



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 25 April 2019

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

RECORDING NOTICE

Please note: this meeting may be recorded.

At the start of the meeting the Chairman will confirm if all or part of the meeting is being audio recorded. The whole of the meeting will be recorded, except where there are confidential or exempt items.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this recording will be retained in accordance with the Council's data retention policy.

Therefore by entering the Chamber and speaking at Committee you are consenting to being recorded and to the possible use of those sound records for training purposes.

If you have any queries regarding this please contact Democratic Services.

1. Emergency Evacuation Procedure

Pages

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

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

The Chairman will inform the meeting that:

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

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

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

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

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 4 April 2019 (Minute Nos. 594 - 600) as a correct record.

4. Declarations of Interest

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

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

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

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

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

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any

item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

5. Deferred Item 1 - 35

To consider the following application:

18/501726/FULL – Land between 119a and 121a High Street,
Sittingbourne

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

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 24 April 2019.

6. Report of the Head of Planning Services 36 - 93

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 24 April 2019.

Issued on Monday, 15 April 2019

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

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

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PLANNING COMMITTEE – 25 APRIL 2019

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 18/501726/FULL		
APPLICATION PROPOSAL		
Erection of a 3 storey building comprising of an amusement centre (adult gaming centre) on the ground floor with 2 x single bedroom flats on the upper floors.		
ADDRESS Land Between 119A And 121A High Street Sittingbourne Kent ME10 4AQ		
RECOMMENDATION Grant subject to conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The development would provide an additional unit on a vacant plot with the High Street and therefore would not erode or diminish the retail offering of the Core Shopping Area. The development would also provide two residential flats within a sustainable, central, urban location.		
REASON FOR REFERRAL TO COMMITTEE		
Officers are seeking to amend the Committee's previous resolution in order to add four conditions requested by the Environment Agency, and remove one condition which would be duplicated.		
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Godden Two LLP AGENT Roger Etchells & Co
DECISION DUE DATE 23/05/18		PUBLICITY EXPIRY DATE 25/05/18

Planning History

SW/10/0012

Erection of three storey building to provide shop at ground floor with two flats above (resubmission of SW/06/0033).

Granted Decision Date: 02.03.2010

The development would have provided an additional retail unit within the Core Shopping Area and two residential flats within a sustainable urban location, and would have sat comfortably within the context of the High Street Conservation Area. That permission has now expired, however.

SW/06/0033

Erection of three storey building to provide shop at ground floor with two flats above

Granted Decision Date: 03.03.2006

SW/01/1254

Shop unit with storage above with associated external works and roads.

Granted Decision Date: 05.02.2002

SW/97/0025

Change of use to an AGC / amusement centre. (Olympia Leisure, 62 High Street.)

Refused Decision Date: 21.02.1997 Allowed at appeal

This permission relates to the existing AGC at 62 High Street, where permission was refused by the Council but the subsequent appeal allowed by the Inspector, who considered that such uses would not detract from the wider retail offering, vitality of the High Street. Further commentary is set out in the main report, below.

1.0 BACKGROUND

- 1.01 Members will recall that this application was reported to the Meeting on 4th April, recommended for approval. After a wide ranging discussion, the Planning Committee was minded to not accept the officers recommendation to approve.
- 1.02 Determination of the application was therefore deferred to this meeting in accordance with the Terms of Reference of the Planning Committee, since a refusal of planning permission would have been contrary to my recommendation, contrary to policy and/or guidance, and in my view Members had not demonstrated sound planning reasons for refusing the application which could be substantiated on appeal.
- 1.03 In this new report I do not intend to repeat the assessment of the application as set out in the original report. I will though assess the possible implications of a decision to refuse planning permission for the reasons mooted at the previous Meeting, and confirm my recommendation that permission be granted.

2.0 POSSIBLE IMPLICATIONS OF A DECISION TO REFUSE PLANNING PERMISSION

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

Inappropriate location for such a use in a primary shopping frontage which would detract from the vitality of the High Street

- 2.03 As members are aware the site is located within the Sittingbourne Town Centre Regeneration Zone (Policy Regen 1 is relevant) and a primary shopping frontage (Policy DM1 is relevant). In terms of assessing the proposal against both these policies I am of the opinion that the development would generally comply with both.

2.04 In respect of 1a of Policy DM1 whilst the proposal would not provide more retail (Class A1) floorspace, it would not detract from the primary shopping function of this part of the town centre as it would add to the mix of existing uses which in turn would help to maintain or increase Sittingbourne's overall vitality and viability. It would represent a use which is currently under – represented in the town centre as there is only one other adult gaming centre (AGC). It may also result in an increase in pedestrian activity in the immediate area. With respect to 1b of Policy DM1 the proposal would not result in the loss of retail floorspace as it is currently a vacant plot of land and will not result in the break up of a retail frontage as both units either side of the site are in non retail use – a dentist and a Wimpy bar. However the proposal does struggle to fully comply with 1c of DM1 as it may be argued that granting planning permission for this proposal would lead to a concentration of non retail frontage uses along this side of this part of the High street. Members should note that between (but not including) the Sittingbourne Baptist Church and the Covenant Love Chapel, 62% of the shop frontage on this side of the High Street is within use class A1 retail (noting that some units are currently vacant) and that if one includes the proposed AGC – which is sui generis (i.e. a class of its own), then the percentage of A1 retail frontage would reduce to 59%.

Whilst I am of the opinion that such a reduction is modest and would not result in a significant increase in non retail frontage here, the proposal would not result in the loss or erosion of a non retail use that underpins the vitality and viability of the area as the site is currently a vacant parcel of land. If however members are so concerned, then one could argue that this may be grounds for considering refusing the application, although I do consider that it would be difficult to win such an argument on appeal. Nevertheless if an appeal was to be submitted I believe that there would be limited risk of a significant successful costs claim against the Council.

2.05 The development would comply with Policy Regen 1, as it would introduce a use within the town centre which will provide greater vitality, viability and diversity of services and facilities than at present. It will enhance key non retail uses in the town centre, especially for the night time economy and would also provide 2 x 1 bed flats.

2.06 Finally the proposed development would also comply with the updated NPPF which recognises that diversification is key to the long term vitality and viability of town centres and that they need to “respond to rapid changes to the retail and leisure industries”.

Already enough of these businesses like this in the High Street

2.07 Members should note that there is only one other AGC in the High Street and therefore it can be argued add to the diversity of uses within the primary shopping area. Also the existing and proposed AGCs are situated a reasonable distance apart from each other thereby not oversaturating a particular part of the High Street. Some objectors have commented that the existing betting shops on the High Street should be counted along with the proposed AGC as similar uses. If one was to accept such a scenario then in these circumstances with the proposed use there would be a total of 4

AGC/betting shops (Paddy Power to the west to the site and Betfred to the east) within the town centre, spread along the length of the primary shopping area.

I would remind members that in considering whether or not to refuse an application there needs to be an identified harm and in this instance I do not consider the number of such premises (with or without including betting shops) to be overwhelming or harmful to the overall mix of uses within this part of the town centre.

Morally wrong to have such uses in the town centre

2.08 Whilst I am aware that some members may be concerned about the number of gambling establishments in the High Street to argue that it is morally wrong or similar to have such uses in town centres, this is not a material planning consideration and therefore is not one that can be taken into account when determining this application.

3.0 CONCLUSION

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

3.02 In this case I am of the opinion that the proposed development would not give rise to material planning harm justifying the refusal of planning permission, and I do not consider that Members' consideration of the application demonstrates any such harm as arising. I therefore remain of the view that planning permission should be granted and accordingly recommend approval.

4.0 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) No development shall take place other than in complete accordance with drawing 007/18/02.

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

(3) No development shall take place, including any works of demolition, until a

Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

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

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

- (5) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

A. 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; and
- potentially unacceptable risks arising from contamination at the site.

B. A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

C. The results of the site investigation and the detailed risk assessment referred to in (B) 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.

D. 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 (C) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

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

- (6) Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

- (7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution from previously unidentified contamination sources at the development site.

- (8) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The

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

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants.

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

Reason: To protect controlled waters, including groundwater and to comply with the National Planning Policy Framework. Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

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

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.

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

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

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

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

- (13) No development beyond the construction of foundations shall take place until manufacturer's specifications of the windows, doors, balconies, and balustrades be used on the development hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (14) No development beyond construction of foundations shall take place until 1:2 plan and vertical part section drawings showing the degree to which all window frames will be set back from the brick face of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

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

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

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

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

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

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

Reason: In the interest of residential amenity.

INFORMATIVES

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

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

2. A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>

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

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330303 0119) or www.southernwater.co.uk.

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 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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APPENDIX 1

Planning Committee Report – 4 April 2019

Item 2.1

PLANNING COMMITTEE – 4th APRIL 2019**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 18/501726/FULL			
APPLICATION PROPOSAL Erection of a 3 storey building comprising of an amusement centre (adult gaming centre) on the ground floor with 2 x single bedroom flats on the upper floors.			
ADDRESS Land Between 119A And 121A High Street, Sittingbourne, Kent, ME10 4AQ.			
RECOMMENDATION Grant.			
SUMMARY OF REASONS FOR RECOMMENDATION. The development would provide an additional unit on a vacant plot within the High Street, and therefore would not erode or diminish the retail offering of the Core Shopping Area. The development would also provide two residential flats within a sustainable, central, urban location.			
REASON FOR REFERRAL TO COMMITTEE Officers are seeking to amend the Committee's previous resolution in order to add four conditions requested by the Environment Agency, and remove one condition which would be duplicated.			
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Godden Two LLP AGENT Roger Etchells & Co	
DECISION DUE DATE 23/05/18	PUBLICITY EXPIRY DATE 25/05/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/10/0012	Erection of three storey building to provide shop at ground floor with two flats above (resubmission of SW/06/0033).	Granted.	2010
The development would have provided an additional retail unit within the Core Shopping Area and two residential flats within a sustainable urban location, and would have sat comfortably within the context of the High Street Conservation Area. That permission has now expired, however.			
SW/06/0033	Erection of three storey building to provide shop at ground floor with two flats above.	Granted.	2006

APPENDIX 1

Planning Committee Report – 4 April 2019

Item 2.1

SW/01/1254	Shop unit with storage above with associated external works and roads.	Granted.	2001
SW/97/0025	Change of use to an AGC / amusement centre. (Olympia Leisure, 62 High Street.)	Refused, allowed at appeal.	1997

This permission relates to the existing AGC at 62 High Street, where permission was refused by the Council but the subsequent appeal allowed by the Inspector, who considered that such uses would not detract from the wider retail offering, vitality, and viability of the High Street. Further commentary is set out in the main report, below.

1.0 INTRODUCTION

- 1.01 Members may recall that this item was presented for consideration at the meeting on 8 November 2018, where Members voted to approve the application subject to securing a SAMMS payment.
- 1.02 The agreed minutes refer to the officer's verbal update in respect of additional standard conditions requested by the Environment Agency (to ensure groundwater is not contaminated by any unknown contaminants on the site). However, Members' final, agreed, and minuted resolution does not delegate powers to officers to add those additional conditions to the decision notice.
- 1.03 It is thought that this is a simple oversight with the drafting and agreement of the minutes, but it is important that the Environment Agency's requested conditions are attached to the decision notice in the interest of protecting groundwater supplies from potential contaminants (the site is within Source Protection Zone 1), and Members would need to formally amend the original resolution to give officers power to do so.
- 1.04 The conditions and informatives are set out below. Conditions 5, 6, 7, and 8 are the four additional conditions requested by the Environment Agency. Condition 10 of the previous report has been deleted as it would be duplicated by condition 8 below.
- 1.05 I am requesting delegation from the committee to add these additional conditions to the decision notice (which has not yet been issued), and remove the duplicated condition.
- 1.06 The application remains identical in all other respects, and the applicant has recently agreed to the SAMMS payment. The original report and minutes are attached for reference.

2.0 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.

APPENDIX 1

Planning Committee Report – 4 April 2019

Item 2.1

- (2) No development shall take place other than in complete accordance with drawing 007/18/02.

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

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

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

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

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

- (5) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

A. 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; and
- potentially unacceptable risks arising from contamination at the site.

B. A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

C. The results of the site investigation and the detailed risk assessment referred to in (B) 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.

D. 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 (C) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

APPENDIX 1

Planning Committee Report – 4 April 2019

Item 2.1

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

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

- (6) Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

- (7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution from previously unidentified contamination sources at the development site.

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

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants.

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

Reason: To protect controlled waters, including groundwater and to comply with the National Planning Policy Framework. Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

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

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Monday to Friday 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.

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

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

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

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

- (13) No development beyond the construction of foundations shall take place until manufacturer's specifications of the windows, doors, balconies, and balustrades be used on the development hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (14) No development beyond construction of foundations shall take place until 1:2 plan and vertical part section drawings showing the degree to which all window frames will be set back from the brick face of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

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

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

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

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

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

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

Reason: In the interest of residential amenity.

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.

