02.2014
<i>Summarise Reasons Insufficient evidence has been submitted to demonstrate that the dwelling can be justified on the grounds that it would support a rural business and that this rural business would benefit the rural economy to the extent that the harm to the rural environment would be outweighed.</i>			

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The application site is located in open countryside on the northern side of Lower Halstow Lane between Upchurch and Lower Halstow. It comprises a roughly rectangular parcel of land with a frontage width to Lower Halstow Lane of 75m, a depth of 180m and an area of approximately 1.35 ha. The site is in equine use as a commercial stud farm and livery. There are three stable blocks and a hayloft within a

courtyard at the north-eastern corner of the site, to the west of which is an existing static caravan. The southern part of the site is sub-divided by timber post and rail fencing to form a ménage and a number of paddocks located on either side of a central drive way. The site is accessed from Lower Halstow Lane which is designated as a Rural Lane in the adopted Local Plan.

- 1.02 The surrounding area is rural in character. The site is bounded by a Travellers site to the west, open fields to the north and a riding school to the east. To the south of the site, on the opposite side of Lower Halstow Lane, is Lower Halstow cricket ground and open pasture.
- 1.03 The site lies within the Coastal Zone and the Strategic Gap between the Medway towns and Sittingbourne as designated in the Local Plan.

2.0 PROPOSAL

- 2.01 This application seeks to vary condition 4 of planning permission SW/10/0485 to allow unrestricted overnight use of a mobile home on the site, i.e. full-time residential use.

- 2.02 Condition 4 of SW/10/0485 states:

“Only one caravan/mobile home shall be stationed within the application site in the exact location shown on the approved plans and this caravan/mobile home shall not be used for residential purposes or overnight accommodation other than for a total of four nights in any one week, and this overnight accommodation shall be ancillary to the approved use only and restricted to employees and customers of the stud farm only.”

- 2.03 The applicant's supporting statement explains:

“Planning permission was granted in 2010 (SW/10/0098) for the change of use from stabling for private use to commercial stud farming and livery to site a caravan on site for use of permanent staff and owners of pregnant mares for 4 nights in any week and all-day time use.

The business has continued to grow but is continually becoming more stifled and restricted by the imposition of only being able to stay on site for 4 nights in any week.

Other forces have also come into play with regard to security, management and personal affairs that has forced the applicant to once again seek permission to allow unrestricted overnight use of the caravan/mobile home by the applicant, employees and customers of the stud farm.

The applicant proposes to be on site permanently with his 5-year-old son during school terms and for an employee to be permanently on site the remainder of the year. This will allow the site to have 24/7 supervision all year round.

With permanent supervision, the applicant can proceed to put the business into a higher level of care resulting in attaining higher fees for both the livery and the stud business. The additional income would allow the applicant to take on more staff to help and provide additional care for the horses.

The time spent by the applicant travelling to and from Lordswood (applicant's permanent residence) could be better utilised in attending to the horses such as providing further exercising of the horses in the 50 acres of grass land available to the north of the site.

It is proposed to replace the existing commercial caravan and replace it with a double mobile home. This will provide adequate accommodation for the applicant and his son (during term times) and allow for an employee or client to stay over as and when required.

A small welfare unit [to be applied for separately if this permission is granted] is to be erected to provide laboratory facilities and act as a welfare unit for staff, clients and the vet etc. The laboratory is to assist the inseminator (DETHRA registered) in the collection and keeping of sperm and for necessary analysis to be undertaken. The other part of the unit will provide washroom and restroom facilities."

2.04 The supporting statement also sets out the principal reasons for requiring a permanent presence on site, including:

- Loss of livery fees due to customer's concern for their horse's welfare;
- Loss of stud fees for the same reason;
- Animal welfare, particularly for sick or pregnant horses;
- Control of the stallions, who can harm themselves trying to reach an in-season mare if not under supervision;
- Site security; and
- The applicant's personal circumstances and business requirements have resulted in his young son attending Upchurch Primary School, so being able to stay at the site during the week would also help with this aspect.

3.0 PLANNING CONSTRAINTS

3.01 The eastern half of the site lies within Flood Zone 3, but the caravan the subject of this application is outside the flood zone.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

4.01 Chapter 2 - Achieving sustainable development
 Chapter 6 - Building a strong competitive economy
 Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
 Chapter 15 - Conserving and enhancing the natural environment

Bearing Fruits 2013: The Swale Borough Local Plan 2017 Policies:

4.02 ST1 Delivering sustainable development in Swale
 ST3 The Swale settlement strategy
 CP3 Delivering a wide choice of high quality homes
 CP7 Conserving and enhancing the natural environment- providing for green infrastructure
 DM3 The rural economy
 DM6 Managing transport demand and impact
 DM12 Dwellings for rural workers
 DM14 General development criteria
 DM25 The separation of settlements – Important local countryside gaps
 DM26 Rural lanes
 DM27 The keeping and grazing of horses

Supplementary Planning Documents:

- 4.03 Planning and Development Guidelines No.7- The Erection of Stables and the Keeping of Horses.

5.0 LOCAL REPRESENTATIONS

- 5.01 A total of 2 responses have been received objecting to the proposal on some or all of the following grounds:-

- Adverse effect on character of local area;
- Removal of condition would further erode space between built areas of Lower Halstow and Upchurch;
- Noise and disturbance from occupants of caravan; and,
- Goats are being kept which encourages rats and vermin;

6.0 CONSULTATIONS

- 6.01 Upchurch Parish Council objects *“as there is insufficient reasons for an onsite residence.”*

- 6.02 Lower Halstow Parish Council, the neighbouring parish, objects on the following grounds:

- “1) There is no sight line on exiting the property.*
- 2) An unacceptable increase in traffic on already busy, narrow country lanes which will include horse boxes and trailers arriving and departing at unpredictable times.*
- 3) Although this site is outside of the Lower Halstow boundary, it is just on the boundary and will adversely impact on the residents by creating disturbance and noise.*
- 4) The footpaths around this site have been illegally closed.”*

- 6.03 The Environment Agency raises no objection, commenting that the scheme is covered by their standing advice which considers residential caravans to be “highly vulnerable” but only when within defined flood zones.

- 6.04 Natural England has no objection subject to the standards SAMMS considerations for all new residential development.

- 6.05 KCC Highways have no comments as the proposal falls below their protocol response threshold.

- 6.06 KCC Public Rights of Way note local footpaths, but have no objection to the proposal as it would not in itself affect their function.

- 6.07 The Council's Environmental Health Manager has no objections.

- 6.08 The Council's rural planning consultant has examined the submitted financial information and considers the proposal for a permanent dwelling on site to be justified , concluding that **(my emphasis in bold)**:

“The submitted financial data indicates that the business has been profitable each year since 2010, albeit not at a level that would provide a sufficient income for a full-time owner or manager. The accounts suggest that sales to date have been limited to the livery income, rather than the sort of breeding income originally outlined.

The submissions on the applicant’s behalf refer to difficulties in further expansion of the business without the ability to have potential occupation of the caravan for 7 nights a week.

The submission include cash flows for the business for the coming years (up to the end of 2021) which assume a very large increase in sales receipts and labour, with up to 3 full-time employees being supported.

This additional income appears to be mainly predicated on the introduction of horse breeding and a riding tuition service, however there are no detailed breakdowns or further explanations to demonstrate exactly how the assumed figures are likely to be achieved. It is difficult, therefore, to put too much reliance on the submitted projections, and the ability to expand the business to this much greater level, as matters stand.

*That said, it appears that it would not require too much further expansion to warrant the employment of at least one full-time person, and **I would agree that, in functional terms, such further expansion is likely to be hampered if some form of residential attendance, week-round, cannot be provided**, for all the reasons outlined in the submitted statement.”*

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The submission documents include a Planning Statement and Business Plan with associated accounts.

8.0 APPRAISAL

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

- The principle of the development;
- The impact on the character and visual amenity of the area;
- The effect on the amenities of neighbouring occupiers
- Highways; and,
- Ecology

Principle of Development

- 9.01 The National Planning Policy Framework (NPPF) seeks to promote the sustainable growth and expansion of all types of business in rural area and goes on to indicate that the development of isolated homes in the countryside should be avoided except in special circumstances, such as the need for a rural worker to live permanently at or near their place of work.
- 9.02 The Local Plan reflects these aims and objectives and of particular relevance is Policy DM12 which states that *‘Planning permission will be granted for new permanent, rural worker dwellings in the countryside subject to a number of criteria, inter alia:-*

- *There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times.*

9.03 The application site has a long and well established history of equine use. In 2010 planning permission was granted for a change of use from private stabling to a commercial stud and livery (SW/10/0485). The application also included the siting of a caravan on the site which was subject to the following condition:-

'Only one caravan/mobile home shall be stationed within the application site in the exact location shown on the approved plans and this caravan/mobile home shall not be used for residential purposes or overnight accommodation other than for a total of four nights in any one week, and this overnight accommodation shall be ancillary to the approved use only and restricted to employees and customers of the stud farm only.'

9.04 In February 2014 an application (Ref SW/13/1563) to vary the above condition to allow the unrestricted overnight use of the caravan by employees and customers of the stud farm was refused on the grounds that *'Insufficient evidence has been submitted to demonstrate that the dwelling can be justified on the grounds that it would support the rural economy to the extent that the harm to the rural environment would be outweighed.'*

9.05 In the current submission the applicant has now submitted a convincing business case to indicate that the stud and livery business has been hampered by the lack of a permanent overnight owner/ employee presence on the site. I would refer Members to paragraphs 2.03 and 2.04 of this report with this regard.

9.06 The Council's rural planning consultant has assessed the submission and has concurred that the successful long term functioning of the business is predicated on a week- round residential presence on the site.

9.07 Therefore, it is considered that there is no objection in principle to the variation of the condition to allow full time residential occupancy of the caravan. Notwithstanding this, it is recommended that a condition be imposed to ensure that the residential use is ancillary to the approved commercial use and that the occupancy is limited solely to the owner, employees or customers.

Impact on the Character and Visual Amenity of the Area

9.08 One of the main aims of Local Plan Policies DM3, DM12, DM14 and DM28 is to ensure that development proposals conserve or enhance the character and visual amenities of rural areas.

9.09 The existing caravan/ mobile home was granted planning permission in 2010 and has been in situ for a number of years. It is located towards the rear of the site close to the stable buildings some 160m back from the public highway. Although visible from Lower Halstow Lane, it is viewed against the backdrop of a substantial row of trees with equine paraphernalia in the foreground and therefore has limited or no detrimental impacts on the character or visual amenities of the area.

9.10 There is an extant planning condition on the site which limits the number of horses to *'no more than two mares and one stallion at any one time in association with the stud farm business and no more than two full time and two part time livery stables shall be occupied at the site at any one time in association with the livery business.'* In view of this restriction, it is considered that the proposed variation of condition 4 of

SW/10/0485, will not result in an intensification of the use of the site to an extent that would compromise the rural character of the area.

Residential Amenity

- 9.11 The nearest residential property (i.e. a mobile home) is located some 60m to the south-west of the caravan/ mobile home at Jack Russel Place. Given this separation distance it is not considered that the occupation of the mobile home on the application site on a full time basis ancillary to the commercial use of the site would have a detrimental impact on the amenities of the nearby occupiers.

Highways

- 9.12 Lower Halstow Lane is a designated Rural Lane which is used as a connecting route between Upchurch and Lower Halstow and is relatively busy. However, given that the level of commercial activity on the site is already limited by condition (see paragraph 9.10), it is not considered that the proposed variation of condition would result in a level of traffic generation above and beyond what was previously considered acceptable.

Impact on SPA and Ramsar Sites

- 9.13 I have for completeness set out a Habitat Regulations Assessment below. Since this application will result in a net increase in residential accommodation impacts to the SPA and Ramsar sites may result from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £239.61 per dwelling. The applicant has provided written confirmation that he would be willing to make a financial contribution of £239.61 to be secured by way of a unilateral undertaking.

Other Matters

- 9.14 The concerns of Upchurch Parish Council, Lower Halstow Parish Council and neighbouring occupiers with regard to the lack of evidence to justify an on site residence, traffic generation, highway safety and residential amenity have been addressed above.
- 9.15 The concerns raised with regard to the illegal closure of footpaths around the site have been noted and forwarded to KCC Public Rights of Way for further investigation. The neighbour objection with regard to noise from late night parties and problems with vermin have been noted. However, these issues fall within the remit of Environmental Health legislation rather than the Town and Country Planning Act.

10.0 CONCLUSION

- 10.01 The proposed variation of condition is acceptable in principle. It would support and enhance the rural economy without detriment to the character or visual amenities of the countryside or harm to residential amenity, highway safety and convenience. Therefore, it is recommended for approval subject to condition.

11.0 RECOMMENDATION – GRANT subject to the following condition:

1. Only one caravan/ mobile home shall be stationed within the application site, and only in the exact location shown on the approved plans. This caravan/ mobile home shall not be occupied at any time other than for residential purposes ancillary to the

approved use and restricted to the owner, employees and customers of the stud farm only.

Reason: In the interests of rural amenity and in pursuance of Policies ST3, CP7, DM3 and DM12 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

INFORMATIVES

The applicant is advised that other than condition No.4, the use of the site for commercial stud farming and livery must be fully compliant with the conditions attached to planning permission reference SW/10/0485.

