



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 18 July 2019

Time: 7.00pm

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

Membership:

Councillors Cameron Beart, Monique Bonney, Roger Clark, Simon Clark, Tim Gibson (Chairman), James Hall, Nicholas Hampshire, James Hunt, Carole Jackson, Elliott Jayes, Peter Marchington, Benjamin Martin (Vice-Chairman), David Simmons, Paul Stephen, Eddie Thomas, Tim Valentine and Tony Winckless.

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 [20 June 2019](#) (Minute Nos. 62 - 71) as a correct record subject to the following amendment:

Minute No. 67 item 2.7 19/500577/REM Annexe, James House, Kent View Drive, Eastchurch, Sheerness, Kent, ME12 4DP the resolution to read: That application 19/500577/REM be **deferred and** delegated to officers to discuss with the applicant the possibility of a larger amenity space being provided for the annexe.

To approve the Minutes of the Reconvened Meeting held on [27 June 2019](#) (Minute Nos.96 - 98) as correct records.

4. Declarations of Interest

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

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

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

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

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

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

Part B reports for the Planning Committee to decide

5. Planning Working Group

To approve the Minutes of the Meeting held on 9 July 2019 (Minute Nos. to follow).

To consider application 19/500577/REM Land to the north of Vicarage Road, Sittingbourne.

6. Report of the Head of Planning Services

1 - 166

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 17 July 2019.

Issued on Tuesday, 9 July 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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

18 JULY 2019

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 18 JULY 2019

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

PART 2

2.1 Pg 1 – 5	19/502510/FULL	GRAVENEY	Denley Hall, Seasalter Road
2.2 Pg 6 – 9	19/502286/FULL	EASTLING	Telfords, Otterden Road
2.3 Pg 10 – 20	19/501471/FULL	BOUGHTON	Hoppers Huts, South Street
2.4 Pg 21 – 38	18/503057/FULL	FAVERSHAM	Land at Perry Court, Ashford Road
2.5 Pg 39 – 49	19/501799/FULL	EASTLING	Porch House, The Street
2.6 Pg 50 – 59	19/501385/FULL	WARDEN	4 Jetty Road
2.7 Pg 60 – 66	19/501816/FULL	UPCHURCH	Whitegate Stables, Wallbridge Lane
2.8 Pg 67 – 72	19/500051/LBC	TUNSTALL Tunstall Road	Former Tunstall CofE Primary School
2.9 Pg 73 – 83	19/500862/FULL	FAVERSHAM	Ewell Farm, Graveney Road
2.10 Pg 84 – 101	19/501160/REM	IWADE	Coleshall Farm, Ferry Road
2.11 Pg 102 – 111	19/501789/FULL	MINSTER	Land east of 11 Southsea Avenue

PART 3

3.1 Pg 112 – 118	19/501570/FULL	MINSTER	156 Scarborough Drive
3.2 Pg 119 – 125	19/502305/FULL	MINSTER	Cripps Farm, Plough Road
3.3 Pg 126 – 134	18/506680/FULL	MINSTER	Land south of 106 Scrapsgate Road

PART 5 - INDEX

Pg 135 – 137

5.1 Pg 138 – 141	18/502708/FULL	UPCHURCH	Land Rear of Lord Stanley Bungalow
5.2 Pg 142 – 146	18/502184/FULL	MINSTER	32 The Broadway

5.3	19/500219/FULL	EASTCHURCH	20 Hustlings Drive
Pg 147 – 149			
5.4	18/506632/FULL	FAVERSHAM	12 Laxton Way
Pg 150 – 151			
5.5	18/502770/FULL	FAVERSHAM	1 Boughton Field Cottages, Canterbury Rd
Pg 152 – 154			
5.6	19/500059/FULL	SHEERNESS	240-248 High Street
Pg 155 – 156			
5.7	19/500296/ADV	SHEERNESS	240-248 High Street
Pg 157 – 158			
5.8	18/502834/FULL	HARTLIP	Lodge Farm, Old House Lane
Pg 159 – 160			
5.9	18/502358/FULL	BOBBING	Land rear of Unit 5, Stickfast Farm, Sheppey Way
Pg 161 – 166			