INFORMATIVES

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

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at

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

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

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

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www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link

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

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

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

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

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

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1.0 DESCRIPTION OF SITE

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

2.0 PROPOSAL

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

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

3.0 SUMMARY INFORMATION

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

4.0 PLANNING CONSTRAINTS

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

5.0 POLICY AND OTHER CONSIDERATIONS

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

5.02 Para. 85 of the NPPF states:

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

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

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

5.04 Of particular relevance are the following policy extracts:

CP1

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

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

DM1

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

1. Within the defined primary shopping frontages, as shown on the Proposals Map, the Borough Council will permit non-retail uses that:

- a. maintain or enhance the primary retail function of the area by adding to the mix of uses to help maintain or increase its overall vitality and viability, especially where providing a service or facility for residents or visitors currently lacking or*

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under-represented in the town centre, or by increasing pedestrian activity in the immediate locality;

- b. do not result in a significant loss of retail floorspace or the break-up of a continuous retail frontage;*
- c. do not lead to a concentration of non-retail frontage; and*
- d. do not result in the loss or erosion of a non-retail use that underpins the role, functioning, vitality and viability of the area.*

Regen 1

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

- A. Development within the area will proceed in accordance with, or complement, a Masterplan to be prepared to support the development agreement between the regeneration partners and will accord with the key objectives of:*
 - 1. Providing additional comparison retail space and uses which provide greater vitality, viability, diversity and activity;*
- B. All development proposals will:*
 - 1. Accord with Policies DM 1 and DM 2 to maintain and enhance the retail offer of the primary shopping areas, whilst introducing uses there and elsewhere within the town centre which achieve greater vitality, viability and diversity of services and facilities, alongside buildings of architectural excellence. Where town centre vitality and viability is not harmed, other sites able to achieve similar objectives will be permitted within the regeneration area defined by this policy;*
 - 2. Maintain or enhance key non-retail uses which underpin the retail and community functions of the town centre for both day and night time economy;*
 - 3. Provide for residential development of suitable type and scale above commercial premises, or as part of mixed use developments, or on other suitable sites;*

6.0 LOCAL REPRESENTATIONS

6.01 The application has been called in by Ward Councillor Whelan.

6.02 We have received objections from five separate addresses (including a very lengthy series of objections from a planning agent on behalf of Olympia Leisure – the existing Adult Gaming Centre (AGC) further along the High Street) raising the following summarised concerns:

- The existing parking area to the rear is over-subscribed and further vehicles will make access to the shop units more difficult;
- Another "betting shop" will give a sense of deprivation within the town centre;
- The site should be developed for retail purposes, which will provide employment and encourage visitors;
- The High Street needs more shops; and
- The proposal would be contrary to policy DM1.

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

7.0 CONSULTATIONS

- 7.01 KCC Highways have not commented as the scheme falls below their protocol response threshold.
- 7.02 Southern Water requests a condition to secure details of surface water drainage and a standard informative in respect of connections to the sewer network (both set out below) to be attached to any grant of permission,
- 7.03 The Council's Economic Development Officer does not support the scheme, commenting:

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

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

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

8.0 BACKGROUND PAPERS AND PLANS

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

9.0 APPRAISAL

Principle

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

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

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

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

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

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

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

Non-retail uses, and vitality of High Street

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

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

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

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

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

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

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

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

Scale, design, and visual amenity

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

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

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

Public health

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

Highways

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

Amenity

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

APPENDIX 1**APPENDIX 1**

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

10.0 CONCLUSION

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

10.02 Taking the above into account I recommend that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- 2) No development shall take place other than in complete accordance with drawing 007/18/02.

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

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

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

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

APPENDIX 1**APPENDIX 1**

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

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

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

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

Reason: In the interests of residential amenity.

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

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

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

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

- 8) No development beyond the construction of foundations shall take place until manufacturer's specifications of the windows, doors, balconies, and balustrades be used on the development hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 9) No development beyond construction of foundations shall take place until 1:2 plan and vertical part section drawings showing the degree to which all window frames will be set back from the brick face of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

APPENDIX 1**APPENDIX 1**

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

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

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

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

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

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

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

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

Reason: In the interest of residential amenity.

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

INFORMATIVES

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

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at

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

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

2. A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House,

APPENDIX 1**APPENDIX 1**

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

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

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

THE COUNCIL'S APPROACH TO THIS APPLICATION

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

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

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

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

APPENDIX 1

APPENDIX 1



APPENDIX 1**APPENDIX 2**

2.8 REFERENCE NO - 18/501726/FULL		
APPLICATION PROPOSAL Erection of a 3 storey building comprising of an amusement centre (adult gaming centre) on the ground floor with 2 x single bedroom flats on the upper floors.		
ADDRESS Land Between 119A And 121A High Street, Sittingbourne, Kent, ME10 4AQ.		
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Godden Two LLP AGENT Roger Etchells & Co

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

The Area Planning Officer reported that the Environment Agency (EA) had no objection, subject to standard conditions to secure a preliminary contamination survey of the site, to ensure that protected groundwater was not affected by any

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Planning Committee

8 November 2018

previously unknown pollution. He sought delegation to approve or refuse subject to the issue of SPA payments being resolved, and the additional conditions requested by the EA.

Mr James Godden, an objector, spoke against the application.

Mr Jeremy Godden, the Applicant, spoke in support of the application.

The Vice-Chairman in-the-Chair invited questions from Members. The Area Planning Officer explained that the comments from the County Archaeologist had been received very late and as such his comments had been reported under paragraph 7.05, and covered by condition (4) in the report, however, the information on the front page of the report had not been updated.

The Ward Member spoke against the application. He referred to a similar application refused in 2012 and considered it should be refused for the same reasons, it was an inappropriate use in the core town centre, and that gambling was already catered for elsewhere in the High Street, and there was no need for an additional one.

The Committee then debated the motion to approve the application, during which the following comments were made: this was infilling a gap, which was overgrown and an eyesore; it did not match, but there was a variety of styles there in any case; could see no reason to refuse the application; there were already gambling establishments in the High Street; this did not enhance the area, and would demonstrably harm the retail area; the design fitted in well; as it was a completely new building, it was not taking over retail space; it added to the mix of the town centre; this could help to increase footfall in the High Street; and should embrace and welcome business into the town centre.

Resolved: *That application 18/501726/FULL be delegated to approve subject to conditions (1) to (15) in the report, and subject to the issue of SPA mitigation payments being resolved.*

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

25 APRIL 2019

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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 – 25 APRIL 2019

- Minutes of last Planning Committee Meeting
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DEFERRED ITEMS

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PART 2

2.1 Pg 36 - 53	18/504627/FULL	FAVERSHAM	Faversham Rail Yard, Station Road
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PART 3

3.1 Pg 54 - 61	19/500406/FULL	QUEENBOROUGH	Land West of 12 Main Road
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3.2 Pg 62 - 67	19/500129/FULL	MINSTER	Cripps Farm, Plough Road
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5.2 Pg 72 - 81		LYNSTED	Land situated at Hole Street Farm, Kingsdown Road
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5.3 Pg 82 - 84	18/503471/FULL	SITTINGBOURNE	20 East Street
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5.4 Pg 85 - 89	18/501032/FULL	TONGE	Land Adj St Giles Church, Church Rd
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PLANNING COMMITTEE – 25 APRIL 2019

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/504627/FULL			
APPLICATION PROPOSAL			
Erection of 3no. two storey blocks comprising of 9no. small business units for B1, B2 and B8 Use with associated car parking, service access, landscaping and access roadway. Additional car parking to serve both the proposed new units and the existing units at neighbouring Jubilee Industrial Estate. New access to link the new development into the existing neighbouring development at Jubilee Way Industrial Estate via Sidings Close and retention of existing access leading to Station Road.			
ADDRESS Faversham Rail Yard Station Road Faversham Kent			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION			
Following amendments, the proposal is in accordance with national and local planning policy. It would provide additional employment opportunities without detriment to the character and visual amenities of the area, highway safety or residential amenity.			
REASON FOR REFERRAL TO COMMITTEE			
Faversham Town Council			
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT George Wilson Developments Ltd AGENT Harrison Mutch	
DECISION DUE DATE 28/12/18	PUBLICITY EXPIRY DATE 04/02/19	OFFICER SITE VISIT DATE 28.09.2018	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
<i>Summarise Reasons</i>			

1.0 DESCRIPTION OF SITE

1.01 The application site is located within the built up area boundary of Faversham to the east of the grade II listed railway station. It comprises a funnel-shaped parcel of backland with an area of approximately 0.93 ha. The site is currently vacant and contains four single storey prefabricated buildings associated with a redundant Network Rail contractor's yard. It has vehicular access on to Station Road via a 230m long single width roadway.

- 1.02 Although the area is mixed in character, it is dominated by Faversham Recreation Ground which abuts the main body of the site to the north and by railway land to the south. The western-most section of the access roadway is, however, bounded by a row of two storey houses at Preston Malthouse and a two storey residential terrace at Beaumont Terrace to the north.
- 1.03 The main portion of the site is largely flat and hard surfaced whilst there is a slight east to west fall in land levels along the access roadway. The land to the north of the site which encompasses the Recreation Ground, Preston Malthouse and Beaumont Terrace is approximately 3m – 4m below the level of the application site.
- 1.04 The site lies within the Faversham Conservation Area. There is a grade ii listed Lodge within the Recreation Ground some 20m to the north-east of the site; a derelict engine shed (grade II listed) on overgrown railway land some 30m to the south; and, Faversham Railway Station (grade II listed) some 20m to the south of the site entrance.

2.0 PROPOSAL

- 2.01 Planning permission is sought for the erection of three, two storey buildings comprising nine business units within Class B1, B2 and B8 with associated car parking, access roadway and landscaping.
- 2.02 The proposed buildings would be arranged in linear form with two (i.e. Blocks A and B) to the north and one (i.e. Block C) to the south of a central access road.
- 2.03 Block A would be sited 3m from the northern boundary of the site. It would have a length of 26m, a width of 8.5, an eaves height of 6.5m and a ridge height of 8.2m. It would contain two units each with a gross internal floor area (GIA) of 190 sqm.
- 2.04 Block B would be located 3m from the northern site boundary. It would have a footprint measuring 40m x 15.5m, an eaves height of 6.5m and a ridge height of 9.5m. It would comprise four units each with a GIA of 190 sqm and one unit with a GIA of 380 sqm.
- 2.05 Block C would be located towards the south-eastern part of the site. It would have a 13.7m x 15.5m footprint; an eaves height of 6.5m and a ridge height of 9m. It would contain two units each with a GIA of 190 sqm.
- 2.06 The applicant has adopted a comparable design rationale and materials palette to that used on the adjoining Jubilee Industrial Estate. The elevations of the blocks would be finished in a mixture of grey horizontal composite panels, vertical grey profiled metal sheeting, yellow stock brickwork with decorative soldier and string courses, grey powder coated aluminium windows and blue black eternit slate roofs.
- 2.07 64 car parking spaces including 9 suitable for use by disabled persons would be provided together with 9 service vehicle spaces. The parking would generally be sited to the front of each unit and within six parking courts to the south of the access road adjacent to the railway. An existing car park to the north-west of the Jubilee Industrial Estate would be upgraded and extended to provide 21 additional spaces to serve both the proposed new units and the existing neighbouring units.
- 2.08 A total of 21 cycle parking spaces would be provided, 12 within a secure shelter and the remainder in racks within the proposed units.

- 2.09 A new access linking the proposed development to the Jubilee Industrial Estate is proposed and the existing access on to Station Road will be resurfaced and retained for use as an exit only. Security measures would be installed to prevent unauthorised through traffic entering the application site from the Jubilee Industrial Estate and exiting on Station Road.
- 2.10 The application has been amended during the course of its consideration. The salient modifications are as follows:-
- To uplift the appearance of Blocks A and B when viewed from the recreation ground the profiled metal sheeting originally proposed for the rear elevations has been replaced by yellow stock brick with decorative soldier and string courses.
 - A pedestrian access has been provided from the site into the Recreation Ground
- 2.11 Additional information has also been submitted including a Transport Statement and an Aboricultural Impact Assessment.
- 2.12 It is estimated that the development would support 75 full-time equivalent jobs.

3.0 PLANNING CONSTRAINTS

Conservation Area Faversham (-statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990).

Flood Zone 3

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 9 – Promoting sustainable transport
 Chapter 12 – Achieving well designed places
 Chapter 13 – Meeting the challenge of climate change, flooding and coastal change
 Chapter 16 – Conserving and enhancing the historic environment

Bearing fruits 2013: The Swale Borough Local Plan 2017

- 4.02 Policy ST1 – Delivering sustainable development
 Policy CP1 – Building a strong, competitive economy
 Policy CP 4 – Requiring good design
 Policy CP8 – Conserving and enhancing the historic environment
 Policy DM 6 – Managing transport demand and impact
 Policy DM 7 – Vehicle parking
 Policy DM 14 – General development criteria
 Policy DM 19 – Sustainable design and construction
 Policy DM 21 – Water, flooding and drainage
 Policy DM 29 – Woodlands, trees and hedges
 Policy DM 32 – Development and listed buildings
 Policy DM 33 – Development affecting a conservation area

5.0 LOCAL REPRESENTATIONS

5.01 Faversham Society- Has stated that *'The extension of the Jubilee Way Business Park into the railway land is welcomed and will assist in providing local employment opportunities...The height and scale of the buildings is acceptable in this location and will not harm the engine sheds, which are listed...However, the elevations of the buildings abutting the Recreation Ground should be constructed in brickwork in the same form as the end elevations, because the rear elevations will be highly visible across the recreation Ground.'*

5.02 10 responses have been received objecting to the proposal on some or all of the following grounds:-

- Inappropriate location for industrial units;
- Metal cladding out of keeping with conservation area;
- Adverse impact on wildlife;
- Loss of trees;
- Loss of privacy;
- Increase problems of security and antisocial behaviour;
- Detrimental impact on outlook;
- Increased use of access road would exacerbate existing pedestrian and highway safety problems at Station Road/ St. Marys Road junction;
- Road link/ through route from Jubilee industrial estate would be used as a short cut by general traffic;
- Residents in Preston Malt House and Beaumont Terrace would be adversely effected by diesel/ patrol fumes;
- Residents would be adversely effected by noise, vibration and light pollution from lorries and traffic using access road;
- More intensive use of access road would result in deterioration of embankment adjacent to Preston malt house and Beaumont Terrace; and,
- Adverse impact on property values.

5.03 Three responses have been received neither objecting to nor supporting the application making the following comments:-

- Appearance of grey cladding is poor;
- Inadequate planting/ landscaping;
- Station Road egress is hazardous and would be used as a through route;
- Excessive parking provision;
- Fly tipping would increase;
- Existing boundary trees are poorly maintained and block sunlight to Beaumont terrace;
- Application should include a link to the Recreation ground to enable more convenient deliveries to the Lodge; and,
- Access road should be made a public right of way to provide a direct route to the station.