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

In this instance the applicant/agent was:

- Advised of additional information required and this was submitted.
- 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').

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.

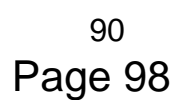
Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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/>).

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 – 6 DECEMBER 2018**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO - 18/504830/FULL		
APPLICATION PROPOSAL		
Variation of conditions 2 and 3 of planning application 15/510605/FULL to allow for speedway motorcycle racing to operate between 1st March and 31st October once per week only, on Monday to Saturday, with an additional 40 minutes on Fridays and Saturdays (between 1700 and 2110 hours), plus four Bank Holiday afternoon meetings.		
ADDRESS Central Park Stadium Church Road Sittingbourne Kent ME10 3SB		
RECOMMENDATION REFUSAL		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
The proposal would be likely to give rise to significant harm to residential amenity, by virtue of noise and disturbance.		
REASON FOR REFERRAL TO COMMITTEE		
Called in by Ward Member		
WARD Murston	PARISH/TOWN COUNCIL None	APPLICANT CearnSport Ltd AGENT PowerHaus Consultancy
DECISION DUE DATE 19/12/18		PUBLICITY EXPIRY DATE 26/10/18

Planning History

15/500862/FULL

Variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays

Approved Decision Date: 12.05.2015

This application, similar to the current application, was recommended for refusal, but approved by the Planning Committee on a temporary basis. The permission was not implemented and has now lapsed.

15/510605/FULL

Removal of condition 2 to allow permanent use of the stadium for speedway of planning permission SW/09/0314.

Approved Decision Date: 03.05.2016

The approval of this application made the, previous temporary, planning permission for the use permanent.

SW/14/0088

Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 & 22:00 hours on weekdays and bank holidays.

Refused Decision Date: 24.09.2014

This application was refused on the basis of likely harm to residential amenity as the result of the late start time.

SW/14/0087

Variation of condition (8) of SW/09/0314 to allow up to 23 races per speedway meeting, plus occasional re-runs on six days per season.

Withdrawn Decision Date: 18.06.2014

SW/09/0314

Variation of condition 5 of SW/08/0962 to allow 1 speedway race per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.

Grant of Conditional PP Decision Date: 13.10.2009

The application sought to vary condition (5) of SW/08/0962, in order to allow meetings to be held once per week only on any weekday, rather than on either a Monday, Tuesday or a Wednesday.

*The applicant submitted appeals against the refusal of SW/09/0275 and the approval (including the disputed condition restricting use to one season only) of SW/09/0314. At the appeal, the applicant produced detailed viability information, which the Inspector considered in coming to his decision to allow both appeals and grant temporary planning permission for four years use of the stadium. A copy of the appeal decision is attached as an **Appendix A** to this report.*

SW/09/0313

Variation of condition 7 of SW/08/0962 to allow warming up of speedway bikes from 1400 hours on bank holidays, rather than from 1430 hours.

Refused Decision Date: 28.08.2009

This application sought to vary condition (7) of SW/08/0962, in order to allow the warming up of speedway bikes at 2pm rather than at 2:30pm as specified in the original permission.

SW/09/0275

Variation of condition (2) of SW/08/0962 to allow a minimum of 7 seasons use for the holding of speedway meetings.

Refused Decision Date: 17.08.2009

This application sought to vary condition (2) of SW/08/0962, in order to allow a minimum of 7 seasons speedway use. The application made clear that a permanent planning permission was being sought and that 7 years would be the minimum the applicant considered would enable the use to be viable. The application was not originally accompanied by any viability information. Some information in this regard was submitted at a late stage during the consideration of the application. However – it was not considered sufficient to justify the grant of a 7 year temporary planning permission, nor the grant of a permanent planning permission.

SW/09/0274

Erection of acoustic fence around southern perimeter of stadium terraces maximum height 6.1m.

Decision Date: 11.09.2009

This application sought to amend the design of the acoustic fence approved under SW/08/0962. This application was approved. The fence as constructed does not comply with these approved details.

SW/08/0962

Part change of use of existing sports stadium to permit the holding of speedway meetings, including the installation of clinker track surface, provision of covered 'warm up' area and pits and erection of acoustic fence around part of the perimeter.

Grant of Conditional PP Decision Date: 15.01.2009

This application sought permanent planning permission for the use of the site for the holding of speedway racing. Members though resolved to grant temporary planning permission, to allow the use of the site on a trial basis only, for a period of a single season. The permission granted required the erection of an acoustic fence (Members may recall that the fence which has been constructed does not comply with the approved details), and also sets a limit on the number of races and the start and finish times for meetings, in accordance with the details and specific times submitted with the application. 17 races are permitted per meeting, meetings can take place once per week, and start and finish times are: on weekdays between 1700 & 2030 hours only, with warming up of bikes permitted from 1630, and from 1500 to 1800 hours on Bank Holiday Mondays, with warming up of bikes from 1430 hours.

1. DESCRIPTION OF SITE

- 1.1 Central Park Stadium lies within the built up area of Sittingbourne, on the fringes of the Eurolink industrial estate, and adjacent to the East Hall Farm industrial and residential development. Murston lies to the south of the site.
- 1.2 An established sport venue, Central Park Stadium is used successfully for greyhound racing and, currently, for league speedway racing. A large parking area is located to the front of the building.
- 1.3 Pit areas for the speedway bikes and riders etc are located to the north east of the site. A substantial acoustic fence has been erected along the southern boundary of the site, in order to try and prevent substantial noise and disturbance to the dwellings in the vicinity, the closest of which lies approximately 150 metres to the south.

2. PROPOSAL

- 2.1 This application seeks to vary conditions (3) and (5) of the permission granted under reference 15/510605/FULL (the planning permission for the use of the site for league speedway racing), in order to allow racing to take place once per week on any day except Sundays, and to allow a later finish time on Fridays and Saturdays.
- 2.2 The current permission allows for racing on once per week only, on Mondays to Fridays (and Bank Holiday Mondays). The latest finish permitted by condition (5) is 8:30pm, and on Bank Holidays, 6.00pm
- 2.3 The application is accompanied by a supporting statement, extracts from which is as follows:

"It is therefore considered that the Council's policies (ST 1, ST5 and CP 5) support and encourage economic development, tourism and sporting activities in appropriate locations and in terms of speedway there can only be one appropriate location in Sittingbourne, which is the Central Park Stadium. The NPPF also supports sustainable economic uses in appropriate locations. Permanent use of the stadium for speedway is a highly sustainable use of this important community facility and is appropriate and in accord with the Boroughs policies.

The application to vary the conditions of the existing consent arises from a need for Central Park Stadium to continue to represent the commercial requirements of Speedway Racing and provide flexibility to maximise the Speedway Racing season for competitors and spectators alike. The use is already established, the location is appropriate, acoustic fencing protects residential amenity and the hours of use continue to respect the residential amenity requirements of local residents, including the already approved later Friday night finish, as now required for Saturday's. The application therefore represents a sustainable form of development with no material impacts on other interests."

3. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF)

3.1 The National Planning Policy Framework (NPPF) sets out the following:

Paragraph 92 - *To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

Paragraph 170 – *Planning policies and decisions should contribute to and enhance the natural and local environment by.... 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;*

Paragraph 180 - *Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should...mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*

National Planning Practice Guidance (NPPG)

3.2 The following are extracts from the NPPG on Noise:

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes

noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

Perception Examples of Outcome		Increasing Effect Level	Action
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable & not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.	No Observed Adverse Effect Lowest Observed Adverse Effect Level	No specific measures required
Noticeable & intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed Adverse Effect Significant Observed Adverse Effect Level	Mitigate and reduce to a minimum

Perception Examples of Outcome		Increasing Effect Level	Action
<i>Noticeable & Disruptive</i>	<i>The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.</i>	<i>Significant Observed Adverse Effect</i>	<i>Avoid</i>
<i>Noticeable and very Disruptive</i>	<i>Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, eg regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, eg auditory and non-auditory</i>	<i>Unacceptable Adverse Effect</i>	<i>Prevent</i>

The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.

These factors include:

- the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;*
- the spectral content of the noise (ie whether or not the noise contains particular high or low frequency content) and the general character of the noise (ie whether or not the noise contains particular tonal characteristics or other particular features). The local topology and topography should also be taken into account along with the existing and, where appropriate, the planned character of the area.*

How can the adverse effects of noise be mitigated?

This will depend on the type of development being considered and the character of the proposed location. In general, for noise making developments, there are four broad types of mitigation:

- engineering: reducing the noise generated at source and/or containing the noise generated;*
- layout: where possible, optimising the distance between the source and noise-sensitive receptors and/or incorporating good design to minimise noise*

transmission through the use of screening by natural or purpose built barriers, or other buildings;

- *using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;*
- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.*

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

- 3.3 Policy ST1 states that development proposals will “promote healthy communities through...protecting, managing, providing and enhancing open spaces and facilities for sport and recreation”
- 3.4 Policy CP1 states that development proposals will “Secure additional non-food retail/leisure growth, taking account of committed schemes and existing centres...”, “...consolidate or widen the Borough’s tourism potential”.
- 3.5 Policy CP5 states that development proposals will “safeguard or provide as appropriate, open space, sport and recreation in accordance with Policy DM17...”
- 3.6 Policy DM14 requires, amongst other things, development proposals to “Cause no significant harm to amenity and other sensitive uses or areas”.
- 3.7 Policy DM17, referred to above, relates principally to the provision of open space and recreation facilities, rather than providing, enhancing or safeguarding spectator sports facilities. Nonetheless, the general thrust of the policy emphasises the importance of sports and leisure facilities within the Borough.

4. LOCAL REPRESENTATIONS

- 4.1 59 representations in support of the proposals have been received. It is notable that many of these representations are from outside Sittingbourne and, indeed, outside Swale. The contents are summarised as follows:
- The use supports the local community;
 - A later time and at weekends would allow children to attend;
 - Children do not generally go to bed before 9pm;
 - The track may close if the application is not approved;
 - The benefits outweigh the harm;
 - Will enable team to operate at a higher level and in a higher league;
 - Disturbance from the use is not excessive;
 - 6:30pm starts are a dreadful inconvenience and put off potential team members;
 - The noise from a nearby bus depot is comparable to the noise generated here;
 - The sound in nearby dwellings is likely to be comparable to that generated by a fridge;
 - The use contributes to the local economy;
 - Contributes to tourism;
 - Visitors to the site will spend money in the town centre;
 - Later time allows more spectators to attend;
 - Any noise lasts a total of 15 minutes per meeting;
 - A small minority would be inconvenienced by the noise;
 - Saturday racing is more likely to encourage visitors to the town in the run up to meetings.
- 4.2 27 representations objecting to the proposals have been received from local residents, summarised as follows:

- The noise generated is unbearable;
- Writers are unable to use their gardens during meetings;
- Local residents have to shut windows and doors;
- One writer has to wear noise cancelling headphones
- The noise is unbearable in the summer months;
- The acoustic fence does not work;
- Would not be reasonable to families with young children or people who get up early for work;
- Writers have to turn their TV up to drown out the noise;
- Causes air and road pollution;
- The noise generated is not just from races but from warming up the bikes;
- Wind direction makes a significant distance;
- The letters of support are from outside the area;
- The Council should put the wellbeing of locals first;
- Would prevent the use of the garden at weekends for entertaining;
- Will make use less predictable for residents;
- Young children still have early bedtimes;
- Will not benefit the local community;
- The current use ruins Mondays and Bank Holiday Mondays;
- The noise is intrusive;
- Will have a traffic impact;
- The benefits to the local economy are exaggerated;
- Will impact on wildlife;
- The Council has a duty of care to local residents;
- One writer has to leave the house if the noise is particularly bad;
- The conditions imposed on the planning permission are needed to limit the impact of the use on neighbours.

5. CONSULTATIONS

5.1 The Council's Environmental Health Manager comments as follows:

Speedway has been operating at the site for several years now and it continues to be an inherently noisy sport.

Given the size of the residential community that is potentially affected by the noise, complaints received by the Council's Environmental Protection Team each year are small and confined to a handful of residential households. However, irrespective of the number of complaints received, Officers have previously reported that sound levels measured in homes in Oak Road, Sittingbourne during the 2013 and 2014 racing seasons, confirmed that noise from speedway bikes was audible and intrusive both in gardens and at times inside homes even with windows closed.

Understandably the actual noise experienced by nearby residents is not always at the same intrusive level and is to a great extent influenced by weather conditions and specifically temperature, humidity, wind speed and direction.

However, I think it likely that by allowing the additional time applied for, the local community may be less tolerant to future noise from speedway when exposed to it after 9pm on a Friday or Saturday evening.

As far as I am aware the temporary planning consent previously granted for a later Friday finish time (Ref: 15/50862/FUL) has not been implemented. Therefore those residents potentially affected by the extended time have not had the opportunity to experience the impact on their amenity nor have the Council had the opportunity to assess it.

In my view if permission is granted, it should be for a temporary period to allow an assessment to be made of any increase in adverse noise impact on the immediate residential community and whether the additional time provokes an increase in those numbers of households complaining.