PLANNING COMMITTEE – 18 JULY 2019**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 19/502510/FULL		
APPLICATION PROPOSAL Erection of a new lych gate and front porch extension.		
ADDRESS Denley Hall Seasalter Road Graveney Faversham Kent ME13 9ED		
RECOMMENDATION - Approve		
REASON FOR REFERRAL TO COMMITTEE Objection from Parish Council		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Graveney With Goodnestone	APPLICANT Mr Jackson AGENT A P Whiteley Consultants Ltd
DECISION DUE DATE 15/07/19	PUBLICITY EXPIRY DATE 10/07/19	

Planning History

SW/10/0082

Replacement dwelling, demolition of a pair of existing semi-detached dwellings, together with a detached garage.

Approved Decision Date: 22.03.10

1. DESCRIPTION OF SITE

- 1.1 Denley Hall is a two storey detached dwelling built in 2010 as a replacement for a pair of semi-detached dwellings known as Denley Hill Cottages which had fallen into a poor state of repair. The property enjoys a spacious plot fronting Seasalter Road and is located in the countryside but outside the village conservation area. The existing access to the front of the property is enclosed by vertical close boarded gates which are positioned right on the roadside.
- 1.2 The property is situated on the east side of Seasalter Road and to the south of the adjacent Denley Hill farm complex. Scattered residential properties are located close to the site and to the west of Seasalter Road. The Grade I listed All Saints Church is located approx. 0.6km to the south.

2. PROPOSAL

- 2.1 This application is seeking permission to replace the existing gated entrance with an oak framed and tiled Lych gate and to extend the front porch in a matching style. The style proposed is similar to that of the existing lychgate at the church nearby.

- 2.2 The proposed oak framed lych gate, measuring 3.4m wide x 2.2m in depth x 4.3m in height would be set back from the road and flanked by 1.1m high brick walls.
- 2.3 The proposed extension to the front porch would extend 0.9m beyond the existing porch, providing an oak framed canopy supported by two timber posts.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

Environment Agency Flood Zone 2

Environment Agency Flood Zone 3 141081

4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM7; DM14; DM16 and DM26

5. LOCAL REPRESENTATIONS

- 5.1 The Faversham Society has commented as follows:

“The addition of a porch at the front of the house which is a modern building would be acceptable.

However, it is not usual in any historical context to provide a Lychgate on a domestic property rather than a Church, since these are normally only intended as entrances to Churchyards to shelter Mourners and Coffins.”

6. CONSULTATIONS

- 6.1 Graveney with Goodnestone Parish Council raise no objection to the front porch. However, they do object to the lychgate on the grounds of its scale and proximity to the highway commenting as follows:

“.. the reduced sight line that it would cause travelling southwards along Seasalter Road, and concerns over the safety aspect of using it as a regular vehicular entrance and exit.”

- 6.2 The agent has responded to the Parish Council’s objection to say that the description of this structure as a ‘lychgate’ appears to have inadvertently attracted a less than positive response but it could have been referred to as a “proposed entrance gateway”. The sightlines would not be comprised by this structure whatsoever. The proposal seeks to replace an existing gated entrance which is positioned right along the front boundary but the new entrance is set back behind a splayed wall. This access is already the principal access and has always been so therefore we are not seeking approval for a newly created one, rather the application is made for a new entrance gateway, hitherto referred to as a lychgate.

- 6.3 Natural England has made no comment on the application.

- 6.4 Kent Highways and Transportation considers this to be a non-protocol matter.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings referring to application reference 19/502510/FULL.

8. APPRAISAL

8.1 The main considerations in this case concern the effect the proposals could have on the character and appearance of the property and the designated countryside.