6.0 CONSULTATIONS

6.01 Faversham Town Council has no objections to the proposal. It has, however, made the following comments:-

- The erection of B1, B2 and B8 units are an appropriate use of the land;
- The access road could be used as a rat-run exacerbating existing highway safety problems at the Station Road junction;
- The bedrooms windows in the Malthouse are at the rear and the access road runs directly behind them at a higher level. Additional traffic would result in increased air, noise and light pollution and a loss of privacy;
- To improve the view from the Recreation Ground, the rear elevation of Block B would be improved by the use of brickwork rather than metal cladding; and,
- The access onto Station Road should be for emergency access only and should have a locked gate.

6.02 KCC Flood and Water Management- No objections in principle subject to a condition requiring the submission and approval of a detailed sustainable surface water drainage scheme and a verification report following its implementation.

6.03 Natural England- The application is not likely to result in any significant impacts on statutory designated conservation sites or landscapes.

6.04 KCC Highways and Transportation- The potential impact on the highway network warrants further investigation and therefore the following information is required:-

- A Transport Statement comparing anticipated vehicle movements with the previous use of the site; the potential increase in vehicle movements at the Whitstable Road/ Jubilee Way Junction and the new egress on to Station Road; and, details of the accident records.
- A Stage 1 Road Safety Audit for the proposed changes to the public highway especially with regard to the realignment of the junctions at Station Road with the site exit.
- Measures to prevent HGV's using the site egress as a thorough route.
- Details of how the exit-only arrangement onto Station Road is to be signed/ enforced.
- A total of 10 electric car spaces with charging points should be provided.

6.05 Environment Agency- No objections subject to conditions requiring the submission of a ground contamination remediation strategy and verification report demonstrating its implementation.

6.06 KCC Public Rights of Way & Access Service- No objection. The proposed development will not affect the footpath which crosses the railway over the lattice bridge.

6.07 Southern Water- No objections subject to standard informative regarding connection to the public sewerage system.

6.08 The Environmental Protection Team Leader- The single track road exit to Station Road is located immediately adjacent to residential properties in Preston Malthouse and additional traffic could potentially have a significant noise impact on the occupiers. An acoustic report is therefore required before the application can be assessed.

- 6.09 Network Rail- Requested informatives to be attached to ensure the safe operation of the railway and the protection of network rail's adjoining land.
- 6.10 Historic England- No comment response received.
- 6.11 Kent Police- The submission does not demonstrate that Crime Prevention Through Environmental Design (CPTED) has been taken into account. A meeting with the applicant/ agent is requested.

7.0 RE-CONSULTATIONS

- 7.01 Following the submission of amended plans and additional information a further consultation exercise was carried out.

Local Representations

- 7.02 Nine representations have been received raising objects to the proposal on comparable grounds to those referred to above as well as the following:
- At 4.8m the proposed barrier is too high and would allow HGV's to enter the site from the Jubilee Industrial Estate enter the site and egress via Station Road; and,
 - The access road is not wide enough to accommodate vehicles and a pedestrian footpath.

One letter has been received neither objecting to or in support of the application and one letter has been received in support

7.03 Consultations

- 7.04 KCC Public Rights of Way and Access Service, KCC Flood Water Management, Historic England and Southern Water have reiterated their previous comments.

- 7.05 Faversham Town Council- Has now objected to the proposal on the following grounds:-

- The proposed buildings are of poor design and inappropriate materials for a Conservation Area;
- The access causes loss of amenity;
- Prefer the proposed bank to be built with bricks because of maintenance and access issues with the existing soil bank;
- The flow of traffic should be from Station Road to Jubilee Way;
- Access from Station Road should be barrier controlled and for emergency purposes only.

They have also stated that it supports more employment in the town but not to the detriment of local residents; and, that a vehicle access should be provided from the site into the Recreation Ground in order to service the Lodge.

- 7.06 KCC Highways and Transportation- Has no objections to the proposal following the submission of amendments subject to conditions in respect of car parking, cycle parking and servicing arrangements.

- 7.07 The Environmental Protection Team Leader- Has agreed with the findings of the Acoustic Assessment prepared by Ned Johnson Acoustic Consultants Ltd and considers that the predicted impact to nearby residents from vehicle movements will be insignificant and that the traffic calming measures will satisfactorily mitigate any potential noise disturbance to the residents of Preston Malthouse.

The Combined Geotechnical and Ground Contamination Risk Assessment prepared by Ashdown Site Investigation Ltd has identified the need for further sampling and soil testing and the Environmental Protection Team Leader has advised that conditions be imposed requiring the submission and approval of a further site investigation, remediation method statement and verification report.

- 7.08 Kent Police- Have met the applicant on site and advised on CPTED.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The submitted documents include a Design and Access statement, Transport Statement, Road Safety Audit, Heritage Asset Statement, Acoustic Assessment, Tree Survey, Flood Risk Assessment and Combined Geotechnical and Ground Contamination Risk Assessment.

- 8.02 The submitted drawings include existing and proposed site plans; proposed floor plans and elevations; and, cross sections.

9.0 APPRAISAL

Principle of Development

- 9.01 Given that the application site has an established use as a contractor's yard and adjoins railway land and an existing industrial estate, there are no policy objections in principle to its redevelopment for Class B1, B2 and B8 purposes subject to the considerations outlined below.

Impact on the Setting of the Listed Buildings and the Character and Appearance of the Conservation Area

- 9.02 In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies DM32 and DM33 of the Local Plan seek to ensure that development proposals preserve or enhance the setting and character of listed buildings and conservation areas.
- 9.03 The application site is located at the eastern end of the Faversham Conservation Area the context of which is dominated by the Recreation Ground, the railway and its associated buildings and structures and the Jubilee Industrial Estate.
- 9.04 Currently the application site contains a number of poor quality prefabricated buildings which fail to make a positive contribution to the character and appearance of the Conservation Area and as such, there are no objections to their removal.
- 9.05 The application is supported by a Heritage Statement which has been fully considered by officers and no objection is made to the layout, scale, design and external appearance of the scheme in relation to the preservation or enhancement of the Faversham Conservation Area.

- 9.06 In terms of their design and materials palette, the proposed buildings have followed the precedent set by the adjoining Jubilee Industrial Estate and would fit comfortably within the surrounding built context. It is acknowledged that at two storeys in height Blocks A and B would be more prominent than the existing single storey buildings, particularly when viewed from the Recreation Ground to the north. However, in response to officers' initial concerns and comments from Faversham Town Council and the Faversham Society, the north-facing elevations of Blocks A and B have been significantly improved through the use of yellow stock brickwork with decorative red brick detailing rather than grey composite cladding as originally proposed. The bulk and massing of the buildings would also be off-set by the screening effect of the existing trees within the Recreation Ground, some of which run along the perimeter of the application site.
- 9.07 The proposed development would have no adverse effects on the setting of the nearby grade II listed buildings. Faversham Station is located some 280m to the east of the nearest of the proposed industrial buildings and as such would have no discernible impact on its setting. Furthermore, the overall design rationale of the proposed buildings, with their relatively steep pitched roofs, yellow stock brick gable ends, red brick band courses and corner quoins is in keeping with the established Victorian railway vernacular and would enhance the setting the former engine shed (grade II listed) which is, unfortunately, in a derelict condition and lies within an overgrown fork in the railway line some 30m to the south-east. It is considered that the proposed development would have a neutral impact on the grade II listed lodge which lies at a lower level screened by trees and vegetation some 50m to the north-east of the site.
- 9.08 In terms of its design and appearance, it is considered that the revised scheme is in keeping with the established character of the area and would have a neutral impact on the visual amenities of the Conservation Area and the setting of the neighbouring listed buildings. Notwithstanding this, a condition is included below requiring the submission and approval of the external facing materials.

Residential Amenity

- 9.09 Policy DM 14 of the Local Plan seeks to ensure that new development does not cause significant harm to the amenities of the occupiers of neighbouring properties.
- 9.10 The nearest residential properties (i.e. Preston Malthouse) are located in excess of 150m away from the proposed buildings and as such, these structures would have no detrimental impact on the light, outlook or privacy of the occupiers.
- 9.11 Faversham Town Council and a number of respondents have expressed concerns regarding the potential harmful impact of traffic generated by the proposed development on the amenities of neighbouring residential occupiers and in particular those at Preston Malthouse which back onto the site and have ground floor bedroom windows and first floor level roof terraces which face the existing vehicular access way at a distance of some 5m, and Members will note the 'Site Cross Sections' drawing showing this relationship.
- 9.12 Although the site is currently vacant, it has an established use as a contractor's yard with both vehicular access and egress via Station Road. Using the TRICS database, the submitted Transport Statement indicates that the existing on site buildings and use would generate a potential level of traffic generation of 37 two-way trips per day. In the current submission access to the site would be provided from Whitstable Road (A2040) via the existing industrial estate. The use of this route would be controlled by

an entry phone system and lifting arm barrier with height restriction (i.e. 4.2m) limiting traffic to users of the application site only and precluding unauthorised through traffic from Whitstable Road and the Jubilee Industrial Estate. The Transport Statement (using the TRICS database) estimates that there would be 57 daily vehicle movements leaving the site via Station Road, a potential increase of twenty. Furthermore, due to the limited size of each of the proposed units the majority of these vehicles are likely to be cars and small commercial vehicles rather than large HGV's. Traffic calming measures have also been proposed for the one-way road link to Station Road to reduce vehicle speeds.

- 9.13 The applicant has submitted an acoustic report and the Environmental Protection Team Leader is satisfied that the impact of any lorry movements will be low and noise will not exceed existing ambient levels or adversely effect the amenities of the occupiers of Preston Malthouse.
- 9.14 It is acknowledged that the proposed development would result in an increase in vehicular traffic using the single-track road link to Station Road. However, in view of Environmental Protection Team Leader's comments and the fact that the track would be one-way and include mitigating traffic calming measures, it is not considered that levels of noise and disturbance would be so significant as to unduly compromise the amenities of neighbouring residential occupiers.
- 9.15 It is noted that concerns have been expressed regarding potential overlooking and security to the properties at Preston Malthouse. However, it is considered that the proposed boundary treatment comprising a 1.8m high steel mesh fence supplemented by screen planting would be sufficient to preclude overlooking from passing pedestrians and vehicles and maintain the security of the occupiers.
- 9.16 On balance, it is considered that the level of traffic generation and the provision of the one-way egress route would not result in unacceptable levels of noise and disturbance, loss of privacy or security to the occupants of the neighbouring dwellings and as such, the proposal complies with the aims and objectives of Policy DM14 of the Local Plan.

Highways and Car Parking

- 9.17 Objections have been raised by Faversham Town Council and neighbours on the grounds of potential safety issues posed by the development, particularly in relation to the level of traffic generation and the vehicular egress on to Station Road.
- 9.18 However, KCC Highways and Transportation are satisfied with the proposal in respect to the impact on the highway network, access and parking.
- 9.19 Vehicular access to the site would be from Sidings Close via the Jubilee Industrial Estate and the existing site access would become one-way providing an exit only route on to Station Road. An entry phone controlled barrier would be provided to the east of the site at Sidings Close to prevent unauthorised through traffic from the Whitstable Road and the Jubilee Industrial Estate exiting onto Station Road.
- 9.20 Following the submission of a Stage 1 Road Safety Audit and amendments to the Station Road Junction including stop and no entry signs; and, a new section of footpath, pedestrian crossing and ramp linking the railway footbridge to St. Marys Road; KCC Highways has no objections to the proposal on the grounds of highway safety.

- 9.21 A total of 65 car parking spaces (including 10 wheelchair spaces and 10 with electric car charging facilities) and 21 cycle spaces (i.e. 12 within a cycle shelter and 1 rack within each unit) would be provided in accordance with KCC Parking Standards. A further 21 car spaces would be provided on the north-east corner of the application site to supplement the existing car parking on the Jubilee Industrial Estate.
- 9.22 The concerns of Faversham Town Council and neighbouring occupiers have been noted, however given that KCC Highways and Transportation are now satisfied with the proposal with respect to the impact on the highway network, access arrangements and parking, there are no officer objections to the application on highways ground

Landscaping and Trees

- 9.23 Areas of soft landscaping comprising ground cover planting and specimen tree planting would be provided around the proposed buildings and parking areas together with new native hedge planting along the northern boundary of the access road. It is considered that this would provide a satisfactory setting for the development and provide a more attractive and robust screen along the access road. Notwithstanding this, it is recommended that a condition be imposed requiring the submission and approval of a detailed landscaping scheme prior to the commencement of the development.
- 9.24 There is a dense stand of poor quality young sycamore trees on the proposed site of Block B together with a row of trees adjoining the north-western boundary of the site within the Recreation Ground. An Arboricultural Impact Assessment has been submitted indicating that the sycamores are of little amenity value and will be removed and that standard tree protection measures will be adopted to ensure that the perimeter trees are protected during construction and will not be affected by the proposed works. The proposals are acceptable from an arboricultural point of view subject to a condition to ensure that the recommended tree protection measures are implemented.

Flood Risk/ Drainage

- 9.25 The Environment Agency's Flood Map for Planning indicates that a small section of the existing access road amounting to approximately 1% of the site area lies within Flood Zones 2 and 3. The remainder of the site, including the proposed building and associated parking and servicing areas is designated as Flood Zone 1 and as such is at very low risk of flooding.
- 9.26 At this stage only limited information has been submitted in respect of site drainage. Notwithstanding this, KCC Drainage raise no objection to the proposal subject to the imposition of conditions relating to the submission of a detailed surface water drainage scheme, submission of a Verification report relating to the surface water drainage system and infiltration used to manage surface water from the development.