5.2 KCC Highways and Transportation do not wish to comment on the proposal.

6. BACKGROUND PAPERS AND PLANS

6.1 Application papers and correspondence for applications SW/08/0962, SW/09/0274, 275, 313 & 314, SW/14/0088, 15/500862/FULL, 15/504830/FULL, 15/510605/FULL and 18/504830/FULL

7. APPRAISAL

7.1 I note the objections raised in respect of air pollution and traffic. Members will note that Environmental Health Manager does not object on the basis of air pollution. Notwithstanding this, air pollution and highway matters would not be worsened by the use starting and finishing at a later time.

7.2 For the sake of clarity, whilst Swale Borough Council owns the Central Park Stadium site, Members cannot afford this any weight whatsoever in considering this application. The proposed extension to the hours of use of the stadium should be considered on its own merits, having regard to planning policy and relevant material considerations.

7.3 The key issues to be considered here are the implications of the extension of hours of use in respect of residential amenity, and the potential benefits to be derived from approving this scheme.

Residential Amenity

7.4 Whilst the application seeks to increase the finish time to 2130 hours on Fridays, and to allow the use to take place on Saturdays to the same time, (with the hours remaining the same for the remainder of the week), such a use would still be restricted as to the number of races which could take place – up to a maximum of 17 per meeting, and one meeting only per week. The agent has indicated that under normal circumstances, racing would finish at 2110 hours, with the remaining 20 minutes being used only in the event that races need to be re-run during the evening. Members are entitled to give this some weight. I will though consider the proposal on the basis that it is likely that racing will continue until after 2110 hours.

7.5 The comments of the Environmental Health Manager make clear that the use of the site within the current time limit does cause harm to residential amenity. In addition, Members will note from the representations received raising objection to the proposal that local residents consider the proposal causes significant harm to their residential amenity (there are a number of representations from local residents which set out that the use of the site does not give rise to noise and disturbance, but these are outweighed by local residents who are disturbed by the level of noise, and in any case they are contradicted by the evidence collected by and referred to above by the Environmental Health Manager). Having regard to the criteria set out in the policy section above, in my view the use of the site up to 8:30pm is likely to give rise to, as a minimum, noticeable and intrusive noise. The representations received from local residents, with specific regard to their behaviour during meetings at present, together with the comments of the Environmental Health Manager set out that the noise generated is sufficient to lead to a change in the behaviour of local residents – the representations suggest that residents turn up the volume of their television, speak more loudly, have to close windows for

some of the time because of the noise and use their gardens less if at all whilst the speedway takes place. Furthermore, the type of noise and its intermittent nature exacerbates the impact it has.

- 7.6 Government planning guidance in such circumstances is clear that such noise should be mitigated against and reduced to a minimum. In my view, it is arguable that the restrictions in place relating to hours of use, together with the other restrictions relating to days of the week and the number of races per meeting, go some way to mitigating against this noise.
- 7.7 The key issue for Members to grapple with here is whether such a finish time would cause significant harm to residential amenity and whether this is outweighed by any benefits which it might give rise to.
- 7.8 Members will note that the Environmental Health Manager clearly sets out that in his opinion, the proposal would give rise to noticeable and harmful impacts to residential amenity. These comments are supported by the views of nearby local residents, as set out above.
- 7.9 The appeal decision which granted permission for the temporary use of the site is attached as Appendix A to this report. This has now been made permanent, but the restrictive conditions remain in place. As I have previously advised Members, the restriction on times of use was clearly uppermost in the Inspector's mind at the appeal, where he set out at paragraph 19, as part of his considerations in favour of the grant of permission, that "It is also the case that each race would be short in duration, that there would only be a limited number of meetings during the year and that the timing of the meetings, **particularly the finish times for the evening meetings, would be such as to minimise disturbance at what are generally accepted as the most sensitive times of the day**" [my emphasis.]
- 7.10 The Inspector thus gave some weight to the reduction in potential disturbance from noise due to the comparatively early start and finish times, when considering whether to grant an extended trial period here.
- 7.11 Members should be clear that the approved start and finish times for racing at the site are those suggested by the applicant under his original application. Furthermore, his case at the appeal, based on the viability of the use over time, was made and accepted by the Inspector on the basis of the use being carried out within the specified hours. No appeal was made against these hours of use, and the applicant does not seek to argue that the use is not viable under the present start and finish times.
- 7.12 The applicant has not argued that the refusal of permission to hold events later into the evening would affect the viability of the use at the site, indeed the supporting statement submitted with the current application refers to speedway at the site being "a successful addition to the commercial uses of the stadium" and goes on to state that "Speedway racing is a popular event at Central Park Stadium and receives considerable support from the local community" (although this latter statement is not necessarily borne out in the representations received from local residents). Although it does go on to state that "the application to vary the conditions of the existing consent arises from a need for Central Park Stadium to continue to represent the commercial requirements of Speedway Racing" it is unclear what this means. Certainly, no detailed information relating to viability nor any detailed argument on this basis have been submitted with the application.
- 7.13 It is evident to me from the information already gathered during the use of the site to date, that the speedway meetings cause some harm to residential amenity and that there is certainly enough empirical evidence to suggest that it is extremely likely that if

the use were to begin later and extend later into the evening that the impact on the living conditions of local residents would be more pronounced, bearing in mind the late time, the reduction in background noise levels, and the fact that some people, and in particular children, will look to go to bed at that time.

- 7.14 The previous application sought to argue that a later finish time on a Friday would not impact on local residents as severely as during the week, as there is no school the following day. I note that many of the supportive representations make the same argument. Whilst I understand the rationale behind this statement, it is in my view unrealistic to consider that there would be no sleep disturbance to children on the basis that they do not attend school on a Saturday or Sunday.
- 7.15 Equally, the issue here is not simply with regards sleep disturbance – the definition of “noticeable and disruptive” noise impacts, as set out above, include sleep disturbance resulting in difficulty getting to sleep and staying asleep, together with a material change in behaviour, such as keeping windows shut most of the time because of the noise and avoiding certain activities during periods of intrusion.
- 7.16 Finally, racing does not currently take place on Saturdays, or Sundays. It could take place on any other day of the week. The effect of this is that it gives local residents some certainty over when the use will definitely *not* take place, and the ability to use their dwellings and gardens at the weekend without the possibility of intrusive and harmful noise.
- 7.17 On the basis of the comments of the Environmental Health manager, and as supported by the majority of representations from residents in the immediate vicinity, I conclude on the issue of noise and disturbance that the proposed extension of the hours of use would give rise to significant and intrusive noise at a quiet period of Friday and Saturday evenings, which would be very likely to seriously harm the living conditions of residents nearby.

Benefits of the proposal

- 7.18 The previous application sought to argue that it is an “economic imperative” that the site attracts an Elite Speedway team and that this could only be done by extending the potential hours of use. However – it was not made clear what the economic imperative amounted to, nor whether the viability of the use was in question. It is notable that, firstly, the temporary planning permission granted by this Planning Committee for the later use into the evenings on Fridays was not implemented. Secondly, as I set out above, a case is not made under this application that the viability of the site and the use is at risk.
- 7.19 Equally, as with the previous application, it is not made explicit what benefits to the local economy would flow from this proposal. Nonetheless it is possible that the increase in hours of use would provide for some limited additional employment at the site, and that the later start may encourage some fans to go to Sittingbourne town centre either before (although this seems unlikely bearing in mind one of the arguments by the agent in favour of the proposal, namely that it is difficult for spectators to arrive at the site in a timely fashion given its current start time) or after racing has finished. This will provide some uplift to the local economy such that Members may have regard to it in reaching their decision on this application. Using the site on a Saturday would in my view be more likely to benefit the local economy than a later start on a Friday, because spectators would be more likely to visit the town centre. That said, this benefit would be likely to occur regardless of the start and finish time on a Saturday.
- 7.20 There are clear benefits to the wider community both within and beyond Swale in the provision of a well used facility such as this. In general terms, support should be given in order to maximise the potential for recreational facilities and spectator sports to reach as

wide an audience as possible. In particular, I have some sympathy with the notion that early start times in particular do limit the potential for spectators to make their way to the site. Members are entitled to give this matter some weight.

Balancing Exercise

- 7.21 In balancing the harm against the benefits, Members will need to consider whether the significant likely harm identified by the Environmental Health Manager, and as expressed in anecdotal evidence from local residents, is outweighed by the wider benefits of approving an extension of time, namely making the use of the stadium for speedway racing more accessible to spectators.
- 7.22 I give weight to the representations received in support of this application, and to their number. The wide geographical spread of writers is indicative of a spectator sport which reaches a wide audience, beyond Swale and in some cases, Kent. In particular, the notion that a later start and correspondingly later finish time, and use on a Saturday, would attract more spectators is something to which Members should afford some weight. Members should also be clear that the speedway racing takes place one day per week only, that the number of races is limited, that the warm up times are limited and that racing itself takes place over a comparatively short time period (generally two hours per meeting).
- 7.23 The agent has indicated that her client would be willing to accept a condition requiring a finish time of 2110 hours, with a further 20 minutes being available for delays caused by crashes and re-runs of races.
- 7.24 It is open to Members to consider an alternative, earlier, finish time to that proposed, and/or to limit the number of occasions that a finish of 2110 or 2130 hours could take place over a season, and/or to limit how many seasons late finishes can take place, and to approve the use on a Friday evening but not on a Saturday. These alternatives might be considered to mitigate against the harm identified by the Environmental Health Officers in their comments above.
- 7.25 The Environmental Health Manager advocates, as a maximum, the grant of a further temporary planning permission for later uses. However, on the basis of the remainder of his comments, I would not advocate taking such an approach. In my view, the arguments in favour of approving a later finish time and use on a Saturday here are not persuasive. I have no doubt that the current use is well supported and would be better supported were a later finish time to be approved. Nonetheless, it remains the case that an extension to the finish time at the site would be significantly detrimental to the amenities of nearby residents, by virtue of noise and disturbance. I conclude that the justification in favour of approval is limited.
- 7.26 In balancing the likely harm against the likely benefits, I can only conclude that the benefits of this scheme would not be so significant as to outweigh the very significant harm which would certainly arise to the living conditions of nearby residents.
- 7.27 Members are not of course bound to accept the comments of the Environmental Health Manager and are entitled to take a different decision. However – to do so here may not in my view be appropriate without having good grounds to do so contrary to the evidence presented by the Environmental Health Manager and summarised in their comments above.

8. CONCLUSION

- 8.1 I conclude that the proposal would give rise to significant and intrusive noise and disturbance to local residents and that the benefits of approving the scheme would be outweighed by the harm caused. I therefore recommend that the application is refused.

9. RECOMMENDATION

REFUSE for the following reason:

- 1) Whilst consideration has been given to the benefits the use brings to the town and the wider Borough, and the benefits which would arise as the result of the proposal, the use of the site for the holding of league and cup speedway meetings beyond the current finish time of 8:30pm would give rise to demonstrable and substantial harm to the living conditions of nearby residents by virtue of noise and disturbance late into the evening. The proposal is contrary to Policy DM14 of the Swale Borough Local Plan 2017 and to the provisions of the National Planning Policy Framework and National Planning Policy Guidance in relation to Noise.

The 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.

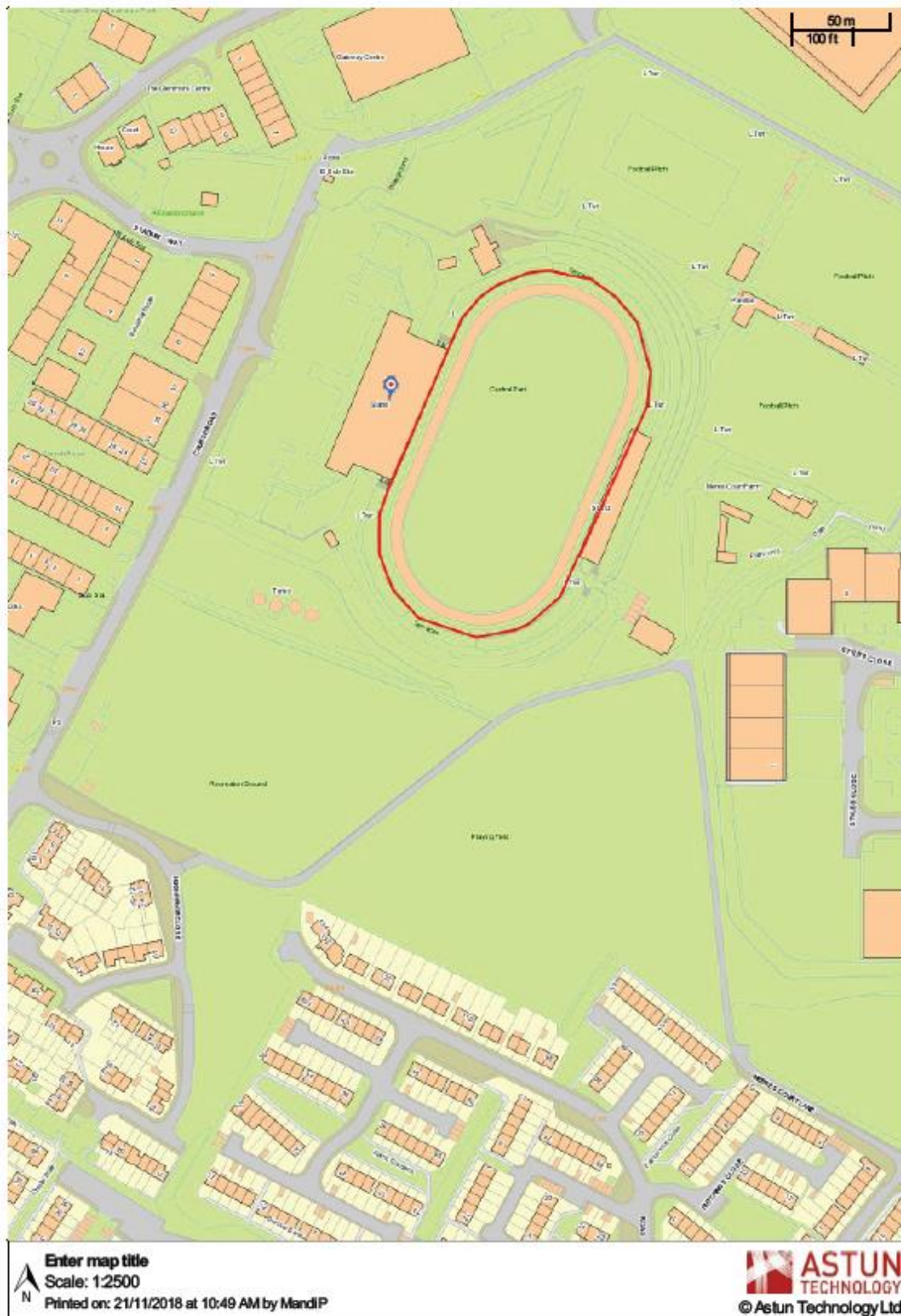
In this instance:

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


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

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

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



APPENDIX 1



Appeal Decisions

Inquiry held on 16 February 2010 and
27-29 April 2010

Site visits made on 16 February 2010
and 29 April 2010

by L Rodgers BEng CEng MICE MBA

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
25 May 2010

Appeal A Ref: APP/V2255/A/09/2114712**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent
ME10 3SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application Ref SW/09/0275, dated 3 April 2009, was refused by notice dated 17 August 2009.
- The application sought planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings, including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter without complying with a condition attached to planning permission Ref SW/08/0962, dated 16 January 2009.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31st October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

Appeal B Ref: APP/V2255/A/09/2115416**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent
ME10 3SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application dated 9 April 2009, was approved on 13 October 2009 and planning permission was granted subject to conditions.
- The development permitted is a variation of condition (5) of SW/08/0962 to allow speedway motorcycle racing to take place once per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31st October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

SWALE BOROUGH COUNCIL

26 MAY 2010

PLANNING SERVICES

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

Application for costs

1. At the Inquiry an application for costs was made in respect of both appeals by Cearnspart Ltd against Swale Borough Council. This application is the subject of a separate Decision letter.

Decisions

2. I allow Appeal A and grant planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB in accordance with the application Ref SW/09/0275, dated 3 April 2009, without compliance with condition numbers 2, 4 and 5 previously imposed on planning permission Ref SW/08/0962, dated 16 January 2009 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
 - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.
 - (5) Speedway motorcycle racing shall take place only once per week between Mondays and Fridays inclusive between 1st March and 31st October plus four Bank Holiday Monday afternoon meetings and the dates and times of races shall be provided on the stadium website, published in the local press, made available at the application site and provided in writing to the local planning authority, all at least six weeks prior to their taking place.
3. I allow Appeal B, and vary the planning permission Ref SW/09/0314 for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB granted on 13 October 2009 by Swale Borough Council, deleting conditions 2 & 4 and substituting for them the following conditions:
 - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
 - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

Main issue

4. Although there are two appeals, both are in respect of a common condition. I therefore consider there to be only one main issue; whether the condition in dispute is necessary in the interests of the living conditions of local residents and meets the other tests of Circular 11/95.

Reasons

The necessity of the condition

5. The Appellant accepted at the Inquiry that speedway is an inherently noisy sport. It was also accepted that the residential development near to the stadium is noise sensitive and that the noise climate at the nearest properties is likely to change as a result of the proposed use.
6. According to the Statement of Common Ground (SOCG) on noise, the nearest noise sensitive residential properties are those to the south of the stadium at Hugh Price Close and Oak Road and the currently uninhabited and dilapidated property at Mere Court to the east. With the acoustic barrier in place, the Appellant predicts a speedway noise level of some 57dB $L_{Aeq,1h}$ at Mere Court and around 52dB $L_{Aeq,1h}$ at Hugh Price Close with maximum noise levels no greater than 75dB $L_{Amax,fast}$. The Appellant suggests that, having reference to the British Speedway Promoters' Association (BSPA) adopted criterion, these noise levels are unlikely to give rise to justifiable complaints from local residents.
7. In predicting the likely noise levels above, the calculations not only assumed that the noise barrier would be in place but that the noise source would be in the centre of the stadium. Initially, the Council queried the validity of assuming that the noise source would be in the centre of the stadium, pointing out that as the bikes moved further away from the barrier, it would become less effective. However, following further work during the course of the inquiry (Document 18), the Council accepted that the increased attenuation over distance would compensate for any reduction in the effectiveness of the barrier. The reverse would be true in that the barrier would be more effective when the bikes were at their closest. Consequently, it was agreed by the Council that there would be similar noise levels at Hugh Price Close and Oak Road irrespective of the bike's position on the track. Nevertheless, the Council remains concerned that the submitted evidence is insufficient to demonstrate that the predicted noise and disturbance would be at an acceptable level.
8. I shall turn first to the effect on the properties at Hugh Price Close and Oak Road which, based on the submitted evidence, would be similar. The ambient evening noise levels at Hugh Price Close were measured at around 42-45dB L_{A90} , not untypical for a suburban area. I found on my visits that the area was generally quiet. The predicted speedway noise level would be some 7-10 dB above the ambient noise levels and, if one were to apply a BS 4142: 1997 (Method for rating industrial noise affecting mixed residential and industrial areas) type methodology, would be likely to lead to some complaints. This would be particularly so if a 5 dB correction was to be applied to account for the intermittent nature of the noise.

SWALE BOROUGH COUNCIL

3

26 MAY 2019

PLANNING SERVICES

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

9. However, the Appellant argues that experience elsewhere, reflected in the 2003 report commissioned by the BSPA, *'Preliminary Assessment of Environmental Noise from Speedway in the UK'*, suggests that an energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable. The Appellant also claims further support from the *Code of Practice on Environmental Noise Control at Concerts* (The Noise Council 1995). This, it is pointed out, includes guidance stating that the Music Noise Level should not exceed the background noise level by more than 15dB(A) over a 15 minute period. Whilst the Appellant acknowledges that it would be strictly incorrect to apply criteria for music noise to speedway noise, it is nevertheless suggested that an excess of greater than 10 dB(A) would be acceptable for a short-term, occasional, noisy event.
10. I find none of these arguments conclusive. The Council's view is that BS 4142 does not sit comfortably with the analysis of speedway noise and I agree that looking at an $L_{Aeq,1h}$ figure would not be representative of the characteristics of speedway where parcels of high activity are followed by relative lulls. A BS4142 type analysis may therefore underestimate the potential for annoyance and it is possible that justified complaints could arise at lower excess noise levels than envisaged by BS 4142. However, and conversely, BS 4142 is an accepted method of assessing the noise from fixed plant where any potential annoyance may extend over a much longer period than would be the case with speedway. I therefore consider it highly questionable as to whether BS 4142 can be directly applied to speedway and using a BS 4142 type of analysis has the potential to underestimate, or indeed overestimate, any harm.
11. Turning to the BSPA report, this has the advantage that it relates directly to speedway. However, it has never been turned into a code of practice and has therefore not undergone the scrutiny normally associated with that process. It remains a private report commissioned by the Promoters' Association and for these reasons can, in my view, attract no more than moderate weight. In any event, whilst the report shows that, at certain stadia, levels of speedway noise greater than 17 dB(A) over the background noise have not attracted complaints specific to bike noise, it also shows that at other stadia, lower levels of excess noise have resulted in a range of complaints. The conclusion of the report that an "energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable" seems, on this basis, open to question.
12. In respect of the guidelines in the *Code of Practice on Environmental Noise Control at Concerts*, these are concerned with far fewer events than would be likely here. Although there is some ambiguity about the number of speedway events likely to take place at Central Park Stadium in any one season, the Council's analysis of the potential number of race meetings shows that, within the framework prescribed by other conditions on the existing permissions, up to 39 meetings could be held during 2010. This far exceeds the 4-12 concert days per calendar year per venue referred to in the guidelines. However, compared to the noise from speedway, the noise associated with concerts is likely to be more sustained throughout the course of the event. It would in any

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

case have different characteristics which in my view would render direct comparisons inappropriate.

13. I have also been referred to other guidance on noise matters including Minerals Planning Guidance 11: The control of noise at surface mineral workings (MPG 11). This says that, other than in certain specified circumstances (which may result in lower, or higher, limits) the daytime nominal limit at noise-sensitive properties used as dwellings should normally be 55 dB L_{Aeq,1h} (free field) where 1 h means any of the one hour periods during the defined working day. However, whilst the noise levels at Hugh Price Close and Oak Road would come within the limit, the permitted hours of speedway operation would in part fall outside the normal definition of 'daytime' and again the noise characteristics in terms of duration and pitch are likely to be significantly different between a speedway and mineral workings.
14. Although my attention was also drawn to the World Health Organisation (WHO) guidelines, the Council and Appellant agreed that whilst the noise from speedway would not increase the existing 16 hour daytime noise level by more than 1 dB(A), neither party were content with the inclusion of intermittent noise within a WHO type assessment.
15. Notwithstanding the difficulties in applying existing guidance, the Appellant argues that, based on the L_{Aeq,1h} and L_{Amax,fast} analysis, the noise levels would be consistent with the existing levels in the area and would be less than in other places where speedway has been successfully introduced. However, in comparing the predicted and existing noise levels, the analysis does not specifically account for the nature of the noise, and particularly the fact that the higher levels of noise would be sustained over the duration of a race and would not simply be very short, discrete events.
16. For these reasons I consider that it is not possible to establish with any reasonable degree of certainty whether or not there would be material harm to the living conditions of local residents in Hugh Price Close and Oak Road. The fact that the BSPA report shows that complaints have arisen at a variety of noise levels suggests that much is dependent on the particular local circumstances. As was pointed out at the inquiry, it is, for instance, difficult to accurately model the effect of the range of reflective surfaces around the stadium.
17. In respect of the property at Mere Court, if one were to assume the background noise levels were similar to those at Hugh Price Close, the predicted speedway noise level of some 57dB L_{Aeq,1h} would, even adopting the conclusion of the BSPA report, be approaching the upper limit of acceptability and would be more likely to result in material harm. However, I am conscious that the property is in a dilapidated state and whilst I accept the Council's point that it could potentially be made available for occupation, I was given no substantive evidence to show that it would be restored to residential use. In these circumstances I consider that the possibility of harm to any potential future residents of Mere Court should carry only limited weight.
18. Although I accept that the proposed use could be detrimental to local residents, the Appellant points out that the speedway noise levels arising at Hugh Price Close would be significantly quieter than if a neighbour, even a few houses

SWALE BOROUGH COUNCIL

26 MAY 2020

PLANNING SERVICES

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

distant, were mowing a lawn with a powered lawnmower. The introduction of new silencers is likely to further reduce the predicted noise levels and, despite the Council's concerns as to whether use of the new silencers could be controlled, I note that a licensed speedway promoter is not given permission to stage speedway racing until he has signed a contract to abide by the Speedway Control Bureau (SCB) rules and regulations. Amongst other matters, these regulate the use of silencers. In these circumstances, and despite the limited testing to date, I consider it reasonable to have some regard to the benefits of the new silencers. It is also the case that each race would be short in duration, that there would be only a limited number of meetings during the year and that the timing of the meetings, particularly the finish times for the evening meetings, would be such as to minimise disturbance at what are generally accepted as the most sensitive times of the day.

19. According to the Appellant, the introduction of speedway would also help to offset the downturn in revenue from greyhound racing and would help to secure the future of the stadium. It was also said that the development would result in a contribution to the local economy. Whilst these assertions were not supported by substantive evidence, it nevertheless seems to me likely that there would be some benefits to the community.
20. However, notwithstanding any possible benefits, given that I have found that the proposed racing could be detrimental to local residents there may also be conflict with the Swale Borough Local Plan, particularly Policies E1 and E2. In these circumstances an unrestricted permission would not be appropriate. However, it is not certain that residents would suffer material harm. Circular 11/95 says that "where an application is made for a permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run".
21. In this case, the number of years of racing could be controlled by condition. However, Circular 11/95 makes it clear that any such temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and a trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or refusal is the right answer. I deal with these matters below.

Whether or not the disputed condition is reasonable and meets the other tests of Circular 11/95

22. According to the Appellant, the capital expenditure required to prepare the stadium for speedway racing would be of the order of £250,000. Although the Council questioned the make up of the figure, the Council also noted that the capital costs of recent similar projects at other stadia were comparable or slightly higher. Notwithstanding the Council's concerns it therefore seems reasonable to take a figure of £250,000 as the likely capital expenditure.
23. The forecast profit and loss account submitted by the Appellant suggests that payback would occur early in the fifth year of operation. This payback period was also questioned by the Council and in particular the inclusion of a non-cash item of £25,000 per annum for depreciation. The Council also queried other

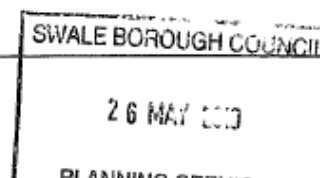
APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

matters in the projection such as the assumed number of meetings (25), the lack of other income opportunities and the lack of any sponsorship income. However, even if all the Council's suggested adjustments were to be adopted, payback is shown as occurring in year two.