8.2 The property is located on a rural lane which is protected by policy DM26 of the Local Plan as a lane of special rural character that ought to be protected from significant harm arising from new development. The proposed lychgate will be visible as you approach the property along Seasalter Road but will be set back over 2.5m from the carriageway edge. The nearby Parish Church has similarly prominent lychgate fronting the road that is only marginally smaller than that being proposed here, being 0.4m narrower and 0.3m lower in overall height. In my view, the proposal is very similar to the nearby lychgate and represents a suitable and acceptable alternative to the rather imposing existing solid timber gates, and one with a reference to the local church lychgate. The proposal would not result in any loss of hedgerow along this stretch of road and I am of the opinion that it would not be harmful to the lane's appearance and to the rural character of the area.

8.3 I have carefully considered the concerns raised by the Parish Council about its impact on sight lines travelling southwards along Seasalter Road. However, the proposed lychgate would be further back into the site than the existing gates and the access here is flanked by continuous roadside hedging behind the boundary fence. I therefore consider that the proposed lychgate will have no significant impact upon highway safety as good visibility will remain in both directions on this section of road. Neither do I consider the regular use of this existing access to be a highway safety concern as the sightlines will not change.

8.4 The proposed extension to the porch, visible from the front of the dwelling, is unobjectionable in my view. It has been appropriately designed and would not harm visual amenity.

8.5 Local concern makes reference to the historical context of a lychgate. Whilst it may be arguable that historically a lychgate was a roofed gateway to a churchyard as opposed to a dwelling, I do not consider it reasonable to refuse this application on such grounds.

9. CONCLUSION

9.1 I consider that the proposal is acceptable in terms of its impact upon the character and appearance of the property and the surrounding countryside. I therefore recommend, subject to conditions, that permission is granted.

10. 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 drawing JACK/21902/DRAW1

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

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

Reasons: In the interests of visual amenity

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.



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2.2 REFERENCE NO - 19/502286/FULL		
APPLICATION PROPOSAL Erection of 5no. mirrors at one end of the riding arena.		
ADDRESS Telfords Otterden Road Eastling Faversham Kent ME13 0BN		
RECOMMENDATION GRANT subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Council Employee		
WARD East Downs	PARISH/TOWN COUNCIL Eastling	APPLICANT Mrs Anne Adams AGENT
DECISION DUE DATE 03/07/19	PUBLICITY EXPIRY DATE 14/06/19	

Planning History

14/500812/FULL

Change of use from equestrian grazing to domestic curtilage and erection of shed
Approved Decision Date: 10.10.2014

SW/04/0508

Construction of sand manège.
Approved Decision Date: 17.06.2014

SW/00/1107

Change of Use from equestrian grazing to domestic curtilage and erection of garage and stable block.
Approved Decision Date: 09.02.2001

SW/00/0450

Erect single storey extension, conservatory and garage. (Part Amended Proposal).
Approved Decision Date: 27.06.2000

1. DESCRIPTION OF SITE

1.1 The property comprises a bungalow with adjacent paddock to the south of Eastling in a relatively isolated position within the designated countryside and within the Kent Downs Area of Outstanding Natural Beauty (AONB). The paddock is surrounded by established vegetation and contains stables and a sandschool/manège constructed by the current applicant after approvals in 2001 and 2004. The manège is contained within post and rail fencing. A public footpath runs around the rear of the site adjacent to the manège, although the manège is set back some 30 metres or so from the Eastling road against the rear boundary.

2. PROPOSAL

2.1 This application seeks planning permission for the erection of five number mirrors along the northern end of the riding arena.

- 2.2 The mirrors would all be set at 2.4m in overall height attached to the inside of the fencing across the northern end of the riding arena, with supporting braces behind. Two of the mirrors measure 1.2m wide and will be sited in portrait format in each corner of the manège, with three further mirrors in landscape format being centrally placed and measuring a total width of 7.2m.

3. PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

4. POLICY AND CONSIDERATIONS

Bearing Fruits 2031 Policies

CP4: Requiring a good design

DM14: General development criteria

DM24: Conserving and enhancing valued landscape

DM32: Development involving a listed building

5. LOCAL REPRESENTATIONS

Eastling Parish Council has raised no objection to the application.