Land Contamination

- 9.27 The submitted land contamination report did not identify any significantly elevated concentrations of heavy metals or PAH compounds within the soils tested but concludes that *'There remains the potential for other contaminants to be present in the underlying soils as well as a risk from ground gases from historical quarries and pits in the vicinity of the site. Further works will be required to assess the remaining potential risks identified.'*

- 9.28 The Environmental Protection Team Leader has reviewed the report and has agreed with its findings and has no objections to the proposal subject to the imposition of conditions relating to the submission of a further site investigation, a remediation method statement and a verification report.

Other Matters

- 9.29 The concerns raised by Faversham Town Council and neighbouring occupiers with regard to the design and appearance of the proposed buildings, traffic generation, highway safety and residential amenity have been addressed above. The impact of the development on property values is not however, a material planning consideration.
- 9.30 The Town Council’s request that a vehicular access be provided from the application site to the Recreation Ground in order to service the Lodge has been noted and put to the applicant. In response, the applicant has indicated that due to the marked change in levels between the site and the Recreation Ground such an arrangement would be impractical. As an alternative, the scheme has been amended to include a pedestrian footpath linking the site to the Recreation Ground and the pedestrian footbridge crossing the railway.

10.0 CONCLUSION

- 10.01 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.
- 10.02 The proposed development would accord with the aims and objectives of the Local Plan and the NPPF and would provide additional employment opportunities in the Borough. No significant impact would be caused to the amenities of neighbouring occupiers or highway safety. I further consider that the development would relate well to the existing built environment and preserve the character and appearance of the Faversham Conservation Area and the setting of the nearby listed buildings.
- 10.03 It is acknowledged that there has been local opposition to the proposal. However, following consideration of national and local plan policy along with the amendments to the scheme and the input of consultees, it is considered that the scheme is acceptable. It is therefore recommended that planning permission be granted subject to the conditions as set out below.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:-

CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which 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 plans and documents:

Location plan 1202.01E

Existing site plans 1202.10B & 1202.11A
 Existing elevations 1202.24
 Proposed site plan (Flood Risk Zones) 1202.23C
 Site plan ground floor 1202.20G
 Proposed site plan (western half) 1202.12C
 Proposed site plan (eastern half) 1202.13E
 Proposed site plan (first floor) 1202.21E
 Floor plans Block A 1202.14C
 Elevations Block A 1202.15C
 Floor plans Block B 1202.16C
 Elevations Block B 1202.17F
 Floor plans Block C 1202.18A
 Elevations Block C 1202.19B
 Site cross sections 1202.25A
 Typical fencing detail 1202.22
 Limited topographical survey 18/00/278
 Tree survey and constraints 2561/19/A/1
 Lifting arm barrier details 1202.26A
 Design and Access Statement
 Transport Statement (November 2018)
 Road Safety Audit Stage 1 (2nd December 2018)
 Heritage Asset Statement
 Assessment of Flood Risk
 Tree Survey by laDellWood (February 2019)
 Acoustic Assessment by Ned Johnson Acoustic Consultants Ltd (10/112018)

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 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.

4. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters. The drainage scheme shall be implemented in accordance with the approved details prior to the first occupation of the development (or within an agreed implementation schedule).

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

5. Where infiltration is to be used to manage surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/ or ground stability. The development shall only then be carried out in accordance with the approved details.

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

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

Reason: To ensure that flood risks from the development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework (July 2018).

7. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
 1. A preliminary risk assessment which has identified (a) all previous uses; (b) potential contaminants associated with those uses; (c) a conceptual model of the site indicating sources, pathways and receptors; and (d) potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

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

8. Prior to any part of the development being occupied a verification report demonstrating the completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

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

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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

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

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

Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution, turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

11. 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.

12. 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.

13. 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.

14. Unless otherwise agreed in writing by the Local Planning Authority, No development shall commence until the tree protection measures recommended in the Tree Survey Report Issue1 dated February 2019 by LaDellWood are implemented.

Reason: In order to protect existing trees which are considered worthy of retention.

15. The area shown on the submitted plan as loading, off-loading and parking space (namely drawing 1202.20G, Site Plan – Ground Floor) shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

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

16. No building shall be occupied until space has been laid out and the cycle shelter as referred to on drawing 1202.20G has been provided within the site in accordance with the details shown on the approved plans for bicycles to be parked.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

17. No development shall take place, including any works of demolition, until a construction method statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development

- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interest of the amenities of the area and highway safety

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. The buildings hereby approved shall be constructed to BREEAM ‘Good’ Standard or an equivalent standard and prior to the use of the buildings the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

20. No building shall be occupied until 10 car parking spaces with access to electrical charging ports have been provided in accordance with details to be submitted to and approved in writing by, the Local Planning Authority.

Reason: In the interests of sustainable development.

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

Reason: in the interests of residential amenity

INFORMATIVES

1. A formal application for connection to the public sewerage system is required in order to service the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.
2. Network Rail recommends the developer contacts AssetProtectionsKent@networkrail.co.uk prior to any works commencing on site, and also to agree an Asset protection Agreement with us to enable approval of detailed works. More information can also be obtained on our website at www.networkrail.co.uk/asp/1538.aspx.

3. Kent County Council Public Rights of Way and Access service have advised that:

- No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority.
- 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.
- In order to ensure public safety during development, the temporary closure of the route might be necessary. The temporary closure would be processed by Kent County Council on the basis that:
 - i) The closure is paid for by the developer
 - ii) The duration of the closure is kept to a minimum
 - iii) Alternative routes will be provided for the duration of the closure
 - iv) Six weeks' notice of the requirement of a closure is given by the developer.

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;

Amendments and additional information was submitted by the applicant at the request of the case officer; and 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 – 25 APRIL 2019

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 19/500406/FULL			
APPLICATION PROPOSAL Erection of 1 no. three bedroom detached dwelling on vacant land (Revision to 17/503199/FULL).			
ADDRESS Land West Of 12 Main Road Queenborough Kent ME11 5BQ			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR REFUSAL The proposed dwelling, by virtue of its scale and location on the plot, would have an overbearing impact and would create a sense of enclosure, harmful to the residential amenities of the occupiers of no.12 Main Road. The proposal would therefore be contrary to policies CP4 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".			
REASON FOR REFERRAL TO COMMITTEE Parish Council support the application which is contrary to Officer recommendation.			
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL Queenborough	APPLICANT Mrs Pauline Shoebridge AGENT	
DECISION DUE DATE 01/04/19	PUBLICITY EXPIRY DATE 27/02/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/503199/FULL	Erection of 1no. three bedroom detached dwelling on vacant land	Refused	09.05.2018
SW/01/1214	New dwelling.	Approved	31.01.2002
SW/89/0331	Outline application for three bedroom detached house	Refused	02.05.1989

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of a vacant plot of land located within the built up area boundary of Queenborough. The site is on the southern side of Main Road and to the west of no. 12. The front of the site is currently enclosed by a close boarded wooden fence.
- 1.02 The vacant site has a prominent position in the streetscene being clearly visible from public viewpoints on Main Road and also from the junction of Stirling Road.
- 1.03 The surrounding area is predominantly residential with the site being bounded on all sides by rows of residential dwellings. However I note that on the north side of Main

Road there lies a commercial Co-op store. I consider from visiting the site and viewing the GIS maps that the area predominantly consists of rows of two storey terraced dwellings but note that there has been some development to the north and west of the site including a detached bungalow and two storey detached dwelling and some flats.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a detached 3no. bedroom 2 storey dwelling located on a vacant plot to the west of 12 Main Road.
- 2.02 The new dwelling would provide a lounge/dining room and a kitchen on the ground floor with 3no. bedrooms, a bathroom and an ensuite serving the master bedroom on the first floor. The drawings indicate the parking of two vehicles to the front of the dwelling and a private amenity space to the rear of approximately 12.5m in depth.
- 2.03 The dwelling would have an 'L shaped' ground floor footprint, measuring 6m at the widest point and 9.5m at the deepest. The first floor of the dwelling would have a larger overall footprint as it would overhang the ground floor footprint to the front.
- 2.04 This application is similar to application 17/503199/FULL which was refused in 2018 but in this submission the dwelling is situated closer to the road frontage. The result of this rearrangement means that there is a projection of 3m past the rear of no.12 Main Road compared to the 5.2m on the previous application. The overhang on first floor level has been created to provide the desired space on the first floor whilst providing off road parking and reducing the projection to the rear. I also note that as a result of the reduced spacing to the front the landscaping has been removed.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: ST1, ST2, St3, ST4, CP2, CP3, CP4, DM6, DM7 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017"

5.0 LOCAL REPRESENTATIONS

- 5.01 One email was received from a neighbour objecting to the proposal, these comments are summarised below:
- Concerns relating to noise and dust pollution from building works
 - Concerns the development would cause strain on neighbours health and mental health
 - Invasion of privacy
 - Loss of sunlight
 - The development will become an eyesore
 - Concerns relating to parking
 - Many of the residents of the street are elderly and do not use computers do are finding it hard to raise complaints to the development.

6.0 CONSULTATIONS

6.01 **Queenborough Town Council** support the application. Stating the following:

“The Town Council noted the changes to the application under 19/500406/FULL for the erection of 1 no. three bedroom detached dwelling on the vacant land west of 12 Main Road Queenborough.

The dwelling design has adequate vehicle parking, therefore eliminating any increased parking on the highway.

The Town Council support the use of this vacant site of overgrown land along the Main Road.”

6.02 **KCC Highways** have no objection to the application stating:

“I note that this application differs little materially in highway terms from the previous application ref. SW/17/503199, considered acceptable by us. Consequently, provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- *Submission of a Construction Management Statement before the commencement of any development on site to clarify the timing and management of deliveries to the site so as to offset any impact on the B2007/Main Road.*
- *Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.*
- *Provision and permanent retention of the vehicle parking space as shown on the submitted plans prior to occupation.*
- *Provision and permanent retention of the vehicle turning facility shown on the submitted plans prior to occupation.*
- *Use of a bound surface for the first 5 metres of the access from the edge of the highway.*
- *Provision of measures to prevent the discharge of surface water onto the highway.”*

6.03 **Natural England** offer their standard response stating: *“Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).”*

6.04 **Southern Water** advise a formal application is required for a connection to a public sewer and request an informative should the application be approved.

6.05 **Environmental Health** raise no objection subject to the imposition of a standard condition relating to construction hours.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 19/500406/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site is situated within the defined built up area boundary of Queenborough where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts. I also note that there was a successful application on the site for a similar scheme approved under reference SW/01/1214 and therefore consider that the principle of the development is not disputed.

Visual Impact

- 8.02 The immediate streetscene is fairly uniform in terms of design and the character of this area consists predominantly of two storey terraced dwellings. The presence of some sporadic detached dwellings to the north of the site and flats to the west does add a degree of variation in the streetscene however, and when taking this into consideration I do not consider that principally the addition of a two storey detached dwelling at this location would appear obtrusive in the streetscene. Notwithstanding this I do have concerns as cited by the previous refusal in relation to the overdevelopment of the plot. The plot itself is relatively narrow and reduces from 7.3m wide at the front to 6.1m towards the rear of the plot. I consider that the addition of a 3 bedroom detached house in this location leads to the appearance of a cluttered and overcrowded plot which is potentially harmful to the visual amenities of the streetscene.
- 8.03 It is also considered that the design of the front elevation of the dwelling with the overhang at first floor would appear incongruous in the streetscene, even with the mix of dwelling types and therefore harmful to visual amenity. There would also be no opportunity for landscaping as a result of the tight parking layout to the front of the dwelling to soften the visual impact of the parked cars at the front of the site.

Residential Amenity

- 8.04 The proposed dwelling would have rear windows serving habitable rooms that would face towards the rear gardens of properties along Gordon Avenue and Harold Street which lie to the south of the site. It must therefore be considered whether overlooking will be a concern as a result of this development. The previous application 17/503199/FULL determined that these windows would only overlook the rearmost parts of the gardens, and due to the angle of the dwelling in relation to the other dwellings that limited overlooking would occur. I agree with this assessment and I also note that there is a distance of approximately 20m between the rear of the proposed dwelling and the rear of the existing dwelling on Gordon Avenue and 25m from the rear of the dwelling on Harold Street. As such, I do not envisage significant harm by virtue of overlooking.
- 8.05 The relationship between the adjacent neighbouring dwellings must be carefully considered and it is noted that this constituted the reason for refusal on previous application 17/503199/FULL. The proposal shows a projection of 3m at first storey level close to the common boundary with no.12 Main Road. The SPG recommends a maximum of 1.8m at first storey level and therefore this is exceeded. It is noted that this is a reduction on the previous scheme where a 5.2m projection was proposed however it is still considered that the impact of a 3m projection to the rear with only a 1m distance would create an unacceptable feeling of dominance and enclosure to the residents of no.12 Main Road to the east of the site. I therefore do not consider

that the 2018 refusal has been overcome. I note however that as the garden of 12 Main Road is south facing, I do not consider there will be an excessive loss of sunlight.

- 8.06 The relationship between the new dwelling and the block of flats located at 4 Main Road would in my view be acceptable as there is a distance of 4 to 4.9m between the two dwellings and the first floor rear element of the proposed dwelling would only project past the rear of 4 Main Road by approximately 2m. I consider that this distance between the two dwellings would acceptably offset any overbearing impact caused by the new dwelling and as such consider this relationship acceptable on residential amenity.
- 8.07 The Council would normally expect a minimum depth of 10 metres for a garden to a new dwelling. In this instance this is exceeded, offering a rear garden depth of 12.5m and I therefore consider a garden of this depth is acceptable.

Highways

- 8.08 KCC Highways raise no objection to the proposal subject to conditions and I note that the plans show space for the parking of 2 cars off-road to the front of the new dwelling which is in line with policy. However, the tight spacing and orientation of the parking proposed would allow no room for landscaping to the front of the new dwelling to soften the appearance of the hardstanding and I consider that manoeuvrability would be limited at the front of the site.