24. Circular 11/95 says at Paragraph 111 that a temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and Paragraph 35 says that a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. Although the Circular does not require any permission to be long enough to pay back the investment, and any financial projections are likely to be subject to variation and uncertainty, it seems to me that the payback period is one indicator of what may be an appropriate length for any temporary permission.
25. In this case, I consider that a condition which limits racing to one season, when even a highly optimistic scenario shows payback would not occur until year two, effectively nullifies the benefit of the permission. I am also conscious that, because of its forward planning cycles, the BSPA view is that permission being granted for a single season means in reality that the stadium would never operate. Although I find no conflicts with the other tests of Circular 11/95, I therefore find the disputed conditions unreasonable.
26. Although the Appellant's figures show that payback would occur in year five I note that over 90% of the capital investment would be paid back in the first four seasons. However, whilst I agree with the Council that it would not be reasonable to include depreciation when considering the length of a temporary permission, it would nevertheless be very marginal to suggest that payback would occur in year three. Although the Council's view was that there were other income opportunities that would help in boosting profitability, the Appellant considered that it would be unreasonable to include these in the projections. As some would affect the intended offer and some would be subject to considerable uncertainty, I accept the Appellant's view.
27. Although the Appellant has made it clear that he is seeking unlimited permissions, or minima of seven years in order to justify the investment, it is my opinion that permissions allowing racing for four years would be reasonable having regard to the capital expenditure involved. The Appellant and Council both accepted that, if I determined that temporary permissions were appropriate, their duration would be a matter for my judgement based on the facts before me.
28. Notwithstanding that a four year permission would be reasonable having regard to the capital expenditure involved, there remains the question of whether a four year permission would be reasonable having regard to the potentially detrimental effect on local residents. Planning Policy Guidance: Planning and Noise (PPG24) says that, in considering noise from recreational and sporting activities, the local planning authority will have to take account of how frequently the noise will be generated and how disturbing it will be, and balance the enjoyment of the participants against nuisance to other people.
29. Despite the opposition of many local residents, a significant number of letters have been received in support of the proposal and there appears to be considerable enthusiasm for the introduction of speedway at Central Park

7



APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

Stadium. I have already established that the frequency and duration of noisy events would be controlled by other conditions and that the projected noise levels would be further limited by the new silencers. Taking account of all these factors it is my opinion that limiting racing to four years would be reasonable having regard to the potentially detrimental effect on local residents and the enjoyment of the participants. Four years would also be long enough to determine whether a permanent permission or refusal is the right answer.

Other matters

30. A number of local residents have raised other concerns including the use of the proposed track for practice and junior meetings, the commercial viability of the operation and the sensitivity of the financial information. However, other conditions would restrict the number of times that motor cycle racing can take place and prevent use of the track for speedway practice and whilst I have had regard to the sensitivities inherent in the financial projections, the commercial viability of the proposal is largely a matter for the Appellant.
31. In respect of the unease expressed by third parties over the potential for congestion and additional parking on local roads, the Council has not objected on these grounds and as greyhound racing already attracts similar size crowds to the stadium, I see no reason to take a different stance.

Conditions

32. I have established that, if I were to allow the appeals, conditions limiting the number of years over which racing may take place would be necessary. In respect of Appeal A, I would also need to refer back to the conditions imposed on planning permission Ref SW/08/0962 but, for consistency with other permissions subsequently granted by the Council, I would also need to impose new conditions 4 and 5. Similarly, in respect of Appeal B, a new condition 4 would be required. This approach was agreed by the main parties.

Conclusion

33. I have found that the disputed conditions are unreasonable. However, I have also found that the effect of the proposed racing on the living conditions of local residents is uncertain and potentially detrimental. Taking account of these matters I have determined that conditions limiting the racing to four years would be reasonable in all respects. Therefore, and having considered all other matters before me, including the sustainability of the development, I conclude that both Appeal A and Appeal B should succeed but that the resultant permissions should be subject to new conditions limiting racing to no more than four years.

Lloyd Rodgers

Inspector

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Stoker of Counsel	Instructed by Ms Blades-Chase, Head of Legal, Swale/Tonbridge/Maidstone Borough Councils
He called	
Mr D N Ledger FCIEH, MRSPH	Environmental Protection Manager, Swale Borough Council
Mr K Godden MISPAL	Director, pmp genesis Ltd
Mr R T Bailey MRTPI	Area Planning Officer, Swale Borough Council

FOR THE APPELLANT:

Mr S Randle of Counsel	Instructed by Robinson Escott Planning
He called	
Mr RJC Cearn	Cearnspart Ltd
Mr A E Mole	President, British Speedway Promoters Association
Mr N Hill C Eng, MIOA, MIMechE	Hill Engineering Consultants Ltd
Mr F Robinson FRTPI, CMILT	Robinson Escott Planning

INTERESTED PERSONS:

Cllr M Henderson	Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.
Ms. E Walker	Local resident
Cllr E Lowe	Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.
Mr B Bibby	On behalf of a local resident
Mr G Marriott	Local resident
Mr RA Swade	Local resident
Cllr D Banks	Ward councillor and local resident

SWALE BOROUGH COUNCIL

26 MAY 2020

PLANNING SERVICES

APPENDIX 1

Appeal Decisions APP/V2255/A/09/2114712, APP/V2255/A/09/2115416

DOCUMENTS HANDED IN AT THE INQUIRY

- 1 List of persons attending the inquiry on behalf of the Appellant. Submitted by Mr Robinson.
- 2 Bundle of letters. Submitted by Mr Robinson.
- 3 Letter from JP Crook and Co. dated 9.2.10. Submitted by Mr Robinson.
- 4 BPSA letter plus attachments. Submitted by Mr Robinson.
- 5 Supplementary noise proof of Nicholas Hill. Submitted by Mr Robinson.
- 6 Bundle of letters. Submitted by Mr Stoker.
- 7 Response to Appellant's evidence from Pmpgenesis Ltd. Submitted by Mr Stoker.
- 8 The 2009 Speedway Regulations (SCB). Submitted by Mr Stoker.
- 9 BS 4142: 1997. Submitted by Mr Stoker
- 10 Statement of Common Ground (Noise).
- 11 Acoustic evidence of Mr Bibby
- 12 Letter from Cllr Manuela Tomes
- 13 Appellant's opening statement. Submitted by Mr Randle.
- 14 Environmental Noise Assessment June 2000. Submitted by Mr Stoker.
- 15 The 2010 Speedway Regulations (SCB). Submitted by Mr Randle.
- 16 Copy of Decision Notice from Birmingham City Council in respect of Application Number N/04323/08/FUL (Perry Barr Stadium). Submitted by Mr Stoker.
- 17 Letters in respect of the introduction of new homologated silencers (R&D Aggregates/ACU). Submitted by Mr Randle.
- 18 Calculation sheet of N Hill in respect of attenuation effect of barrier with bikes at different track points. Submitted by Mr Randle.
- 19 2010 Calendar showing potential number of meetings under existing permissions. Submitted by Mr Stoker.
- 20 Table 4.1 of WHO guidelines. Submitted by Mr Stoker.
- 21 Council's closing statement. Submitted by Mr Stoker.
- 22 Appellant's closing statement. Submitted by Mr Randle.
- 23 Joint statement on the applicability of the WHO guidelines to properties at Hugh Price Close and Oak Road.
- 24 Costs application on behalf of the Appellant. Submitted by Mr Randle.

3.2 REFERENCE NO - 18/505113/FULL			
APPLICATION PROPOSAL Second storey addition over Garage to side elevation with pitched roof to match existing (Resubmission of 18/502317/FULL)			
ADDRESS 30 Ferry Road Iwade Sittingbourne Kent ME9 8RR			
RECOMMENDATION - Refuse			
SUMMARY OF REASONS FOR REFUSAL The proposed two storey side extension, by virtue of its projection to the side boundary at first floor level, would give rise to a harmful loss of openness at first floor level, resulting in a terracing effect which would give rise to significant harm to the character and appearance of the streetscene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Hunt.			
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Robert Ware-Lane AGENT Deva Design	
DECISION DUE DATE 26/11/18	PUBLICITY EXPIRY DATE 25/10/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/502317/FULL	Erection of a first floor extension over existing garage with pitched roof to match existing. Conversion of garage to provide utility and storage area.	Refused	19/06/18
SW/85/0676	Single storey side extension.	Approved	21/08/85

1.0 DESCRIPTION OF SITE

- 1.01 No. 30 Ferry Road is a semi-detached two storey dwelling located within the built up area boundary of Iwade. It is set well back from the highways behind a deep verge, and has a large section of hardstanding to the front. There is private amenity space to the rear of the dwelling. The property has been extended almost up to the northern side boundary at ground floor level in the form of a flat roofed garage, but at first floor level it, and it neighbours sit well away from their side boundaries, creating a spacious character to the streetscene.
- 1.02 The property sits on the western side of Ferry Road in a short slightly staggered row of similar semi-detached houses. Newer development opposite comprises terraced housing set right on the pavement edge, with a different character from the older housing it faces.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a first floor bedroom and en-suite bathroom positioned over the existing garage. This extension would have a

pitched roof to match the existing dwelling and would also extend almost up to the northern side boundary.

- 2.02 The side extension would measure 3.6m in width to the boundary, and would remain subservient to the main dwelling, sitting 0.35m below the existing roofline and being set back 0.5m from the existing dwelling's building line.
- 2.03 Also proposed is the conversion of the existing garage this would create a utility with toilet and allow for a larger kitchen.
- 2.04 This proposal is identical to previously refused application 18/502317/FULL, but the applicant has included a supporting statement with examples of appeals at other sites he considers similar to this one that have been allowed.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance
- 3.02 Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: ST3, CP4, DM7, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan.
- 4.03 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension – A Guide for Householders".

5.0 LOCAL REPRESENTATIONS

- 5.01 None received from residents
- 5.02 Councillor James Hunt has called the application to Committee, stating that

"I can understand the reason for refusal of the previous application but as there were no objections from residents or the parish council, and in my view the reason for refusal last time being a fine balance of what may/may not be acceptable, I feel that it would be fair to the applicant for the committee to make a decision."

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council has no comments to make.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 18/505113/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The proposal site lies within the built up area and as such the principle of development is acceptable. The main considerations in this case concern the impact upon residential and visual amenities.

Visual Impact

- 8.02 Ferry Road features mainly semi-detached dwellings, many with significant gaps between them at first floor level. Although I have noted the presence of newer terraced dwellings opposite the site, the predominance of semi-detached dwellings, together with the large strip of open land adjacent to the highway, gives the road a sense of openness which should be protected as outlined in the SPG above. In my view, the application site contributes to this openness.
- 8.03 The adopted SPG states that *'where a two storey side extension to a house is proposed in an area of mainly detached or semi-detached housing, the Council is anxious to see that the area should not become terraced in character, losing the sense of openness.'* It further states that *'houses should not be physically or visually linked, especially at first floor level'*. In order to preserve the areas character and sense of openness, a 2m gap between a first floor extension and the side boundary is normally considered to be necessary, whether or not the extension is set back from the main front building line.
- 8.04 The proposal is contrary to the SPG, as at first floor level the proposal would be built almost up to the common boundary, eroding the space between it and 28 Ferry Road. As a result, I believe the proposal would give rise to a significant loss of openness in the streetscene which would be harmful to its open and spacious character and therefore determine that this would amount to a reason for refusal. Such an impact would be especially harmful if repeated next door or elsewhere in this row of semi-detached houses.
- 8.05 I note that in response to the previous refusal (18/502317/FULL) the applicant refers to two appeal decisions where the Council's refusals on similar grounds have been overturned at 35 Springvale Iwade 17/503674/FULL (APP/V2255/D/17/3187449) and at 6 Sheerstone Iwade 15/508144/FULL (APP/V2255/W/16/3154385). The decision issued at 35 Springvale Iwade was overturned as the Inspector considered that even though the 2m guidance was not adhered to there was a sufficient gap between the side boundary and the extension to maintain the openness of the streetscene in the event that no.37 were to be extended. I do not consider this to be the case for 30 Ferry Road as there would only be a distance of 0.25m from the shared boundary which would not allow for a distinct separation between the two dwellings. 6 Sheerstone Iwade was overturned and allows for an additional dwelling attached to a semi-detached pair. However due to the angle of the plot and the maintained distance from the shared boundary I do not consider that the development approved there sets a precedent for the other dwellings along Ferry Road to be extended at two storey level so close to the common boundary.
- 8.06 Notwithstanding these examples, the current application drawings are identical to the previous submission and therefore should be assessed in the same manner as previously as there has been no significant change in policy and I do not believe that there are any extenuating circumstances.

Residential Amenity

- 8.07 The proposed new windows to the front and rear would project no further forwards or rearwards than the existing house and there are no windows proposed in the side

elevation so I therefore consider that there would be no significant harm in terms of overlooking.