6. APPRAISAL

- 6.1 The manège is not intrusive and is not lit. It is used for horses exercising and dressage, the mirrors being intended to allow riders to see themselves when using the area. The main considerations in the determination of these applications are the effect the proposal could have on the designated countryside, the natural beauty of the AONB, the setting of a nearby listed building across the main road, and the visual appearance on the character and appearance of the property.
- 6.2 In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, policy DM32 of the Local Plan seeks to ensure that development proposals preserve the importance and setting of listed buildings. The application site lies within an Area of Outstanding Natural Beauty and here policy DM24 is also especially relevant.
- 6.3 The manège is approximately 65m away from the listed building with a highway and significant landscaping between it and the application site not to have any adverse effect on amenity. The mirrors will be positioned facing away from the listed building and will face the applicant's dwelling.
- 6.4 I informally consulted Highways & Transportation who commented that given the distance from and angle in relation to the highway there is little chance of headlights reflecting off the proposed mirrors and back into the road. There is substantial hedgerow between the road and the riding arena as well so there is no cause for concern.

7. CONCLUSION

- 7.1 The proposal will not give rise to any unacceptable impacts on residential or visual amenity. They will augment use for the manège and I conclude that the mirrors would be acceptable with limited local impact.

8. 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.

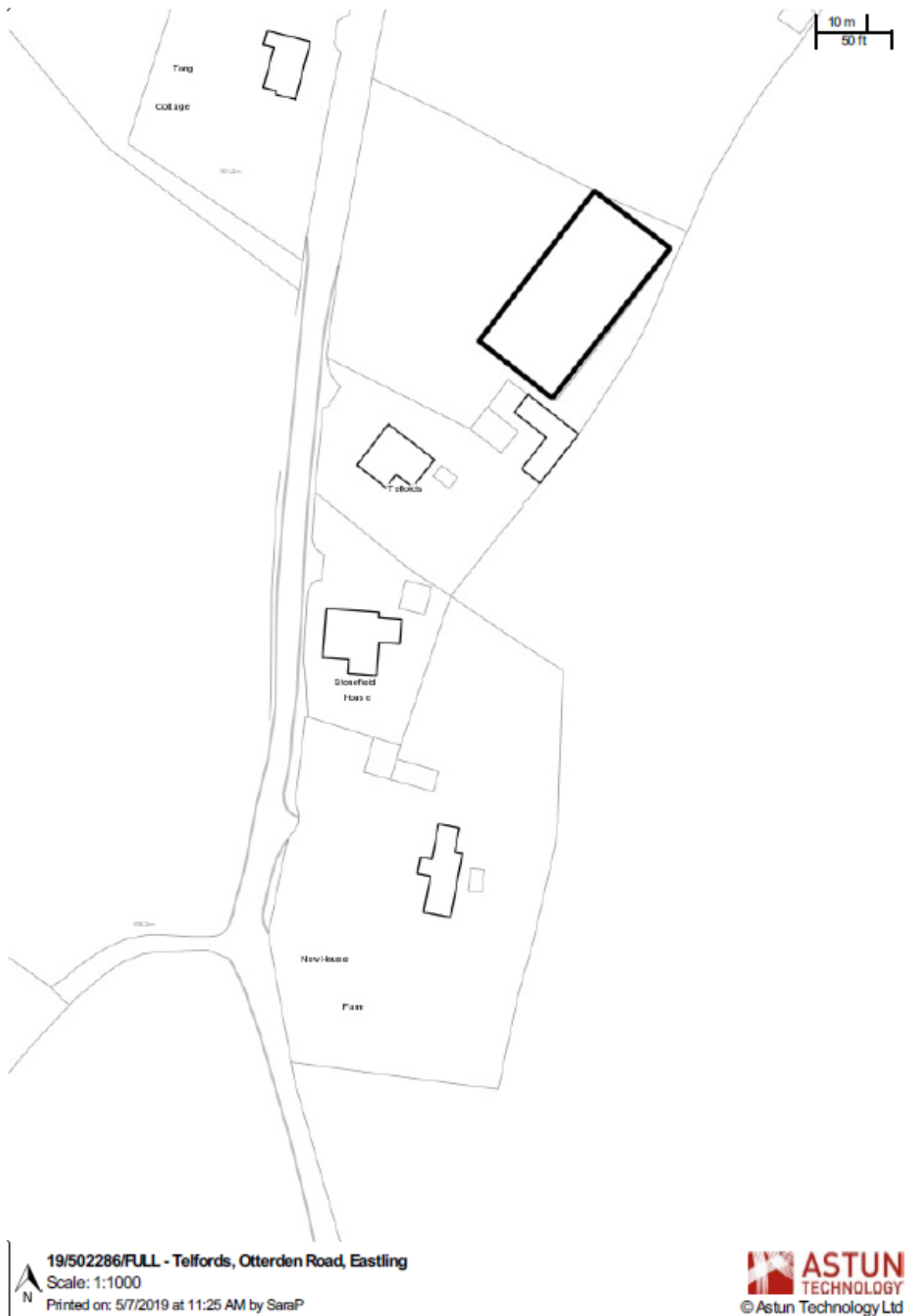
The Council's approach to the application