Other Matters

- 8.09 I have for completeness set out an Appropriate Assessment below. Since this application would result in an 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 contribution at the rate of £239.61 per dwelling. **The applicant has provided written confirmation that they would be willing to pay this mitigation fee, which will be secured by way of a SAMMs Payment Form or Unilateral Undertaking if required.**
- 8.10 In reference to the comments raised by the objector, comments can be submitted to the Council by post and therefore access to a computer would not be required, it is also possible to view physical copies of the file at the Council Offices. It is not considered that the noise and dust from the building works will be substantial as the works are relatively small scale, I also note that Environmental Health have been consulted on the application and have provided a condition relating to construction hours to help maintain a good standard of residential amenity, should the application be approved.

9.0 CONCLUSION

- 9.01 It is considered that the plot is too small to accommodate a residential property of this scale and the previous successful scheme SW/01/1214 is no justification for approval. The application does not overcome the previous reason for refusal provided under application 17/503199/FULL and still causes a detrimental impact on the residential amenity of the occupiers of no.12 Main Road.

10.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposed dwelling, by virtue of its scale and location on the plot, would have an overbearing impact and would create a sense of enclosure, harmful to the residential amenities of the occupiers of no.12 Main Road. The proposal would therefore be contrary to policies CP4 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".

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

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

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

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

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

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

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

to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is 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 (which has been secured prior to the determination of this application) 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.



3.2 REFERENCE NO - 19/500129/FULL		
APPLICATION PROPOSAL Demolition of existing outbuilding. Erection of two storey side extension, rear infill extension and two detached two storey triple garages.		
ADDRESS Cripps Farm Plough Road Minster-on-sea Sheerness Kent ME12 4JH		
RECOMMENDATION Refuse		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development would have an unsympathetic and incongruous presence that would detract from the character and appearance of the host dwelling and the intrinsic character and beauty of the surrounding countryside.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr. Andy Booth		
WARD Sheppey East	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT D Buckley Ltd. AGENT DEVA Design
DECISION DUE DATE 25/03/19		PUBLICITY EXPIRY DATE 26/02/19

Planning History

SW/98/0554 Outbuildings comprising a wildlife shed a storage shed and a garage/hobby shed. Grant in 1998.

SW/98/0273 New vehicle access, conversion of barn to dwelling at Cripps Farm. (Amendments to approved scheme) Grant in 1998.

SW/98/0163 Replacement Dwelling Grant in 1998.

1. DESCRIPTION OF SITE

1.1 The application site comprises of a modern detached dwelling located on a large spacious plot on the north side of Plough Road and on the opposite side of the road is the residential development of Kingsborough Manor. The dwelling is of brick construction and set back from the road by approximately 15 metres. The original building at the site was a small cottage which was replaced following the grant of planning permission under application reference number SW/98/0163. This permission included a planning condition restricting further enlargement of the new dwelling in view of the Council’s rural restraint.

1.2 The surrounding area forms part of the open countryside as defined by the Local Plan. Appleyard Barn a detached dwelling lies approximately 25 metres to the east of the application property with open agricultural land to the west and north of the site.

2. PROPOSAL

2.1 The application proposes a two-storey side extension to the eastern flank of the building, a rear two-storey infill extension and two detached garages one at the front of the site and the other close to north eastern corner at the rear of the site. The side

extension would be approximately 4.3 metres wide and 11.3 metres deep including the front projection. The rear infill element proposed would be 2 metres in depth and 4.3 metres in width.

- 2.2 The proposal includes extending the building to the east at full ridge height, and transformation of the lower existing western roof slope into a full height barn hip, which would require raising of the flank walls on that elevation. A glazed central façade to the front elevation of the building would replace the existing front porch and the canopy above the existing bay windows is shown to be extended to match the appearance of the canopy above the newly formed front projection.
- 2.3 Both proposed triple garages would be designed to replicate the appearance of the host dwelling and would be constructed of facing brick work and finished with a barn hip roof. They would both be 10 metres wide, 7.2 metres deep and be 6 metres high to the ridge, with an eaves height of 2.4 metres. The garage buildings would have a barn hip roof to match the roof of the main dwelling with storage at first floor.

3. PLANNING CONSTRAINTS

- 3.1 The site lies in an area of Potential Archaeological Importance

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF): Paragraphs 118, 124, 128, 130,131, are relevant.
 Development Plan: The Swale Borough Local Plan 2017: Policies CP4, DM11 and DM14 Bearing Fruits 2031: The Swale Borough Local Plan 2017
 Supplementary Planning Guidance: Paragraph 3.3 and 5.2 of Designing and Extension: A Guide for Householders' Supplementary Planning Guidance (SPG).

5. LOCAL REPRESENTATIONS

- 5.1 One representation has been received from a neighbour raising objection to the proposal on the following summarised grounds:

- Overdevelopment of site
- Incorrect boundary
- Access to Plough Road
- Garage location at frontage
- Residential caravan at rear
- Front boundary
- Paving of front garden

6. CONSULTATIONS

- 6.1 Minster Parish Council has raised objections to the application stating that “This is over-intensive development of the site. The proposed garages appear to show strong characteristics of potential future habitation”.

7. BACKGROUND PAPERS AND PLANS

- 7.1 The submission is accompanied by the following plans and drawings:
- DC/471 Existing Out Building Elevations
 - DC-462 Existing Elevations
 - DC-461 Site Location, Block and Existing Floor
 - DC-463 Proposed Floor Plans

- DC-464 Proposed Loft Floor and Section Plans
- DC-465 Proposed Elevations
- DC/466 Triple Garage, Plans and Elevations

8. APPRAISAL

- 8.1 The application site lies outside the built up area boundary of Minster where modest extensions and alterations to existing buildings are accepted. The main issues for consideration are the effect of the proposed extension on the character and appearance of the host property and the surrounding area, together with the impact of the proposed garages on the setting of the dwelling and the surrounding streetscene.
- 8.2 A relevant material consideration is Policy DM11 of the adopted Local Plan which states that the Council will permit extensions (taking into account any previous additions undertaken) to existing dwellings in rural areas where they are of an appropriate scale, mass and appearance in relation to the location i.e. modest extensions. Also of relevance is the Council's Supplementary Planning Guidance (SPG) for 'Designing an Extension: A Guide for Householders' which sets out the councils approach to the scale and design of extensions to existing buildings and it's a matter to which I attach significant weight. The SPG requires extensions to respect or reflect the character and appearance of the existing building. It further states that in the countryside extensions should not result in an increase of more than 60 percent of the original floorspace.

Visual Impact:

- 8.3 The application building is in a prominent position and can be seen from various locations within the street. It was built as a replacement for a much smaller dwelling granted permission in 1998 and as required by the SPG the resulting 43% uplift in floor area needs to be taken into account in determining this application. Increase in floor area is a useful approach in assessing proportionality, which is primarily an objective test based on size. The existing floor area is approximately 230 metres square, and the increase in the floor area that would result from this current application would be 197 metres square, including the second floor accommodation which would be contained within the new enlarged roofspace. This is significant when considering that the floor area of the existing dwelling was already a significant increase over the original dwelling, and the scheme currently proposed would result in a cumulative increase of approximately 140% percent over the former dwelling on this site. This would be contrary to the relevant guidance in the SPG. Further, I note the condition appended to the previous approval removing PD rights for the property in recognition of the significant increase in scale then approved, and in order to safeguard the amenities of the area and to prevent unnecessary development in the rural area.
- 8.4 In addition, the proposal includes altering the entire existing roof into a barn hip (carried across the new 2 storey side and rear infill extensions), which would not only substantially increase the size, but also alter the appearance of the existing building. Whilst I accept that the proposal would bring an overall symmetry to the building centred on a barn hip, and that design elements such as the central glazed entrance, canopy above bay windows and materials would resonate with the existing building, the resulting proportions of the house when viewed from public views from the front along Plough Road would appear overly large and incongruous. The scale of the proposed addition would dominate and subsume the character of the original building.
- 8.5 The Government attaches great importance to the design of the built environment. The revised National Planning Policy Framework (2018) states that good design is a key

aspect of sustainable development and advises that permission should be refused for development of poor design that fails to improve the character and quality of an area. Considering that the resulting building would be large and bulky, its scale and design would fail to respect the proportions of the existing dwelling, contrary to policy DM11 of the adopted local plan and the guidance in the SPG requiring extensions to respect or reflect the character and appearance of the existing buildings.

- 8.6 With respect to the proposed erection of the two detached triple garages, the Council expects garages and other outbuildings to be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location. In this respect, garages or outbuildings that are set in front of the building line are not normally permitted. I acknowledge that the garages proposed are of a simple design and intended to be ancillary to the established residential use of the main dwelling at the site.
- 8.7 I concur with the concerns expressed by Minster Parish Council regarding the scale of the proposed garages and the fact that they appear to show strong characteristics of potential future habitation. The triple garage proposed to the front of the site would not be modest. The scale, location and height of the garage building would introduce a prominent and intrusive structure at the front of the site that would be harmful to the visual amenities of the existing streetscene and surrounding countryside.
- 8.8 The second triple garage building which is proposed approximately 25 metres from the rear of the building, and at the north eastern corner of the site is designed to replicate the appearance of the host dwelling. Members would note that although large, due to the separation distance from the dwellinghouse it would not have any significant adverse impact on the space surrounding the property, or have any adverse impacts on the amenities of the neighbour at Appleyard Barn. This element of the application is considered acceptable.

Other Matters

- 8.9 The comments received from the neighbour at Appleyard Barn have been addressed in the main appraisal section of this report. This neighbour has also raised concerns regarding the access to Plough Road, residential caravan at rear of the site and paving of the front garden, however, these are not matters that can be taken into account in determining this application.

9. CONCLUSION

- 9.1 I therefore conclude that the proposed development would result in significant harm to the character and appearance of the existing dwelling and the surrounding area. Accordingly, the proposal would conflict with Policies CP4, DM11, and DM14 of the adopted Swale Borough Local Plan (2017) and would be contrary to the relevant guidance in the Council's SPG for residential extensions, in particular paragraph 3.3 and 5.2 and objectives of the revised National Planning Policy Framework (2018) to secure high quality design in all development.

10. RECOMMENDATION

REFUSE for the following reasons:

- (1) The proposed alterations to the existing dwelling by reason of the resultant imposing bulk would constitute an unsympathetic, incongruous and harmful addition that would detract from the character and appearance of the host dwelling and visual amenities of the surrounding countryside. The development would therefore be contrary to Policies

CP4, DM11, and DM14 of the adopted Swale Borough Local Plan (2017), paragraph 3.3 of the Council's Supplementary Planning Guidance (SPG) for 'Designing an Extension and relevant guidance in the revised NPPF.

- (2) The proposed detached triple garage by reason of its siting forward of the principal elevation of the dwelling would be prominent and incongruous in a manner detrimental to the setting of the dwelling and the visual amenities of the surrounding area. It would be contrary to policies CP4 and DM14 of the adopted Swale Borough Local Plan (2017), the relevant guidance in the revised NPPF and para. 5.2 of the Council's Supplementary Planning Guidance (SPG) for 'Designing an Extension.

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.

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 – 25 APRIL 2019

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Sonning Villa, Christopher Row, Lynsted**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.2 – Land situated at Hole Street Farm, Kingsdown Road, Lynsted**

ENFORCEMENT NOTICE APPEAL DISMISSED

Observations

Here the Inspector has criticised the drafting of the notice, which had been the subject of legal advice, and fortunately he has used his powers to correct the notice. On that basis he has then fully supported the reasoning behind the notice and the Local Plan policies which aim to prevent residential conversions in remote rural locations where other more economically beneficial uses might be possible. This support for Local Plan policies is in line with recent recommendations of mine, some of which Members have overturned.

- **Item 5.3 – 20 East Street, Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Whilst the Inspector noted that the Council cannot currently show that it has a 5 year housing land supply, he concluded that the adverse impacts of the development on the character and appearance of the area and the living conditions of future occupiers and existing neighbouring properties would significantly outweigh the small benefit of 4 additional flats.

- **Item 5.4 – Land adjacent to St Giles Church, Tonge**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for Local Plan settlement policies despite the marginal housing delivery shortfall.

- **Item 5.5 – Great Grovehurst Farmhouse, Grovehurst Road, Sittingbourne**

APPEAL DISMISSED

COMMITTEE REFUSAL

Observations

The Inspector noted that the Council currently cannot demonstrate that it has 5 year housing land supply and that the proposal would make a modest contribution to the shortfall. However he considered that this would only be of small benefit here and due to the harm that the proposed development would have on the setting of the adjoining grade 11 listed building he dismissed the appeal.



Appeal Decision

Site visit made on 20 March 2019

by Mr Kim Bennett DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2019

Appeal Ref: APP/V2255/D/19/3220075

Sonning Villa, Christopher Row, Lynsted, Kent ME9 0JN

- 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 Stuart Bridger against the decision of Swale Borough Council.
 - The application Ref 18/504194/FULL, dated 3 August 2018, was refused by notice dated 16 October 2018.
 - The development proposed is a 2 storey extension to rear elevation. Roundhall style construction with typical roof.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Sonning Villa comprises a two storey cottage of traditional design located on the east side of Christopher Row. It is close to the road frontage but has a large plot to the rear which accommodates a garage and outbuildings. There is a single storey extension at the rear which was apparently built in the 1950s, and a more recent conservatory to the side. The property forms part of a loose knit collection of houses along this part of the road, which is rural in character with a field directly opposite and open countryside to the rear.
4. The appellant argues that the design would be in keeping with the rural area with an extension which would be similar to those found elsewhere. The appearance would be subtle but tasteful and additional landscaping would also be undertaken.
5. The proposed design would certainly be striking in appearance, resembling a traditional Kentish Oast of which many examples can be found locally. However, in doing so the resulting height, scale and bulk would totally subsume the original cottage and significantly change its character from what was originally a modest cottage of limited depth, to a building where it would be dominated by the proposed extension. In particular the cowl roof would be significantly higher than the existing main ridge height and the extension would be clearly visible in the street scene from both directions, but particularly so when approaching the site from the north. Whilst the design would be an

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interesting approach, it is one which would introduce a replica agricultural vernacular on a domestic cottage in a primarily residential street scene, for which there appears to be no local precedent. As such, it would substantially change its character and detract from the immediate rural surroundings.