- 8.08 No. 28 has the potential to be impacted as a result of this proposal as it projects right to the shared boundary with this neighbour, however, I do not believe the proposal would significantly increase the harm here in terms of an overbearing or overshadowing impact as the neighbouring dwelling is set behind 30 Ferry Road with the closest point to the extension being a garage. I consider the proposal acceptable in terms of residential amenity.

Highways

- 8.09 There is a condition that restricts the conversion of the garage into habitable space as stated below:

“The garage hereby permitted shall be used only for the parking of a private motor car or cars or for uses ordinarily incidental to the enjoyment of occupiers and the dwelling house and no development, whether permitted by the Town & Country Planning General Development Orders 1977 to 1981 or not, shall be carried out on the site, in such a manner or in such a position as to preclude vehicular access to the garage.

In order to ensure that adequate provision is made for the parking of motor vehicles and in order to safeguard the amenities of the area.”

- 8.10 Paragraph 7.0 of the SPG states that “*Extensions or conversion of garages to extra accommodation, which reduce available parking space and increase parking on roads are not likely to be accepted.*” However, in this instance I give significant weight to existing hardstanding to the front of the property that can easily accommodate the 2 parking spaces required for a 3 bedroom property, I consider that the permanent loss of the garage would be unlikely to result in increased parking on the road or harm to the streetscene I therefore believe the proposal acceptable in terms of the parking arrangements.

9.0 CONCLUSION

- 9.01 I consider that the application gives rise to a harmful loss of openness at first floor which results in harm to the character of the area and would give rise to significant harm to visual amenity both on its own, and especially if repeated.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The proposed two storey side extension, by virtue of its projection to the side boundary at first floor level, would give rise to a harmful loss of openness between dwellings at first floor level, which would give rise to significant harm to the spacious character and appearance of the streetscene, contrary to Policies DM14 and DM16 of the adopted Swale Borough Local Plan – Bearing Fruits 2031 and to paragraph 5.0 of the Council’s adopted Supplementary Planning Guidance, entitled “Designing an Extension – A Guide for Householders”

The Council’s approach to this application:

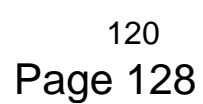
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a

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.



PLANNING COMMITTEE – 6 DECEMBER 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 – 17 Kent Avenue, Sittingbourne**

APPEAL DISMISSED

Delegated Refusal

Observations

The Inspector concluded that this two storey side extension would have harmed the open and spacious character of the streetscene and dismissed the appeal accordingly.

- **Item 5.2 – 27 Volante Drive, Sittingbourne**

APPEAL DISMISSED

Delegated Refusal

Observations

Full support for the Council's decision. This proposed dwelling would have harmed residential and visual amenity, and highway safety/convenience.

- **Item 5.3 – 1 Hales Road, Sittingbourne**

ENFORCEMENT NOTICE APPEAL DISMISSED

Committee decision

Observations

Full support for the Council's action.

- **Item 5.4 – 43 Hugh Price Close, Sittingbourne**

APPEAL DISMISSED

ENFORCEMENT

Observations

Full support for the Council's action against this fence and conservatory to the front of a dwelling.

- **Item 5.5 – 66 All Saints Road, Sittingbourne**

APPEAL ALLOWED

Delegated Refusal

Observations

The Inspector concluded that the proposed dwelling would not harm the visual amenities of the area.

- **Item 5.6 – Cromas, Callaways Lane, Newington**

APPEAL DISMISSED

Delegated Refusal

Observations

Members may recall this being reported to the Planning Committee as part of a tabled item at the last Meeting. The Inspector disagreed with the Council's reason for refusal, but dismissed the appeal on the basis of a lack of contribution towards mitigation of the impact of the development on the SPA.



Appeal Decision

Site visit made on 18 October 2018

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2018

Appeal Ref: APP/V2255/D/18/3208383

17 Kent Avenue, Sittingbourne, ME10 1HA

- 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 Luke Adams against the decision of Swale Borough Council.
 - The application Ref 18/502225/FULL, dated 25 April 2018, was refused by notice dated 6 July 2018.
 - The development proposed is described as two storey side and single storey rear extension to create larger living area, garage and new bedroom with en-suite on first floor.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The first main issue is the effect of the proposal on the character and appearance of the street scene. The second main issue is the effect of the proposal on the living conditions of the occupiers of 15 Kent Avenue (No.15), with particular regard to visual impact.

Reasons

Character and appearance

3. Kent Avenue is characterised by uniformly designed modern detached and semi-detached two storey houses, which vary slightly in height as they follow the topography of the locality. The dwellings are set back from the street scene behind modest sized front gardens and have good sized rear gardens. This, together with the open plan front gardens, grass verges and gaps between the dwellings contributes towards the spacious and uniform character and appearance of the street scene.
4. A number of the dwellings have single and two storey side extensions and single storey front extensions and these have generally been readily assimilated into the street scene.
5. Together and amongst other things DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Local Plan) and the National Planning Policy Framework 2018 (Framework), seek to ensure that new development 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

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Appeal Decision APP/V2255/D/18/3208383

environment. Extensions should respond positively to the style and character of the host building, reinforce local distinctiveness and protect the living conditions of the occupiers of adjacent properties.

6. The Swale Borough Council Designing an Extension – A Guide for Householders, Supplementary Planning Guidance (SPG), is consistent with this. It 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. Single storey side extensions, with accommodation within their roof space can be acceptable.
7. No details of any public consultation carried out prior to the publication of this SPG have been submitted. Accordingly, weight is given to it only in so far as it is consistent with the Local Plan policies above and the Framework.
8. The proposed two storey side extension would be set back from the front building line and would have a lower ridge line than the host dwelling. In addition, its external detailing and materials would match the host dwelling. However, the roof of the extension would be higher than that of the adjacent dwelling at No.15 and the proposed extension would project close to the side boundary of the site. As the dwelling at No.15 is set in from the boundary between the two properties the proposed two storey side extension would not result in a terracing effect. Notwithstanding this, it would materially reduce the open gap above ground floor level between the two dwellings and the sense of openness within the street scene. As a consequence, the proposed two storey side extension would detract from the spacious character and appearance of the street scene.
9. This harm would outweigh the benefits for the Appellant and his family that would result from the additional living accommodation. It is not a matter that could be satisfactorily addressed through the imposition of conditions.
10. It is noted that there is a very similar extension further along Kent Road. However, that dwelling is sited forward of the adjacent dwelling, which adds to their sense of separation. There is also a single storey extension with accommodation within its roof-space, which is set in from its side boundary with the adjacent dwelling. Accordingly, neither of these examples are directly comparable to the Appeal proposal. They serve to highlight the need to assess each proposal on its individual merits and in light of the prevailing planning policies.
11. Conversely the proposed rear extension would be simple in its form and appearance and would therefore respect the character and appearance of the host dwelling, the pair of dwellings and the rear garden environment. Despite this, as it is physically attached to the proposed two storey side extension, the proposed rear extension cannot be dealt with independently to the proposed two storey side extension.

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Appeal Decision APP/V2255/D/18/3208383

12. I conclude on the first main issue that the proposed side extension would unacceptably harm the character and appearance of the street scene. It would therefore conflict with policies DM14 and DM16 of the Local Plan, the Framework and the objectives of the SPG.

Living conditions

13. The proposed two storey extension would be sited alongside and several metres from the flank elevation of the dwelling at No.15. Although this would bring the dwelling closer to the landing window in the flank elevation of that dwelling, it would not impact on the main outlooks to the front and rear of No.15. Similarly, it would not result in a material loss of daylight or sunlight within the dwelling at No.15 or its rear garden.
14. The proposed single storey rear extension would have a flat roof where it abuts the boundary with No.15 and would be several metres from its closest ground floor window. Also, a significant proportion of the flank wall of the proposed rear extension would be screened from No.15 by the existing boundary fence and planting within the rear garden at No.15.
15. For these reasons I conclude on the second main issue that the proposed extension would not have a materially harmful impact on the living conditions of the occupiers of No.15. Accordingly, in this respect, the proposal would comply with policies DM and DM16 of the Local Plan, the Framework and the SPG.

Conclusion

16. Whilst I have found in favour of the Appellant in relation to the second main issue, the conclusion on the first main issue amounts to a compelling reason for dismissing this Appeal.

Elizabeth Lawrence

INSPECTOR

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Appeal Decision

Site visit made on 23 October 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2018

Appeal Ref: APP/V2255/W/18/3199741
27 Volante Drive, Sittingbourne ME10 2JJ

- 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 Ian Gray against the decision of Swale Borough Council.
- The application Ref 17/504362/FULL, dated 15 August 2017, was refused by notice dated 30 November 2017.
- The development proposed is erection of a two bed detached dwelling.

Decision

1. The Appeal is dismissed.

Main Issues

2. The main issues in this case are:-
 - the effect of the development on the living conditions of future occupiers in respect of outdoor amenity space;
 - the effect of the development on the living conditions of neighbouring and future occupiers in respect of overlooking and privacy;
 - the effect of the development on the character and appearance of the area; and
 - whether adequate provision would be made for parking.

Reasons

Living Conditions of Future Occupiers

3. The appeal site is an area of landscaped green space to the side of No. 25 and to the front of No. 27 Volante Drive, also including the driveways to both. It is set on the back edge of the pavement within the curve created by the opening out of the road to form a turning head at the end of Volante Drive. In depth it reaches back to a line roughly equivalent to the rear elevation of No. 25, opening out slightly to the south east in front of No. 27. The appeal dwelling would sit next to No. 25, and forward from its front elevation, with its rear elevation reaching around the midpoint of that house.
4. The figures put before me indicate that the garden space to be created at the rear would be between 4.5 m and 6 m in depth. There would also be a narrow strip running along the south-eastern edge of the site. No calculation of the overall area has been put before me.

Appeal Decision APP/V2255/W/18/3199741

5. While the Council has put before me no specific standard regarding the amount of outdoor amenity space to be provided in new residential development, given its dimensions, it is apparent that the garden space provided would be relatively meagre. Once room had been provided for purposes such as bin storage, it would be likely to provide limited space to accommodate day to day needs such as recreation, drying clothes, sitting out, or play space for children.
6. The rear of the site is bounded by a high fence to the garden area of No. 10 Cardine Close, and, given its projecting location, the rest of the garden area would be highly likely to be bounded by high fencing in the interests of privacy. Thus the relatively small size combined with high boundary fences would be likely to create a space with a very pronounced sense of enclosure, which would further detract from its quality.
7. The appellant has supplied what is described as a garden layout as part of the appeal, but as little detail and no dimensions are included it does nothing to alter my conclusions on this matter. Consequently I conclude that the outdoor amenity space to be provided would be of an inadequate standard, and thus harmful to the living conditions of future occupiers of the dwelling to a degree which would be unacceptable.
8. Policy CP4 of Bearing Fruits 2031: the Swale Borough Local Plan 2017 (the LP), seeks development of a high quality design that is appropriate to its surroundings. The inadequacy of outdoor amenity space to be provided indicates that the appeal proposal is not adequately tailored to address the needs of future occupiers, and is not therefore of a high design quality which would meet the requirements of this policy. Policy DM14 of the LP seeks development which would cause not significant harm to amenity, and the development would be in conflict with this.

Living Conditions of Neighbouring and Future Occupiers

9. The appeal site would overlap the front garden area of No. 27, and the proposed dwelling would have rear facing windows at first floor to the principle bedroom. No. 27 has two small forward facing windows in the roof storey first floor.
10. Although the elevations of the two dwellings would not directly face each other, they would be separated by around 10.5 m. Given their siting, this relative proximity, and given that oblique views would be possible from all the upper floor windows, I conclude that there is a possibility of mutual overlooking between the upper floors, and a clear possibility of overlooking of the rear garden area and rear ground floor windows of the appeal dwelling, which would be harmful to the privacy of occupiers of both dwellings. No technical evidence has been put forward that would cause me to alter this conclusion.
11. While there is a degree of mutual overlooking arising from the siting of houses in the wider area, this is normally across roads, or across the depth of two rear garden areas. The distances involved are therefore larger, and thus less likely to cause a significant loss of privacy.
12. The requirement of policy CP4 of the LP for development of a high quality design that is appropriate to its surroundings would not be met by a development giving rise to harm to neighbouring and future occupiers. Policy DM14 of the LP seeks development which would cause not significant harm to amenity, and the development would be in conflict with this.

Appeal Decision APP/V2255/W/18/3199741

Character and Appearance

13. The character and appearance of the area around the appeal site resides in the modern suburban housing in a loosely traditional idiom, including features such as brick masonry and pitched and gabled tiled roofs. The terrace of 19 to 25 Volante Drive derives visual interest from its stepped layout and articulation created by porches, garages and projecting eaves. The terrace of Nos. 27 to 33 is similarly articulated with a stepped front elevation and front roof slope, the latter featuring with small dormers and projecting eaves.
14. The design of the proposed dwelling is of a simple brick box with pitched roof with no eaves. The fenestration would be limited, with only two small windows on the front elevation. The southern flank would be a largely blank brick elevation with only a small window on the first floor. These factors combine to create a very plain appearance, unrelieved by detail, which in the context of the more expressive and articulated design of buildings in the vicinity, would therefore appear incongruous. The asymmetrical design of the front elevation, particularly, would be at odds with the regular rhythm of doors and windows seen in houses nearby.
15. The proposed dwelling would be set forward of the front building line of No. 25 and others in the terrace adjoining, and significantly in front of the front building line of nos. 27 – 33, on the corner created by the turning head. It would thus be conspicuous in views along Volante Drive, and this prominent location would emphasise the harm arising from its uncharacteristic design.
16. The development would therefore fail to comply with the requirements of policies CP4 and DM14 of the LP in respect of seeking a high quality of design which is appropriate to its surroundings.