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.



2.3 REFERENCE NO - 19/501417/FULL		
APPLICATION PROPOSAL Conversion and extension of former hoppers huts to create 4 holiday lets and 1 laundry room.		
ADDRESS Hoppers Huts South Street Boughton Under Blean Kent ME13 9NB		
RECOMMENDATION – Approve SUBJECT to SAMMS mitigation payment		
REASON FOR REFERRAL TO COMMITTEE Request from Cllr Tim Valentine		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Boughton Under Blean	APPLICANT Mr & Mrs J Berry AGENT Anthony Swaine Architecture Ltd
DECISION DUE DATE 24/05/19		PUBLICITY EXPIRY DATE 03/06/19

Planning History

17/500664/FULL

The erection of a polytunnel structure for production of food, wood storage, plant production, propagation and rearing animals, as amended by drawing received 31st May 2017
Approved Decision Date: 07.06.2017 (not implemented)

1. DESCRIPTION OF SITE

- 1.1 This site lies in a rural location comprising a field which has been fallow grassland for some years, and which rises up from the road. At the rear of the field, some 120m from the road is a line of 15 single storey former hop pickers' huts arranged in two rows, each of which faces down the field with rising ground behind. Historic maps suggest the timber framed huts are the last two remaining blocks of hop pickers' huts from a larger now mostly demolished complex of huts which provided accommodation for seasonal workers at the farm from the late C19. It appears that these few remaining huts became redundant in (and have been unused since) the 1960s when hop picking became fully mechanised and the requirement for seasonal workers diminished.
- 1.2 Although unlisted, the huts are considered to be worthy of preservation as non-designated heritage assets given their significance to the local hop industry. Whilst there appear to have been huts on the site from the late C19, in all probability, the remaining huts date from the mid C20. They are structurally sound, but otherwise in a fairly poor state of repair. There is an existing line of mature trees and vegetation to the rear of the huts.
- 1.3 The site is situated in a location which is now within the Boughton Church conservation area, following the decision to extend that conservation area which was taken at the Planning Committee meeting held on 27th June 2019.
- 1.4 The site is located outside any established built-up area boundary although there are nine domestic properties situated at the bottom of the incline, on the opposite side of the road, all set over one hundred metres from the huts themselves. Two of these properties are listed buildings.
- 1.5 There is an existing drainage ditch running along the bottom of the field, as that area of the field is in a Flood Zone, although the part of the site in which the huts are located is not. There is also a single track access bridging the ditch, which leads from the road to the top of the field adjacent to the huts.

- 1.6 In 2017, planning permission was granted for the erection of a polytunnel at the bottom end of the field for agricultural purposes (17/500664/FULL). This permission has not been implemented, and I understand that there are no plans to do so. The application was approved in June 2017, giving a temporary permission of three years only. Two of these three years have passed already, so it seems unlikely that the permission would be enacted now.