6. The Council advises that the original floorspace of the cottage was approximately 60 square metres. The proposal would result in approximately an additional 75 square metres over two floors. Taking into account the conservatory extension plus the kitchen part of the rear extension (the bathroom area being demolished as part of the proposal) it would result in a total floorspace of 163 square metres or an approximately 170% increase in floorspace over the original dwelling. I note that the appellant has not disputed those figures.
7. Policy DM11 of the Council's Local Plan 2017 – Bearing Fruits 2013 (LP), allows for extensions to existing dwellings in rural areas, but the supporting text makes it clear they should be modest and of an appropriate scale, mass and appearance to the location. In that respect the Council's guidance in its Supplementary Planning Guidance – 'Designing an Extension – Guide for Householders' (SPG), advises that whilst allowing for extensions to properties in the countryside, they should not normally be in excess of 60% of the original floorspace. Clearly the proposal would greatly exceed that and in my view could not be described as modest.
8. In reaching my finding above, I am sympathetic to the desire of the appellant to develop the property for his family in the longer term. I also acknowledge that the property is limited in size at present and in need of upgrading. However, that does not justify the size and design approach which would so radically alter and harm the character of the existing building and to which I attach greater weight to in this instance.
9. I note the concerns that the appellant makes regarding the processing of the application. However such matters are not before me and I also note that the appellant has already taken the matter up with a senior officer of the Council.
10. Having regard to the above, the proposal would cause harm to the character and appearance of the local area. It would therefore be in conflict with Policies CP4, DM11, DM14 and DM16 of the Council's LP, and the SPG, in that its scale, mass and appearance would not be appropriate in relation to the existing building or the surroundings.
11. Accordingly the appeal is dismissed.

Kim Bennett

INSPECTOR



Appeal Decision

Site visit made on 27 February 2019

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2019

Appeal Ref: APP/V2255/C/18/3203845

Land situated at Hole Street Farm, Kingsdown Road, Lynsted, Sittingbourne, Kent ME9 0XQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Duncan Anderson against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 9 May 2018.
- The breach of planning control as alleged in the notice is: Planning permission for the use of the barns as holiday lets was granted by the Council under reference SW/11/0517 on the 14th July 2011. The permission contained a condition restricting use of the four barns as follows:

The holiday accommodation hereby permitted shall be used solely for the purpose of the holiday accommodation, shall not be used by any person or persons as their sole or main residence and shall not be let or occupied by any person or group of persons for more than four weeks in any calendar year.

- The requirements of the notice are:
 - (i) Cease the use of all four holiday lets as the sole or main residence of any person.
 - (ii) secure compliance with condition 14 of Planning Permission SW/110517.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld with corrections

The Enforcement Notice.

1. The breach of planning control alleged in paragraph 3 of the notice is purely descriptive. The first part advises that planning permission for the use of the barns as holiday lets was granted by the Council in July 2011. The second part sets out in full a condition to which that permission was subject and which, to summarise, restricted occupation of the accommodation to holiday lets. Paragraph 3 does not itself identify the specific number of the condition that is quoted in full there, albeit it may be ascertained from paragraph 5 of the notice that the relevant condition is condition 14 of Planning Permission SW/110517.
2. My difficulty is that paragraph 3 of the notice does not then go on to allege that there has been a breach of planning control or precisely what that breach of control might be. By reading paragraphs 3 of the notice in conjunction with the requirements to comply with it set out in paragraph 5, it may be ascertained that the breach of planning control alleged is intended to be a failure to comply

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with condition 14 of Planning Permission SW/110517. Indeed, it appears that this is what the appellant has understood to be the case.

3. It is well-established case law that the drafting of an enforcement notice demands clarity and precision. The absence of a discernible breach of planning control in paragraph 3 of the notice does not accord with that principle. In that context, it is no answer that the recipient was able to 'guesstimate' the breach of planning control alleged by reading paragraph 3 of the notice in conjunction with paragraph 5. The recipient of an enforcement notice is entitled to be able to discover from within the four corners of the document precisely what he or she is said to have done wrong, in no small part because their decision to lodge an appeal against that notice may be entirely dependent on that information. As drafted, the notice in this case does not enable the recipient to do that.
4. Furthermore, paragraph 1 of the notice purports that there has been a breach of planning control under Section 171A(1)(a) of the Town and Country Planning Act 1990 (the 1990 Act). Section 171A(1)(a) of the 1990 Act only applies when the breach of planning control alleged comprises the carrying out of development without the required planning permission. If the Council was intending to allege a failure to comply with condition 14 of Planning Permission SW/110517, then the notice should have been issued under Section 171A(1)(b) of the 1990 Act.
5. This leads me to the conclusion that the notice is invalid as drafted. Nevertheless, I have wide-ranging powers under section 176(1)(a) of the 1990 Act to correct a notice, provided that doing so does not cause injustice. I have therefore carefully considered whether the notice can be corrected.
6. The appellant has responded to the notice on the basis that the alleged breach of planning control is a failure to comply with condition 14 of Planning Permission SW/110517. In doing so, the appellant has not made an appeal on ground (b) as set out in section 174(2) of the 1990 Act: specifically, that the matters alleged in the notice have not occurred. To my mind, this indicates that the breach of planning control may be properly described as being a failure to comply with a condition or limitation subject to which planning permission is granted, and therefore falling within Section 171A(1)(b) of the 1990 Act.
7. The time-period specified in paragraph 4(i) of the notice is 10 years, and therefore consistent with a notice issued under Section 171A(1)(b) of the 1990 Act. Had he considered it prudent, the appellant would have had an opportunity on first receipt of the notice to make an appeal on ground (d) as set out in section 174(2) of the 1990 Act: specifically that, on the date the notice was issued, no enforcement action could be taken. In the event, unsurprisingly so given that planning permission SW/110517 was only granted in July 2011 and therefore well within the 10 year period, no appeal on ground (d) was made.
8. Having regard to the above, I am satisfied that I can correct the notice to allege a breach of planning control under Section 171A(1)(b) of the 1990 Act comprising a failure to comply with condition 14 of Planning Permission SW/110517. I am also satisfied that no injustice would be caused by so doing.

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Appeal Decision APP/V2255/C/18/3203845

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

9. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which two main issues are raised:
- whether the use of the barns as residential accommodation represents a sustainable form of development, and
 - the effect of the use of the barns as residential accommodation on the rural economy.

For reasons that will become apparent, it is convenient to consider the second of these main issues in the first instance.

Effect of the use of the barns as residential accommodation on the rural economy

10. Planning permission for the conversion of the buildings to holiday lets was granted in July 2011 (Council Ref: SW/11/0517). That permission subject to conditions, including condition 14 which requires that the holiday accommodation shall not be used as a sole or main residence. The implication is that the Council must have considered the imposition of that condition to be necessary in order to make the development acceptable in planning terms, in order to satisfy the tests for imposing conditions set out in national guidance. The Council explains in its evidence that permission was granted as an exception to the policy restricting new development in the countryside on the basis of adopted planning policy for sustainable tourism and economic development through the use of rural buildings.
11. The appellant explains that the conversion of the barns to holiday lets formed part of a diversification plan for the farm to support and maintain the farm business. The appellant explains that he set out with every intention of implementing the planning permission for holiday lets as granted but that, due to a series of unforeseen circumstances, it became clear that the holiday let project was no longer financially viable. Those circumstances included the relatively low projected occupancy rates due in part to the availability of other holiday accommodation in the area and the poor location of the appeal site in relation to the main tourist attractions in the county. This leads the appellant to the view that the holiday let use was redundant and that the building would have been disused if permanent occupation had not commenced.
12. I am not convinced by the appellant's position in this respect. The Council maintains that there is a 'dire need' for holiday accommodation in the area and Policy DM3 of the Local Plan states that planning permission will not be granted for residential development where this would reduce the potential for rural employment. The supporting text to Policy DM3 explains that, in order to retain the availability of rural buildings for employment, including tourism, residential use will only be granted where evidence is provided that there is no demand for the building for employment use or if the buildings are wholly unsuitable for employment use.
13. There is no evidence to show, and the appellant does not contend, that the barns are wholly unsuitable for employment use. Indeed, the granting of planning permission SW/11/0517 demonstrates that the building was physically

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capable of conversion to holiday lets. It is therefore necessary to consider whether there is demand for employment use, in this case for tourism.

14. Although the appellant contends that the holiday let project was financially unviable, I have been provided with no evidence in support of that position. For example, I have not been provided with details of the marketing of the holiday lets, either in terms of the marketing information employed, the extent and duration of that marketing or the actual level of interest in the holiday lets in response to that marketing. The appellant suggests that the projected occupancy of the holiday lets was for fifteen or twenty weeks per annum, but again that assertion is not supported with evidence. Furthermore, I have not been provided with details of the financial return that would have accrued from the occupancy for the projected occupancy and which, if achieved, it seems to me could potentially have made a significant contribution to the objective of the diversification plan in terms of supporting and maintaining the running of the farm.
15. Neither have I been provided with any details of travel times/routes to the main tourist attractions, including Canterbury and its cathedral, Leeds Castle and Dover Castle. Given the location of the appeal site, it is likely that visitors using the holiday lets would need to have had the benefit of a car and it appears to me that all these tourist attractions, and others referred to by the appellant, would be potentially accessible to those visitors. The appellant has not therefore provided any evidence to support his contention that the appeal site is poorly located in relation to those visitor attractions.
16. In the absence of evidence in relation to the above, the appellant has not made out his case that the holiday let use was redundant when the building was first converted or is redundant now. It follows that the loss of the holiday lets represents a commensurate loss to the rural economy, not only in terms of the income that might have been generated directly by the holiday lets but also the income to the local economy arising from visitor spending in the area.
17. I conclude that the use of the barns as residential accommodation is harmful to the rural economy. I therefore conclude that the development is contrary to Policy DM3 of the Local Plan.
Whether the use of the barns as residential accommodation represents a sustainable form of development
18. Policy ST3 of the Swale Borough Local Plan (Local Plan) sets out the Swale settlement strategy and provides that, amongst other things, at locations in the open countryside and outside built-up area boundaries development will not be permitted unless supported by local policy and would contribute to protecting the intrinsic value of the countryside and the vitality of rural communities. This policy is underpinned by Policy ST1 of the Local Plan which provides, amongst other things, that to deliver sustainable development all development proposals should accord with the Local Plan settlement strategy and support a prosperous rural economy.
19. There is no dispute that the appeal site is outside of a defined built-up area boundary and within the open countryside. Nevertheless, the site is located on the edge of the hamlet of Kingsdown. The latter comprises a cluster of residential properties on either side of Kingsdown Road and, whilst the hamlet does not provide any services, it does in my view constitute a settlement. For

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- that reason, the appeal site is not in an isolated position for purposes of paragraph 87 of the National Planning Policy Framework (Framework).
20. Nevertheless, given that there are no services in Kingsdown itself, the appeal site is not within walking distance of any services or public facilities. Neither is the appeal site situated on a bus route, nor is it within walking distance of a railway station. The corollary is that occupiers of the site would require the use of a private car for most if not all their requirements for day-to-day living, including shopping, education, employment, health and leisure needs. Consequently, whilst there is some benefit of the residential use of the barns in terms of supporting social inclusion within the settlement of Kingsdown, in overall terms I consider that the appeal site is not a sustainable location and that the residential use is not supported by national policy as set out in the Framework.
21. There is, I accept, a sustainability benefit to be gained from the re-use the existing building. However, for the reasons that I set out above and on the evidence before me, I am not convinced that the use of the barns as holiday lets is not a viable option. For that reason, neither I am persuaded that the barns would be redundant if not occupied for residential purposes on a permanent basis, or that they would remain disused. The corollary is that any sustainability benefit arising from the re-use of the building for residential accommodation could equally be secured through the re-use of the building as holiday lets. Accordingly, I attach very limited weight to the sustainability benefit that would arise from the re-use of the building for permanent residential accommodation.
22. There is a further aspect of Policy ST3 of the Local Plan that I must also consider. This further aspect is whether, to summarise, the development would contribute to protecting and enhancing the intrinsic value of the countryside and the vitality of its communities. I have already found that the residential use would support social inclusion within the settlement of Kingsdown. To that extent, the development makes a positive contribution to the vitality of communities within the countryside.
23. The conversion of the building has resulted in an improvement in the immediate setting and this is a matter to which I return below in other contexts. Consequently, whilst I consider that any enhancement to the intrinsic value of the wider countryside is limited, I am satisfied that the intrinsic value of the countryside is protected.
24. Notwithstanding that the development complies with some aspects of Policy ST3, I conclude that the use of the barns as residential accommodation does not represent a sustainable form of development. I therefore conclude that the development conflicts with Policy ST3 of the Local Plan when read as a whole, as well Policy ST1 that underpins it.
25. In the reasons for issuing the notice, the Council also cites Policy DM14 of the Local Plan. This policy sets out general development criteria with which all developments are expected to comply. The Council has not drawn my attention to any particular aspects of this policy with which the breach of planning control is said to conflict in relation to either of the two main issues that I have identified. Consequently, I have focused my consideration on the policies highlighted above.