Parking Provision

17. The Council applies Kent County Council vehicle parking standards set out in the Kent Design Review: Interim Guidance Note 3, 2008, to new development proposals. This recommends one off-street parking space for dwellings of one or two bedrooms in suburban areas. The new dwelling would have no off-street parking, while the development of the site would remove the drive and potentially the capability of off-street parking to number 27. There would as a result be a deficit of two parking spaces.
18. While Volante Drive is a relatively quiet cul-de-sac, there is pedestrian access into the adjacent primary school located at the far end of the turning head. Although there are no parking restrictions in the vicinity of the site, opportunities for on-street parking are significantly reduced by the numbers of front drives and crossovers, while stopping is not allowed outside the school access during peak school drop-off and pick-up hours.
19. At the time of my site visit, during a weekday morning, there was some on-street parking, but no evidence of significant congestion. However, I acknowledge that this was a snapshot only, and that the picture would be likely to be different at evenings and during weekends. Comments on the appeal provided by neighbouring occupiers suggest that there are some congestion problems in the vicinity, including in relation to dropping off/picking up at the school.

Appeal Decision APP/V2255/W/18/3199741

20. Any parking congestion would therefore be likely to be increased by an increase in on-street parking arising from the lack of off-street spaces. This would add to inconvenience for other road users and pedestrians, including those accessing the school site.
21. Although the appellant has suggested that provision could be made for off-street parking to the front of No. 27 by condition, this area lies outside the red line area of the appeal site, and such a condition would not be directly related to the development and would not therefore meet the tests set out in paragraph 55 of the National Planning Policy Framework. The area to the front of the appeal dwelling would be limited in size, and no detailed evidence has been put before me that it could satisfactorily accommodate a parallel parking space. It is not therefore convincingly demonstrated that the deficit in off-street parking provision could be made up.
22. Consequently I conclude that the development would conflict with the intentions of policy DM7 of the LP, which seeks to ensure that adequate provision is made for vehicle parking for residential development, including through adherence to parking standards.

Other Matters

23. The appeal site is located 8 km from the Medway Estuary and Marshes Special Protection Area (SPA). There is thus potential for harm to arise from cumulative effects of individual, small scale developments in respect of this international designation, which relates to the protection of vulnerable bird species. The principle threat in relation to these is increased recreational pressure arising from new residential development, which might affect the ground nesting birds or cause disturbance during their breeding season, particular as a result of recreational visitors with dogs.
24. Had I considered the scheme acceptable in all other respects, I would have sought to explore the necessity for an Appropriate Assessment under the Habitat Regulations. As, however, I have concluded that the appeal should be dismissed for other reasons, it is not necessary to consider this matter in any further detail.

Planning Balance and Conclusion

25. The need for more housing is acknowledged as a pressing one in national planning policy, with an important role to be played by small and windfall sites in meeting this need. However, the contribution to the supply of housing to be made by the appeal development would be a very minor one, and would be a benefit to which I accord only minor weight.
26. Consequently, I conclude that no benefits would arise which would outweigh the harms I have identified above, and that, for the reasons given above, the appeal should be dismissed.

S J Buckingham

INSPECTOR



Appeal Decision

Site visit made on 18 September 2018

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 29 October 2018

Appeal Ref: APP/V2255/C/18/3195127

1 Hales Road, Sittingbourne ME10 1SR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by Ian Hamill against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice, ref.15/500728/OPDEV(1 Hales Road), was issued on 16 January 2018.
 - The breach of planning control alleged in the notice is without planning permission a fence has been erected, the approximate position of which is marked by crossed lines on the plan attached to the notice, which in the opinion of the Council would require planning permission.
 - The requirements of the notice are to:
 - (i) Remove the fencing shown in its approximate position marked by crossed lines on the plan attached to the notice.
 - (ii) Remove all materials and debris caused in complying with condition (i) from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) and the deemed planning application

2. This ground is that planning permission should be granted for the matters alleged in the enforcement notice. In that regard I consider the main issue in the case to be the effect of the development on the character and appearance of the appeal site and the area in the vicinity.
3. I saw that Hales Road is mainly developed with semi-detached chalet bungalows on reasonably generous plots, set back from the road behind front gardens. The appeal property stands on the oblique corner of a fork in Hales Road, more or less opposite a grassy triangle with mature trees.
4. The front gardens of the properties, including no. 1, are for the most part open on the street frontage with lawns and hardstandings. They are generally extremely well-kept, with neatly cut lawns, trimmed hedges, and a great

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Appeal Decision APP/V2255/C/18/3195127

variety of ornamental shrubs and other planting. There is little separation of the front gardens from the street, except by means of low walls - often no more than about 300mm high - and shrub planting. The character overall is spacious and verdant.

5. The fence subject of this appeal is approximately 1.6 metres high, comprising timber panels between concrete posts. The panels sit on a pre-cast concrete plinth about 300mm high, the panels themselves are about 1 metre high and are surmounted by a timber trellis. The fence extends from the driveway at the northern end of the plot, to a line on the southern side of a relatively recently built projecting bay on the western side of the house. I should make clear at this point, that the enforcement notice is concerned with the part of the fence along the road frontage, and not the parts alongside the driveway, and returning alongside the pathway to the front door.
6. I consider the fence is an abruptly intrusive element into the street scene. It closes off a large part of the front garden of the appeal property from the surrounding area, and interrupts what would otherwise be an integral part of open and verdant surroundings of the buildings in this part of Hales Road. Furthermore, although the concrete posts and plinths may be durable, and of good quality, they have a utilitarian/industrial appearance that is out of place in the context of the informal and naturalistic planting of the surroundings.
7. I appreciate that the appellant may have erected the fence to protect privacy in a ground floor room in the above-mentioned projecting bay. I understand this is used as a bedroom by the appellant who is severely disabled. However, other means could be used to achieve such protection – and I note that there are substantial shrubs/trees behind part of the fence that might already achieve that objective to some extent – as might other boundary treatments. As regards providing a secure enclosure for the appellant's dog, it is by no means necessary to put up a mostly opaque timber and concrete fence to achieve this.
8. I conclude on the main issue that the development causes significant harm to the character and appearance of the appeal site and the area in the vicinity. The development does not accord with the aims of the development plan, notably with respect to Policies C4 and DM14 of The Swale Borough Local Plan of 2017, which seek to ensure high quality design – including making attractive places – and include aims that development should reflect the positive characteristics of the site and locality. The appeal on ground (a) therefore fails, and I intend to refuse planning permission on the deemed application.

The appeal on ground (f)

9. This ground is that the requirements of the enforcement notice are excessive, and that lesser steps would overcome the Council's objections. As noted above the extent of fence required to be removed is that along the road frontage. Furthermore, the appellant rejects the option of reducing the height of the fence to 1 metre, on the basis that it could appear more unsightly than at present. The Council essentially concur with this view, and are of the opinion that the design and construction of the fence would not lend itself to height reduction without removal and re-building.

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2

Appeal Decision APP/V2255/C/18/3195127

10. It appears to me that entire removal of the section of fence along the road frontage would be necessary in order to mitigate the harm caused. The appeal on ground (f) therefore fails.

Conclusions

11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Brown

INSPECTOR

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Appeal Decisions

Site visit made on 18 September 2018

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 29 October 2018

Appeal A: ref. APP/V2255/C/17/3184494 **43 Hugh Price Close, Sittingbourne ME10 3AS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is by Philip Harty against an enforcement notice issued by Swale Borough Council.
- The enforcement notice, ref. 18/500067/ENF, was issued on 11 August 2017.
- The breach of planning control alleged in the notice is without planning permission the construction of a conservatory and fencing the approximate positions of which are highlighted on the plan attached to the notice, which in the opinion of the Council would require planning permission.
- The requirements of the notice are to:
 - (i) Demolish the conservatory.
 - (ii) Remove the fencing.
 - (iii) Remove any materials or debris etc. from the land, caused in complying with the requirements (i) and (ii) above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The case is exempt from the prescribed fees, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.

Appeal B: ref. APP/V2255/W/17/3201370 **43 Hugh Price Close, Sittingbourne ME10 3AS**

- 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 by Philip Harty against the decision of Swale Borough Council.
- The application ref. 17/500498/FUL, dated 22 January 2017, was refused by notice dated 30 June 2017.
- The development proposed is to fit a 2.2 metre by 3 metre conservatory to the front of the dwelling, and to fit a 6 feet high fence comprising 3 feet high panels and 3 feet high trellis to the front of the property.

Decisions

Appeal A: ref. APP/V2255/C/17/3184494

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: ref. APP/V2255/W/17/3201370

2. The appeal is dismissed.

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Appeal Decisions APP/V2255/C/17/3184494, APP/V2255/W/17/3201370

Preliminary matters

3. The appellant's planning application is for retention of development already carried out – namely, the conservatory and fence subject of the enforcement appeal. I have therefore dealt with the ground (a) appeal and the s.78 appeal together.
4. The appellant's enforcement appeal application form indicated that he might be appealing on all six available grounds. The Inspectorate wrote to the appellant towards the end of April 2018 to state that the case would be treated as a ground (a) appeal, but no response was received. However, it is apparent from the arguments presented in the enforcement appeal application that a ground (a) appeal is intended. No arguments are presented that would substantiate any other grounds. I have therefore determined the enforcement case on ground (a). I do not consider any party suffers any substantial prejudice as a result of this approach.

Background matters

5. Hugh Price Close is a relatively recent development of detached, semi-detached, and short terraces of two-storey houses. The houses are interspersed with pedestrian routes, parking bays, and attractive landscaped areas densely planted with trees, shrubs, and ground cover. The appeal property stands at the end of a short terrace comprising 2 houses built side-by-side, with 2 further houses – nos. 42 and 43 – effectively built back-to-back at the north-western end. The flank of the appeal property – no. 43 – faces onto the footway running along the length of the terrace. The conservatory and fence subject of this appeal are on this flank of the property.

The enforcement appeal on ground (a), the deemed planning application, and the s.78 planning appeal

6. Ground (a) is that planning permission should be granted for the development alleged in the notice. In that regard, and in regard to the s.78 appeal, I consider the main issue to be the effect of the development on the character and appearance of the appeal site and the area in its vicinity.
7. The conservatory and fence are very much as described in the planning application. The conservatory is slightly higher than the fence – I estimate about 2 metres high to the eaves – and the face of the conservatory stands about 0.75 of a metre back from the fence.
8. The house and terrace as a whole are built of red brick with concrete tiled roofs, white painted windows, and a painted rendered upper floor. The roofs of the main building and projecting entrance porches are of quite complex form with hipped gables. Other houses in the area are built of similar materials but of differing colours, and varying patterns of roof forms and porches.
9. Overall, the informal layout of the estate, the interesting and varied forms of the buildings, the maturing landscaped areas, and generally uncluttered frontages to the houses give the area an attractive open quality.
10. The conservatory and surrounding fencing protrude from the flank of the house within the frontage of the terraces where there are otherwise small areas of lawn, paved hardstandings, and patches of shrub planting. Immediately to the north-west of no. 42 is an attractive stand of trees, shrubs and vegetation. In

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

2

Appeal Decisions APP/V2255/C/17/3184494, APP/V2255/W/17/3201370

this context the development appears cramped and intrusive, and as an incongruous addition to the house, in terms of the form and materials.

11. I conclude on the main issue that the development causes significant harm to the character and appearance of the appeal site, and the area in its vicinity. The development does not accord with the aims of the development plan, notably with respect to Policies CP4, DM14, and DM16 of the Swale Borough Local Plan adopted in July 2017. These policies include aims to achieve development of high quality design, to be of a scale, design, appearance and detail that is sympathetic and appropriate to its location, and for extensions that are of appropriate design and quality, responding positively to the style and character of the host building.
12. I appreciate the appellant wishes to provide more space for his family on what is a limited site. However, in my experience there would be several ways in which this could be done, and it is not necessary to cause harm to the street scene and surroundings to achieve this.

Conclusions

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, refuse to grant planning permission on the deemed application, and dismiss the s.78 planning appeal.

Stephen Brown

INSPECTOR

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Appeal Decision

Site visit made on 23 October 2018

by **S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State

Decision date: 8th November 2018

Appeal Ref: APP/V2255/W/18/3203549

66 All Saints Road, Sittingbourne, ME10 3PB

- 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 Popat against the decision of Swale Borough Council.
 - The application Ref: 17/506219/FULL dated 1 December 2017, was refused by notice dated 25 January 2018.
 - The development proposed is erection of a three-bedroom dwelling with associated parking and new vehicle cross-over.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a three bedroom dwelling with associated parking and new vehicle crossover at 66 All Saints Road, Sittingbourne, ME10 3PB in accordance with the terms of the application Ref: 17/506219/FULL dated 1 December 2017, subject to the conditions set out in the Schedule to this Decision.