2. PROPOSAL

- 2.1 The proposal is to convert the huts for use as four holiday lets. This would require an element of restoration to the huts as they are in a state of some disrepair. The submitted drawings also show that there would be five small extensions at the rear of the two blocks, to provide kitchen and bathroom facilities; with the main body of the huts being used as bedroom and living accommodation. These extensions would be of a similar design and finish to the existing structures. The northernmost block would provide two 1 bedroom holiday lets and a laundry room, whilst the southernmost (and larger) would provide two 2 bedroom holiday lets.
- 2.2 Each holiday let would have one or two bedrooms, a bathroom, a kitchen, a living room and a dining room. Each would also have at least one small private amenity space to the rear.
- 2.3 Vehicular access to the site is shown via the existing access over the drainage ditch. This would be a surface matted access, leading to a surface matted car parking area, immediately to the south west of the huts. The drawings note the addition of screen planting to the parking area, but no further details of this are shown.
- 2.4 The application is accompanied by a Supporting Statement; a Design and Access & Heritage Statement; an Ecological Appraisal; a Sustainability Considerations Report; and a Bat Survey. The Supporting Statement contains the following:

'Still standing, but with retention under threat due to the cost of repair and maintenance are two accommodation blocks created entirely for the hop pickers (The Hopper Huts) on an expanse of picturesque land on South Street. South facing and with fantastic views, we believe that the loss of these huts would be regrettable, given their history and significance to the farming industry and local community. In order to conserve the heritage asset of The Hopper Huts we propose to have them converted into holiday lets, thus diversifying the business by creating a sustainable form of rural tourism which promotes its agricultural heritage. We believe that tourists would delight in staying on a working farm, which still dries hops in a fascinating 6 kiln Oast House, set just to the left of The Hopper Huts. There are plenty of walking opportunities within the area whilst also being a close enough drive or train journey to surrounding areas such as Faversham, Canterbury and Whitstable, with the train station just 10 minutes walk away. There are also bus routes a short distance away in Boughton. Each of the holiday lets will benefit from and enjoy the beautiful south facing view which will be relatively unchanged from its existing outlook. They will have their own private courtyard garden at the back where tables, chairs BBQ's etc can be stored, consequently protecting the opposite view. We intend for the holiday lets to look fairly similar to the way they do now; keen to keep them looking authentic, with just a small extension to the rear. They will boast under floor heating, log burners, bedrooms with en-suite bathrooms and country style kitchens with washing facilities. Parking

will be available and concealed from view using screened fencing. Having already met informally and receiving positive feedback with Boughton- Under-Blean Planning Committee and David Curtis-Brignell of Visit Swale, we believe that we can provide a luxurious holiday let experience with a difference that will generate return business and bring tourism to the local area, serving other local businesses.'

3. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.45	0.45	-
No. of Storeys	1	1	-
Parking Spaces	0	Up to 8	+8

4. PLANNING CONSTRAINTS

- 4.1 Outside established built up area boundary
Conservation Area Boughton Church, Boughton

5. POLICY AND CONSIDERATIONS

- 5.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies CP4 (requiring good design), CP8 (conserving and enhancing the historic environment); DM3 (the rural economy); DM7 (vehicle parking); DM14 (general development criteria); DM16 (alterations and extensions); DM33 (conservation areas).

6. LOCAL REPRESENTATIONS

- 6.1 Three letters and emails of objection have been received from nearby residents. The comments therein may be summarised as follows:

- Flooding occurs at the bottom of the hill after heavy rain
- Building holiday lets where the occupants have no interest in the area will be detrimental to the peace and beauty of the area
- Increased vehicular traffic will be detrimental to the area
- Missing documentation, eg. Heritage statement, Design and Access Statement (NOTE: These documents were submitted, but were initially not logged onto the public access system. As soon as the error was noticed, it was remedied.)
- The accommodation is unlikely to achieve building regulations approval and will need to be re-designed
- These will be commercial premises fronting a residential street, not meeting any need in the area
- Domestic paraphernalia from holiday lets would spoil their setting
- Overlooking and loss of privacy to existing residents
- Holiday lets would not be properly screened, but hedging would spoil the character and appearance of the properties
- Harm to the conservation area
- 'Gradual creep' of development
- Holiday makers unlikely to use rear amenity areas as they will be shaded by existing trees, and will instead spill onto the field in front to enjoy late evening sun

- 6.2 Two emails from the same resident, neither objecting to nor supporting the application, have also been received, and these raise concern over a number of points noted above.