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Other considerations

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the use of the barns as residential accommodation fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
27. Paragraph 8 of the Framework indicates that there are three dimensions to sustainable development: economic, social and environmental. There are elements of the breach of planning control that provide benefits in relation to each of these three dimensions.
28. In terms of economic benefits, as a matter of principle I can accept that the income gained from the residential accommodation to some extent supports the farm business. I also recognise that the tenants of the residential units are employed locally and as such contribute to the local economy. My difficulty, however, is that the appellant has not sought to quantify that economic benefit or to explain how and to what extent the revenue gained assists or facilitates the continuation of the farm business. For that reason, I am only able to afford the economic benefit that arises from the residential use limited weight.
29. The residential use of the barns provides a total of four small housing units and to that extent contributes to meeting the housing needs of the Borough. However, the recent Housing Delivery Test (HDT) revealed that Swale Borough Council has an identifiable 4.6 years supply of housing land or, put another way, a shortfall of 0.4 years against a five-year supply of housing land. I consider that this constitutes a limited shortfall and that the provision of four units would represent only a modest contribution towards meeting that shortfall. Accordingly, having regard also to any benefit arising from social inclusion within the hamlet of Kingsdown, I attach only limited weight to the social benefit arising from the development.
30. The appeal site is within the Kingsdown Conservation Area. The character and appearance of the Kingsdown Conservation Area derive, in part, from the quality of the buildings within it and their disposition in relation to Kingsdown Road.
31. The appellant contends that the conversion of the barns to residential accommodation enhances the character and appearance of the Kingsdown Conservation Area. However, I have not been provided with any photographic or other evidence by which to assess the comparison between the buildings as converted and before they were converted. I can accept that the conversion of the barn to residential accommodation is likely to have improved the appearance of the building and therefore of the conservation area although, without the benefit of a comparative assessment, am not persuaded that the same is necessarily true of the character of the conservation area.
32. In terms of the statutory duty under section 72 Planning (Listed Building and Conservation Areas) Act 1990, and having regard to the attributes that define the character and appearance of the conservation area, I am satisfied that the

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development would at least preserve the character and appearance of the Kingsdown Conservation Area. For that reason, the development also accords with Policy DM33 of the Local Plan which, amongst other things, requires development preserves or enhances features that contribute positively to the character or appearance of conservation areas. However, without a detailed comparative assessment, I am not able to determine whether the development would enhance that character and appearance and, if so, attribute the weight that may be afforded to any enhancement.

33. Similarly, the appellant contends that the conversion of the barns to residential accommodation enhances the setting of the adjacent listed building, described on the listing description as the Oast granary and stores. I have a duty under section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving a listed building or its setting. Having regard to the qualities of the building described in the listing description, I am satisfied that the improvements to the appearance of the barns through conversion to residential accommodation have at least preserved the setting of the listed building and, as such, accord Policy DM32 of the Local Plan. Nonetheless, the absence of detailed comparison of the building before and after conversion means that I am unable to go on assess whether the conversion has resulted in an enhancement to the setting of the listed building and, if so, how much weight I can attach to that enhancement.
34. The appellant explains that he has undertaken a number of environmental and biodiversity enhancements on his land and the general area of these enhancements was pointed out to me at the site visit. My attention was also drawn to a bio-mass boiler on the appeal site that uses off-cut waste from forestry, and which is used to provide heating and hot water to all four residential units. I accept that the above contribute to the sustainability credentials of the site as a whole, although I am not convinced that these benefits arise directly from the alleged breach of planning control. For example, the bio-mass boiler could equally be used to provide heating and hot water for holiday lets. This limits the weight that I can afford to these benefits.
35. Looked at in the round, I attribute limited weight to the environmental benefits arising from the breach of planning control alleged in the notice.
36. The appellant has referred me to an appeal decision in relation to a property known as 'Chesley Oast' in Newington, also within the administrative area of Swale Borough Council (APP/V2255/W/17/3175199). The development in that case similarly involved the use of the building for residential purposes otherwise than in accordance with a condition on a planning permission limiting use to holiday lets. The appeal was allowed. The building in question is located outside of a built-up area, and the appellant draws a parallel between the circumstances in that case and those in this appeal.
37. On reading that decision, it appears to me that there is a significant difference between the two situations. In the case of 'Chesley Oast', the Inspector was presented with evidence of the unsuccessful marketing of the property for holiday lets. The Inspector describes that evidence as being "persuasive". By contrast, whilst the unsuccessful marketing of the property has been alluded to by the appellant in this case, I have not been provided with any actual evidence of that marketing and certainly not to the extent that I would describe as being persuasive.

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38. In addition, there are a number of other site-specific differences between the circumstances in 'Chesley Oast' and those surrounding the current appeal, all of which lead me to the view that two situations are not directly comparable. I therefore consider that the circumstances that applied in the 'Chesley Oast' decision can be distinguished from those in this appeal and that the 'Chesley Oast' decision does not provide justification, or indeed support, for allowing this appeal.
39. As the appellant points out, Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) provides that the change of use of an agricultural building to a use falling within Class C3 (dwellinghouses) is permitted. The provisions in Class Q are subject to limitations and to conditions, and the appellant fairly concedes that the appeal site would not benefit from the provisions of Class Q because it is on article 2(3) land and therefore does not accord with the limitation at Q.1(j). Nevertheless, the appellant puts forward Class Q as indicative of Government support for the conversion of agricultural buildings to residential use, as in this case.
40. However, the conditions to which Class Q is subject include conditions Q.2(a) and Q.2(e). The former requires the developer to apply for prior approval of the transport and highway impacts of the development. The latter requires consideration through prior approval of whether the location of the building makes it impractical or otherwise undesirable for the building to change from agricultural use. To my mind, the inclusion of these conditions in Class Q is an indication that the conversion of agricultural buildings to residential use in unsustainable locations requires, at the very least, careful consideration. I therefore consider that Class Q of the GPDO does not automatically support the principle of residential conversion of the appeal property, and for that reason I afford only limited weight to the provisions within that class.
41. I acknowledge that the use of the barns as residential accommodation enjoys support from the local community, both from occupiers of the properties themselves and the occupiers of other properties in Kingsdown. The letters supporting the residential use refer, amongst other things, to the benefit derived from an influx of new residents of various age groups into the local community. It is also emphasised that the barns provide relatively low-cost housing for people that are employed in the local economy. These are all benefits that I have already taken into account.
42. I note the concern that the use of the barns as holiday lets would result in noise disturbance to the occupiers of nearby properties, but have been provided with no evidence to support that view. Moreover, in granting planning permission for the use as holiday lets, the impact on the amenities of adjoining occupiers is a matter that the Council would have taken into account, and evidently found that any impact on adjoining residential properties would not be so significant as to justify the refusal of planning permission. In the absence of evidence to the contrary, I see no reason to take a different view.
43. I am fully aware that the dismissal of this appeal would result in the occupiers of the residential accommodation losing their homes. This would interfere with their rights under the European Convention of Human Rights (ECHR), as incorporated into domestic law by the Human Rights Act 1998. In particular, their rights under Article 8 (right for respect for private and family life, home

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and correspondence) and Article 1 of the First Protocol (right to respect to property) would be interfered with. Both of the above are qualified rights, and interference with them may be justified where lawful and in the public interest.

44. In this case, the breach of planning control is alleged in an enforcement notice. The issue of an enforcement notice is in accordance with the law, specifically section 172 of the Town and Country Planning Act 1990, such that there is a clear legal basis for the interference with the rights under Article 8 and Article 1 of the First Protocol held by the occupiers. I have found that the breach of planning control alleged in that notice conflicts with planning policies in the development plan and fails to accord with the objectives of National planning policy. Consequently, I am satisfied that the interference with the rights of the occupiers under the ECHR is both lawful and in the public interest, and as such is justified.

Conclusion on ground (a) and the deemed planning application

45. For the reasons set out above, the breach of planning control alleged in the notice is contrary to the development plan when read as a whole. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not be granted for the breach of planning control alleged in the notice.

The appeal on ground (g)

46. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is six months.
47. The essence of the appellant's case on this ground of appeal is that the compliance period of six months is too short to allow the occupiers to find alternative accommodation. A period of compliance of 12 months is sought.
48. The appellant explains that the occupiers of the residential accommodation are not in a position to purchase housing on the open market, and I have no reason to question that. However, I have been provided with no evidence to support the appellant's contention that there is a shortage of rented housing in the local area, to the extent that it would prevent the occupiers from finding alternative accommodation with six months. In the absence of that evidence, I am not persuaded that there is need to extend the period for compliance with the notice. I am satisfied the period of compliance of six months stated in the notice is a proportionate response to the breach of planning control that has occurred.
49. Accordingly, the appeal on ground (g) fails.

Conclusion

50. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice subject to corrections, and refuse to grant planning permission on the deemed application.

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Formal Decision

51. It is directed that the notice be corrected by:

- deleting the words 'Section 171A(1)(a)' in paragraph 1 of the notice and substituting the words 'Section 171A(1)(b)'
- inserting the words in paragraph 3 of the notice 'The breach of planning control alleged is a failure to comply with condition 14 of Planning Permission SW/110517'.

52. Subject to those corrections, 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 Act as amended for the development already carried out, namely use of the barns as residential accommodation otherwise than in accordance with condition 14 of planning permission SW/11/0517 dated 14th July 2011.

Paul Freer

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 19 March 2019

by **Rajeevan Satheesan** BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2019

Appeal Ref: APP/V2255/W/18/3216480

20 East Street, Sittingbourne ME10 4RT

- 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 A Celik against the decision of Swale Borough Council.
 - The application Ref 18/503471/FULL, dated 29 June 2018, was refused by notice dated 20 September 2018.
 - The development proposed is described as: demolition of existing single storey rear extension, new loft floor with mansard roof and two storey rear extension, conversion of upper floors into 3x1 bed and 1x2 bed residential units
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the mansard roof extension upon the character and appearance of the host building and the area.
 - Whether the proposed development would provide acceptable living conditions for future occupiers of the new flats and the neighbouring occupiers of No 22 East Street with regard to privacy.

Reasons

Character and appearance

3. The appeal site is a two-storey end of terrace building with a front parapet. Whilst there are a number of properties in the locality that have extended their roofs with dormer windows, the mansard roof extension proposed here is not characteristic of the area. Furthermore, the proposed mansard would be poorly related to the host building, with the side and rear dormer windows not matching the position of windows on the floors below. Despite the height and position of the existing front parapet, the mansard would be an unduly prominent and incongruous feature, which would be clearly visible from the street, and from a number of neighbouring properties.
4. I consider therefore that the proposed development would adversely affect the character and appearance of the building and the area. This would conflict with Policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan, 2017 (LP). Amongst other things, these require all developments to be of a

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high quality design that is appropriate to its surroundings, and conserve and enhance the built environment. I also find that the proposal conflicts with the design objectives of the National Planning Policy Framework (Framework), which seek to improve the character and the quality of areas.

Living conditions for future occupiers of the new flats and neighbouring occupiers of No 22 East Street with regard to privacy

5. The Council's reason for refusal relates to the new windows at first and second floor level in the side elevation facing towards No 22 East Street. It submits that these would lead to harmful overlooking of both the proposed four new flats in the appeal building and the existing flats at No 22. The appellant has suggested the use of obscure glazing to overcome this issue. However, this would not be appropriate as most of the windows would serve habitable rooms (bedrooms and living rooms) and therefore the use of obscure glass would result in poor outlook for future occupiers of the new flats.
6. Whilst it is acknowledged that there are some existing windows at first floor level in the appeal building which face towards No 22, additional windows are proposed at first and second floor levels which would be close to existing neighbouring residential windows at No 22. The elevated position, size and location of these new windows, would result in intrusive overlooking and loss of privacy to existing occupiers of No 22 as well as future occupiers of the appeal building. This would harm their living conditions, contrary to Policies CP4, DM14 and DM16 of the LP, which, amongst other things, requires all developments to be of a high quality design that is appropriate to its surroundings and protect residential amenity. The proposal would also conflict with paragraph 127 of the Framework, which states that development should ensure high standards of amenity are created for future as well as existing users.

Planning balance

7. There is no dispute that the Council cannot currently demonstrate that it has a 5 year housing land supply (HLS). The Council state that following the outcome of the Housing Delivery Test (HDT) they now have a 4.6 years supply which equates to a shortfall of approximately 400 dwellings per year. Irrespective of the extent of any shortfall the proposed development would provide a net gain of four additional flats. As such, its contribution to the HLS would be modest and therefore I consider that it would only be of small benefit in this regard. The social and economic benefits associated with providing four flats would also be negligible. I recognise that the site is in centre of Sittingbourne with access to local shops and services. I also note that the appellant states that the development provides generous living standards with good levels of daylight and would improve the thermal insulation and efficiency of the building. However, the adverse impacts of the proposed development in terms of the harm to the character and appearance of the area and to the living conditions of future occupiers and neighbouring occupiers would significantly and demonstrably outweigh the small benefit of four additional properties.

Other Matters

8. I acknowledge that the Council has not raised concerns regarding the effects on the setting of the nearby Grade II listed terrace at Nos 10, 12 and 14 East Street. Based on my site visit I would concur with the Council and in accordance with Section 66(1) of the Planning (Listed Buildings and

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Conservation Areas) Act 1990, (the Act) I conclude that the appeal development would not have a significantly unacceptable impact on the setting of the nearby listed buildings.

9. I note that objections have also been raised by a third party with regards loss of privacy of the new building currently being built at the rear of No 22. The Council have advised that windows in this new neighbouring building which face towards the appeal building would be kitchen windows, fitted with obscure glass and therefore would not be affected by appeal proposals. As such, based on the evidence before me, it is not necessary for me to further consider privacy to the occupiers of this new neighbouring building.
10. The site is within 6km of the Special Protection Area (SPA). Natural England advise that new dwellings within 6km of the SPA can have a detrimental impact on it, due to increased recreational use, and therefore mitigation should be secured if permission is granted. However, as the appeal is dismissed for other reasons, I do not need to consider this issue at this time.