Preliminary Matters

2. The description of development has changed from that given in the original application. As this was done with the agreement of the parties, I have followed the revised description in my Decision.
3. The appellant has provided a revised drawing during the appeal process, on which the Council has had an opportunity comment. In the interests of fairness, I have considered whether the development would be so changed that to grant it would deprive those who should have been consulted on it the opportunity of such consultation. As the plans contain changes to fenestration which would not materially affect the character of the proposal, I conclude that it would not. I have therefore taken it into account in reaching a decision on the appeal.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. All Saints Road runs along a strip of land to the north of the main railway line, and consists of long terraces of three storey town houses of the mid- to late-twentieth century. They are built in red brick, with a distinctive front elevation
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Appeal Decision APP/V2255/W/18/3203549

consisting of a brick frame infilled with full width horizontal windows on the second and third floors with horizontal weatherboarding between in timber or PVCu. They have projecting ground floors containing an entrance and integral garage.

6. No. 66 is an end of terrace dwelling, set on the flank of a turning head at the westernmost end of the road, with its southern flank elevation set just forward of the front elevation of the terraces along the main part of the road. The appeal site is the garden area to the south of this.
7. The appeal proposal is for a new house of a strongly contemporary design which would be attached to No. 66. It would be of three storeys with a projecting ground floor and third floor set back as a roofstorey behind a low parapet and clad in grey. It would be of a similar width to No. 66, and with a slightly lower roofline. The majority of the fenestration would be on the southern elevation, facing the railway, with the amended plan showing further small windows on the front elevation facing into the turning head.
8. In height and width the proposed dwelling would follow the rhythm of others in the street. The stepping back of the building at third floor, projecting ground floor and use of contrasting materials would provide articulation to all visible elevations and at the front particularly would echo the strong horizontal emphasis of other buildings in the vicinity. It would, furthermore, be replacing a large and unarticulated blank brick wall, the flank elevation of No. 66. Consequently I conclude that because of these qualities it would complement the form and design of the area and would not therefore be particularly incongruous. It would not, thus, harm the character and appearance.
9. The location of the site at the end of the road, which rises up towards the west, and projecting at the end of the shorter north-south running terrace would mean that it would be highly visible along All Saints Road. It would, however, be viewed from the east along All Saints Road against the backdrop of Nos. 82 and 84, while to the right hand side in that view would be the long terraced frontages of Nos. 64 – 46 and the terraces to their east. The character of the area created by these terraced groups of buildings and by the scale and confidence of their design elements is, to my mind, sufficiently robust not to be harmed even by this prominently located addition.
10. Policy CP4 of Bearing Fruits 2031: the Swale Borough Local Plan 2017 (the LP), seeks development of a high quality design that is appropriate to its surroundings, including through being appropriate to the context in respect of scale, height and massing, and I conclude that there would be no conflict with this. Policy DM14 of the LP seeks development which would conserve and enhance the built environment, and there would be no conflict with this.

Conditions

11. The Council has supplied a list of suggested conditions on which the appellant has had an opportunity to comment. In the interests of clarity, a condition is added requiring implementation of the development in accordance with the approved plans. In the interests of protecting the character and appearance of the area, a condition is attached requiring the submission of details of external facing materials. To promote energy efficiency and sustainable development, a condition is attached requiring the submission of details of sustainable construction techniques.

Appeal Decision APP/V2255/W/18/3203549

12. Conditions are attached requiring the submission of details of the design and implementation of hard and soft landscaping to the site, in the interests of protecting the character and appearance of the area. As I noted no trees or hedgerows on site, the retention of such features is not required. Requiring the replacement of any trees or shrubs which are removed, diseased or die within five years of planting would, to my mind, go beyond what would normally be expected of a homeowner and so would not be reasonable. I have not therefore attached a condition requiring this.
13. In order to ensure the maintenance of adequate parking provision, I have attached a condition requiring that the space to be provided is maintained for that purpose.

Conclusion

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

S J Buckingham

INSPECTOR

Appeal Decision APP/V2255/W/18/3203549

Schedule of 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 plans: Site Location Plan 1:1250; Proposed Block Plan 320/100 A; Proposed Site Layout Plan 320/101 A; Proposed Plans and Elevations 320/102 B; Existing Block Plan 320/75; Existing Site Layout Plan 320/76; Existing Elevations 320/77.
- 3) No development beyond the construction of foundations shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) 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.
- 5) Demolition or construction works shall take place only between 07.30 and 19.00 on Monday to Friday, 07.30 and 13.00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) No development beyond the construction of foundations shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping.
- 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.
- 8) The approved dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 320/101 A for 1 car to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.



Appeal Decision

Site visit made on 15 May 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2018

Appeal Ref: APP/V2255/W/17/3188809

Cromas, Callaways Lane, Newington, ME9 7LX

- 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 Paton of TSP Property Developments against the decision of Swale Borough Council.
 - The application Ref 17/503997/FULL, dated 31 July 2017, was refused by notice dated 16 October 2017
 - The development proposed is the construction of a detached, single residential dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The building adjacent to the site of the proposal is described by the appellant as "Cromas", and the Council as "Cromac". I have used the description by the appellant, as reflected on the planning application form and in the appeal statement.
3. The revised National Planning Policy Framework ("the Framework") was published on 24 July 2018. Both main parties have had the opportunity of commenting on this document in the course of this appeal.

Main Issue

4. The main issues in this appeal are the effect of the development on:
 - i) the character and appearance of the area, including consideration of whether the proposed development would preserve or enhance the character or appearance of the Newington Manor Conservation Area; and
 - ii) the integrity of the Medway Estuary and Marshes Special Protection Area.

Reasons

Character and Appearance

5. The building would be constructed on a parcel of land to the south of the building known as Cromas. The surrounding buildings along Callaways Lane primarily appear as detached chalet bungalows, but differ in terms of their appearance and detailed design.

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Appeal Decision APP/V2255/W/17/3188809

6. As a detached dwelling, the proposal would reflect the prevailing pattern of development. I accept that it would have a front facing gable wall, unlike many of the other properties which have long horizontal ridge lines facing the road. However, it would be set back away from the road and would be broadly aligned with the other buildings facing Callaways Lane. In this context, it would not appear unduly out of place.
7. There would be less space between the building and its boundaries than other properties found along Callaways Lane. However there is sufficient space around the building to avoid appearing cramped. Overall, I consider that the orientation of the building is an effective design response to the proportions of this corner plot, and the new building would not diminish the setting of any nearby residential buildings.
8. The vehicular access largely reflects the arrangement approved by the Council in a previous decision on the site¹. That approval involved enlarging Cromas to create 2 semi-detached dwellings. Whilst the enlarged building in that case would more closely replicate the bulk of surrounding properties, it would be split in to two dwellings, and in that regard would noticeably depart from the prevailing pattern of development. Consequently, I do not agree that it represents an improvement compared with this proposal. I consider that the proposal before me would relate well to the proposed dwelling² across the country lane to the immediate south of the site.
9. The site falls within the wider setting of the Newington Manor Conservation Area. The special character and significance of this area is derived from Newington Manor, and the historic buildings connected with it. The proposed building would follow the prevailing pattern of modern built development on the approach towards the Conservation Area on Callaways Lane. It would not appear unduly conspicuous, cramped or out of place in this context. There would be no harm to the setting of the Conservation Area.
10. I therefore conclude that there would be no harm to the character and appearance of the area. Both the character and the appearance of the Newington Manor Conservation Area would be preserved, under these proposals. There is no conflict with policies CP4, DM14 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 ("Local Plan") which requires that, amongst other things, development will be of a high quality design that is appropriate to its surroundings, preserving or enhancing the features that contribute positively to the special character of Conservation Areas.

Special Protection Area.

11. The application site is located within around 2.8km of the Medway Estuary and Marshes Special Protection Area and Wetland of International Importance under the Ramsar Convention (hereafter referred to as the "SPA"), which is a European designated site. This is due to the international significance of this area for wintering birds, in particular waders and waterfowl. The evidence before me indicates that there have been marked declines in the number of birds using the SPA, which can be directly linked to those locations with high levels of public access. The proposal is not directly connected with or necessary to the management of the SPA. The Council identifies the potential for bird

¹ 17/500525/FULL

² 17/501702/FULL

Appeal Decision APP/V2255/W/17/3188809

disturbance within the SPA, arising from the likelihood of increased recreational disturbance (including dog walking) as a consequence of this proposed development.

12. The proposal comprises one additional dwelling with 2 bedrooms. I note that there are local areas of public open space close to the site, including Newington Recreation Ground, and an extensive network of public rights of way in the surrounding countryside. However, the site's distance to the SPA means that there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of the development. Although this may be minimal of itself, a significant effect would occur, particularly when considered in combination with other new residential development in the surrounding area.
13. This reflects the position of Natural England, to which I attach significant weight. It is also a view shared by the Council. In these circumstances, the Conservation of Habitats and Species Regulations 2017 ("Habitats Regulations") requires that an Appropriate Assessment is carried out. I have sought further evidence from the main parties on this matter, and Natural England has been consulted in the course of this appeal. Further public consultation is not appropriate on this occasion.
14. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so enable it to be ascertained that the proposal would not adversely affect the integrity of the site. This could potentially include a financial contribution secured through a planning obligation to be used for suitable works or management practices. However, whilst Natural England suggest that mitigation could be secured by an appropriate financial contribution to the Thames, Medway and Swale Strategic Access, Management and Monitoring Strategy, there is no method before me of securing such a contribution. Similarly, whilst the Council may not yet have put in place the full measures to achieve mitigation, that is not in itself a reason to absolve the appellant of the need to provide such mitigation.
15. In this case, on the evidence before me, I consider that there is a potential for recreational disturbance to the SPA through additional activity associated with this residential development, which would affect the integrity of this European site. The evidence before me suggests that such activity has the potential to intensify the decline of bird populations within these areas. The lack of any acceptable mitigation means that the proposal would affect the integrity of this European site.
16. The Habitats Regulations requires me to consider whether there are any alternative solutions. However, no such solutions have been put forward for my consideration.
17. The evidence before me indicates that priority habitat or species on the site would be adversely affected by this proposal. I must also consider whether there are any imperative reasons of overriding public interest. In this case the development involves the provision of a single dwelling. It would fulfil a housing demand and is well located, in an existing settlement in close proximity to services and public transport links. A good standard of accommodation is provided, with vehicular parking in accordance with the relevant requirements of the development plan. For the reasons set out in the

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3

Appeal Decision APP/V2255/W/17/3188809

first main issue of this appeal, the development would have an appropriate appearance in relation to its surroundings and would not lead to any harm to the setting of nearby designated heritage assets. However, these considerations are not, even cumulatively, sufficient to amount to an 'imperative reason of overriding public interest'. Consequently, having regard to the Habitats Regulations, permission must not be granted for the development proposed. In these circumstances the presumption in favour of sustainable development, set out in paragraph 11 of the Framework, does not apply.

18. The appellant points to the Habitats Regulation Assessment carried out by the Council in its officer report. This concludes that mitigation measures are required, but does not identify any specific actions that would fulfil such a requirement. It suggests that mitigation will be achieved in the future through developer contributions applying to other future schemes that would retrospectively cover the impact of development such as this.
19. However, an intention to achieve mitigation in the future is not sufficient as I cannot be certain when or if it would be in place. Furthermore, any planning obligations imposed on future development would be subject to the test, set out paragraph 56 of the Framework that they are directly related to the development in question. An obligation imposed on future development that seeks to retrospectively address the impact of development previously approved by the Council would be unlikely to meet this test. The various actions being discussed by the Council would not address the impact of the development and do not amount to mitigation for the purposes of the Habitats Regulations.
20. I appreciate that the Council does not want to overburden small developers with financial obligations, and that such agreements consume significant resources on all parties concerned. However, these considerations do not overcome the need to comply with the Habitats Regulations and address potential harm to protected sites.
21. My attention is drawn to another circumstance where an Inspector allowed an appeal within the same authority³, where the Council took a similar approach to the Habitats Regulations Assessment to that set out above. However, case law⁴ in the intervening period has emphasised the need to carry out an Appropriate Assessment where mitigation measures are proposed. My findings reflect the Appropriate Assessment I have carried out in this decision. In doing so I consider that I have correctly applied the requirements of the Habitats Regulations.
22. I therefore conclude that the proposed development would result in harm to the integrity of the Medway Estuary and Marshes SPA, having an adverse effect on this European site without any mitigation. It conflicts with Policies CP7 and DM28 of the Local Plan which seek to, amongst other things, protect natural assets and restrict development that has an adverse effect on the integrity of a European site.

³ APP/V2255/W/17/3168745

⁴ Court of Justice of the European Union (CJEU) 12 April 2018: *People over Wind & Sweetman v Coillte Teoranta*

Appeal Decision APP/V2255/W/17/3188809

Other Matters

23. I note that there are objections to the proposal from interested parties. However, as the appeal is failing, I have not considered them further.

Conclusion

24. I have found that the proposed development is acceptable in terms of its effect on the character and appearance of the area and the setting of nearby heritage assets. However, it would lead to unacceptable harm to the Medway Estuary and Marshes SPA, and conflicts with development plan policies in this regard. There are no other considerations that indicate that the proposal should be determined other than in accordance with the conflict with the development plan. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal shall be dismissed.

Neil Holdsworth

INSPECTOR

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