Conclusion

11. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rajeevan Satheesan

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 19 March 2019

by **Rajeevan Satheesan** BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2019

Appeal Ref: APP/V2255/W/18/3215448

Land adjacent to St Giles Church, Church Road, Tonge ME9 9AR

- 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 Gerald Lilley against the decision of Swale Borough Council.
 - The application Ref 18/501032/FULL, dated 22 February 2018, was refused by notice dated 17 April 2018.
 - The development proposed is described as: resubmission of application 17/501249 for the proposed development of two pairs of semi-detached houses with associated parking.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the appeal site during the pre-arranged period and I was able to see all I needed to from the site entrance, church yard and the road.
3. The appellant states that their intention is that these houses would be available as open market affordable homes. Whilst I note that the appellant states that they have held discussions with a local housing association, who have advised that there is a need for housing in this location, no substantive evidence of this has been provided, nor have any specific details of the proposed affordable housing been submitted as part of this appeal. Additionally, no s106 agreement or unilateral undertaking has been provided as part of this appeal, and as such there is no adequate means before me that would secure the affordable housing. Therefore, based on the limited information before me regarding this, I have determined the appeal on the basis of open market housing.

Main Issues

4. The main issues are:
 - a) Whether the proposed development would provide a suitable location for housing, having regard to the accessibility of services and facilities and the character and appearance of the area; and
 - b) The effect of the proposed development on the setting of the Grade I listed church known as the Church of St Giles.

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Reasons

Suitability of the location

5. The site relates to a plot of land, surrounded by vegetation on all sides to the south of the Norman Church of St Giles', a C12 and C14 Grade I listed building. Immediately north of the Church are two pairs of C20 semi-detached houses. With the exception of these buildings the site is surrounded by open countryside, which together with the undeveloped nature of the site affords a rural character. The site lies outside of the established built up area of Tonge, and therefore is within the countryside, and has a remote and tranquil setting.
6. This proposal is for the erection of two pairs of semi-detached three bedroom houses with associated parking. The appellant advises that the dwellings would be constructed of stock brickwork with flint to the ground floor, white UPVC casements with a horizontal glazing bar in a cottage style, plain tiles roofs with traditional dormers to the rear, and that the dwellings would be 9m in height. Access to the site would be via the existing access which would be widened to create a new access driveway with eight off-street parking spaces and a 'turning space' to allow vehicles to enter and exit in forward gear.
7. There is a little in the way of day to day services and facilities within Tonge. The appellant states that there is a bus service available in to Sittingbourne from the recent Great East Hall development approximately 1km away. However, this would involve a walk along an unlit road with no footway. I consider that a regular walk along this route would not be convenient or pleasant for future occupiers. As such, future occupiers of the development would be largely reliant on the private motor car to access shops, services, facilities and employment.
8. Having had regard to the recent Court of Appeal decision¹ regarding paragraph 55 of the superseded National Planning Policy Framework (Framework), now paragraph 79 of the new Framework, this physical location would not result in new isolated homes in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework. However, as stated above the site would be located outside of a settlement boundary and there would still be a negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services and facilities.
9. Turning to the effect of development on the character and appearance of the area, the appeal site, along with the surrounding open countryside acts as a break in built development next to the church. The undeveloped nature of the site, and existing vegetation provides a tranquil and rural character and maintains the openness of the countryside. The proposed dwellings, vehicular access point and front driveway for eight off-street car parking spaces would introduce a large proportion of hard surfacing. Despite the use of matching materials and the retention of existing vegetation and the proposed landscaping, the proposed houses would be highly visible above the existing vegetation and would harm the rural landscape character and appearance of the countryside. Therefore, the principle of residential development in this location would constitute an unjustified dwelling in the countryside.

¹ Braintree District Council v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

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10. Concluding on the first main issue, the proposed development would not provide a suitable location for housing having regard to the accessibility of services and facilities and the character and appearance of the area. Therefore, it would not accord with the Framework, and Policies ST3, DM14, DM24 and DM26 of the Bearing Fruits 2031: The Swale Borough Local Plan, 2017 (LP). Amongst other things, taken together these policies seek to protect, and where possible, enhance, the intrinsic character, beauty and tranquillity of the countryside, and ensure that new development make use of previously developed land within defined built up area boundaries and on sites allocated by the LP.

Setting of the listed building

11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
12. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
13. Paragraph 196 of the Framework confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
14. Planning Practice Guidance (PPG) confirms that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset, and that, in general terms, substantial harm is a high test and may not arise in many cases. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all.
15. The heritage asset relates to the Grade I listed Norman Church of St Giles' situated immediately adjacent to the appeal site with the main entrance of the Church directly facing the appeal site. The significance of the Church in heritage terms mainly stems from its architectural interest. The C12 and C14 Church, made of Flint with red brick buttresses and chancel and plain tiled roofs, is flanked by a small group of C20 houses to the north, but is predominantly situated in a rural setting characterised largely by several isolated farmsteads, agricultural fields and orchards, grassy banks, hedgerows and winding country lanes bounded by informal soft verges. Consequently, open countryside forms part of the setting of church and makes an important contribution to its significance. Similarly, given its proximity to the Church, the undeveloped nature of the appeal site in its current form makes an important contribution to the setting and significance of the listed building.

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16. Despite the retention of existing and the proposed landscaping, the proposals would erode the openness of the countryside, altering the church's immediate rural and tranquil setting when viewed from the road, the Church yard and surrounding fields. Therefore, there would be a negative effect on the setting of the church and harm to its significance.
17. The harm to the significance of Church of St Giles' would be less than substantial but still significant given the attractive views across the countryside towards the church which form part of the listed building's setting. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal.
18. The proposed development would provide social benefits in terms of four new houses where the Council accepts it cannot demonstrate a five year housing land supply. It would also help to support local services and facilities and provide investment in terms of its construction, notwithstanding the reliance on the private motor car. However, given the limited number of houses proposed, these public benefits only carry modest weight overall. I also acknowledge that the appellant states that the properties would incorporate the highest levels of insulation and energy efficiency, and include waste recycling, and other sustainable techniques in the design of the dwellings (although no specific details of these have been submitted as part of the appeal). As such, overall, these benefits would not be sufficient to outweigh the harm to the significance of Grade I listed building.
19. Therefore, I conclude that the proposed development would not preserve the setting of the Church of St Giles' and would result in harm to the significance of this listed building. Therefore, it would not accord with LP Policy DM32 which amongst other things, seeks to protect the special architectural or historic interest and setting of listed buildings. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve the setting of the listed building as required by Section 66(1) of the Act, but instead would be harmful. This carries considerable weight and importance to my decision.

Planning balance

20. There is no dispute that the Council cannot currently demonstrate that it has a five year housing land supply (HLS). The Council state that following the outcome of the Housing Delivery Test (HDT) they have a 4.6 years supply which equates to a shortfall of approximately 400 dwellings per year. Irrespective of the extent of any shortfall the proposed development would provide a net gain of four additional dwellings. As such, its contribution to the HLS would be modest and therefore I consider that it would only be of small benefit in this regard. There would be modest economic benefit to the area, in terms of construction jobs, and an equally modest increase in investment in the area following the occupation of the development. As mentioned above, the appellant states that the scheme would deliver energy efficiency and other sustainable techniques in the design of the dwellings.
21. However, the proposed development would harm the character and appearance of the area and would cause harm to the settings of the adjacent Grade I listed building, contrary to several LP policies as referenced above. This is a matter which must attract considerable importance and weight against the proposal. In terms of the Framework, the proposal would cause less than substantial

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harm to the significance of the designated heritage asset affected. I must attach considerable importance and weight to that harm which I find would not be outweighed by public benefits and would not result in sustainable development in the meaning set out in the Framework.

Other matters

22. The appellant states that historic maps and aerial photographs shows that there was a building adjacent to the appeal site, and that the appeal site was used as a garden with evidence of remains of concrete structures and a timber pergola. However, any such development on this site has long since been removed and therefore provides little support for the current proposals before me. In any case I have determined the appeal on its own merits.
23. The site is within 6km of the Swale Special Protection Area (SPA). Natural England advise that new dwellings within 6km of the SPA can have a detrimental impact on it, due to increased recreational use, and therefore mitigation should be secured if permission is granted. However, as the appeal is dismissed for reasons relating to the main issues, I do not need to consider this issue at this time.

Conclusion

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rajeevan Satheesan

INSPECTOR

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The Planning Inspectorate

Appeal Decision

Site visit made on 19 March 2019

by **Rajeevan Satheesan** BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2019

Appeal Ref: APP/V2255/W/18/3214478

Great Grovehurst Farmhouse, Grovehurst Road, Sittingbourne ME9 8RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Baker on behalf of Ferndale Limited against Swale Borough Council.
 - The application Ref 18/502458/FULL, is dated 30 April 2018.
 - The development proposed is erection of two dwellings with new highway access and car parking.
-

Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural matters

2. The appellant states that monies generated from the sale of the two plots would be used to repair the listed building by the owner. However, the appellant was unable to agree the terms of the agreement with the Council, and as such, there is no s106 agreement before me to secure these repair works. Therefore, I have determined the appeal on the merits of the case, and in accordance with national and local policy.
3. The Council's main concern with the current appeal relate to the scale, design, and location of the proposed development and its effect on the special architectural or historic interest of the adjacent Grade II listed building known as Great Grovehurst Farmhouse.

Main Issue

4. Consequently, I also find the main issue is the effect of the proposed development on the setting of the Grade II listed building at Great Grovehurst Farmhouse.

Reasons

5. The appeal site lies immediately to the north of residential properties on Grovehurst Road, and to the south of the Grade II listed building, Great Grovehurst Farmhouse. The site comprises former agricultural land which was used in connection with the listed Farmhouse, and is currently laid to grass, with a line of mature Poplar trees along its northern boundary. The site and the wider curtilage around Great Grovehurst Farmhouse are surrounded by

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- land identified for a large local plan housing allocation¹ of mixed residential and commercial development.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
 7. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
 8. Paragraph 196 of the Framework confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
 9. Planning Practice Guidance (PPG) confirms that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset, and that, in general terms, substantial harm is a high test and may not arise in many cases. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all.
 10. The heritage asset relates to the Grade II listed Great Grovehurst Farmhouse, situated immediately adjacent to the appeal site. The significance of the building in heritage terms mainly stems from its architectural interest. The two storey stuccoed C18 building contains a steeply-pitched hipped tiled roof and five sash windows at ground and first floor level to the front elevation, with its doorcase positioned to the rear of the building. The listed building is situated in relatively open and undeveloped part of Grovehurst Road, surrounded by mature vegetation. Consequently, this open and verdant setting helps illustrate the site's historical use as a farmhouse which makes an important contribution to its significance. Similarly, given its proximity to the Farmhouse, the undeveloped nature of the appeal site, with soft landscaping and mature vegetation makes an important contribution to the setting and significance of the listed building.
 11. The proposed development would result two detached dwellings built on the appeal site with a new access driveway and five off-street parking spaces to the centre of the site behind the new dwellings. The overall height, scale design of the dwellings would be in keeping with the existing housing development to the south of the site. However, the proposals would erode the openness of the site, altering the listed buildings immediate open and verdant setting when viewed from the road. Therefore, there would be a negative effect

¹ Policy MU1 Swale Borough Local Plan, 2017

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on the setting of the listed building and harm to its significance. Whilst the existing mature Poplar Trees would be maintained, as these trees are deciduous trees, they would not provide sufficient screening throughout the winter months. Indeed, I observed during my site visit which was on 19 March 2019 that the listed building was clearly visible through the branches of the Poplar trees, and in this respect failed to screen the appeal site from the listed building.

12. The harm to the significance of listed building would be less than substantial. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal. The proposed development would provide social benefits in terms of two new houses located on non-productive agricultural land within the built confines of Sittingbourne, as identified by the Bearing Fruits 2031: Swale Borough Local Plan, 2017 (LP), with access to shops, services and public transport. It would also help to support local services and facilities and provide investment in terms of its construction. However, given the limited number of houses proposed, these public benefits only carry modest weight overall. As such, these benefits would not be sufficient to outweigh the harm to the significance of Grade II listed building.
13. Therefore, I conclude that the proposed development would not preserve the setting of the Great Grovehurst Farmhouse and would result in harm to the significance of this listed building. Therefore, it would not accord with LP Policies ST1, CP8, DM14, and DM32. Amongst other things, these policies seek to protect the special architectural or historic interest and setting of listed buildings. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve the setting of the listed building as required by Section 66(1) of the Act, but instead would be harmful. This carries considerable weight and importance to my decision.

Planning balance

14. There is no dispute that the Council cannot currently demonstrate that it has a five year housing land supply (HLS). The Council state that following the outcome of the Housing Delivery Test (HDT) they have a 4.6 years supply which equates to a shortfall of approximately 400 dwellings per year. Irrespective of the extent of any shortfall the proposed development would provide a net gain of two additional dwellings. As such, its contribution to the HLS would be modest and therefore I consider that it would only be of small benefit in this regard. There would be modest economic benefit to the area, in terms of construction jobs, and an equally modest increase in investment in the area following the occupation of the development.
15. However, the proposed development would harm the settings of the adjacent Grade II listed building, contrary to several LP policies as referenced above. This is a matter which must attract considerable importance and weight against the proposal. In terms of the Framework, the proposal would cause less than substantial harm to the significance of the designated heritage asset affected. I must attach considerable importance and weight to that harm which I find would not be outweighed by public benefits and would not result in sustainable development in the meaning set out in the Framework.

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Other matters

16. The Council has identified land surrounding Great Grovehurst Farmhouse for new residential development under LP Policy MU1. The Illustrative Masterplan for Great Grovehurst Farm submitted in Appendix 4 of the appellant's statement, shows that the area of land immediately north of the listed building would be left open and undeveloped, preserving the setting of the listed building. This is different to the proposals before me which seeks to build two new houses on the land immediately to the south of Grovehurst Farm. As such I do not consider that the land which the Council has identified for new development, is not directly comparable to the appeal site, which lies immediately adjacent to the listed building. In any case I have determined the appeal on its own merits.
17. The site is within 6km of the Swale Special Protection Area (SPA). Natural England advise that new dwellings within 6km of the SPA can have a detrimental impact on it, due to increased recreational use, and therefore mitigation should be secured if permission is granted. However, as the appeal is dismissed for other reasons, I do not need to consider this issue at this time.

Conclusion

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rajeevan Satheesan

INSPECTOR