7. CONSULTATIONS

- 7.1 Boughton-under-Blean Parish Council supports the application, noting *‘that it would improve the visual amenity of the area and improve the local landscape in close proximity (now inside) a conservation area.’*
- 7.2 Kent Police have suggested that there should be adequate external lighting to the parking area and that the proposed windows should meet certification levels for security.
- 7.3 The Environment Agency raises no objection, stating that they would prefer that all foul drainage be connected to the mains.
- 7.4 KCC Flood and Water Management raises no objection.
- 7.5 The Council’s Economy and Community Services Manager supports the application, saying;

“In the Visitor Economy Framework 2018-2023, the Council talks about the need to provide new offers and meet new visitor demands and this proposal would support this challenge The Council talks too about improving visitor experiences drawing upon the unique qualities and distinctiveness of the three geographic areas within the Borough. Additionally this proposal will improve the infrastructure available to visitors whilst supporting the development of the cultural offer too. This distinctive accommodation product should be able to attract a niche sector willing to pay a higher premium for a local and unique product set within outstanding landscape of our countryside. I look forward to working with the applicant in the future to promote the offer via Visit Swale through our partnership working with Visit Kent. I am happy to support the application.”

8. APPRAISAL

- 8.1 The main issues to consider in this case are the principle of development; the effect upon the hoppers’ huts and the conservation area; access, and residential amenity of neighbours. For the sake of regularity, I shall consider each of these in turn.
Principle of Development:
- 8.2 The site is situated outside of any established built-up area boundary, where policies of rural restraint apply. However, the proposal is to create holiday let accommodation, rather than permanent residential development. Policy DM3 (The rural economy) of the Local Plan suggests that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area, with a preference for the re-use of existing buildings, including for tourism. As such, I am of the opinion that the proposal is acceptable in principle and in accordance with Local Plan principles.
Effect upon the huts and the conservation area:
- 8.3 I note that the conservation area has just been extended to include this site. I am of the opinion that this extension to the conservation area favours the present proposal as it seeks to conserve the existing character of the conservation area. The huts are in a poor condition, and their restoration will make a positive contribution to the appearance of the conservation area. The physical changes to the front of the huts would have little effect on their traditional appearance, merely introducing glazed door with commensurate timber shutter in existing doorways, with just one additional front door being created.

The majority of the changes would be at the rear of the huts, but these will not be visible from the road and would be fairly low-key in scale and design. As such, I do not believe that the proposal, if approved, would have a detrimental effect on the conservation area; on the contrary, I would contend that it would make an improvement to the conservation area, in accordance with policy DM33, which states that:

'Development (including changes of use and the demolition of unlisted building or other structures) within. Affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area's special character or appearance. The Borough Council expects development proposals to:

1. *Respond positively to its conservation appraisals where these have been prepared;*
2. *Retain the layout, form of streets, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, landform, vegetation and land use;*
3. *Remove features that detract from the character of the area and reinstate those that would enhance it; and*
4. *Retain unlisted buildings or other structures that make, or could make, a positive contribution to the character and appearance of the area.'*

I would contend that the proposal is in accordance with these requirements.

- 8.4 This matter is further supported by the conclusion reached in the report recommending the extension of the conservation area, which states that;

'The review of the three conservation areas has highlighted that they remain areas of special architectural or historic interest which merit protection through conservation area status. Appreciation, particularly of traditional agricultural scenes (formed in large part from surviving groupings of agricultural buildings) has grown in the 40 plus years since the latest of the three conservation areas was originally designated in 1976, and for that reason, some changes to the boundaries might be considered almost inevitable.'

Clearly, this is the case here, and note must be made of the reference to '*surviving groupings of agricultural buildings*' noted above.

- 8.5 As such, I would contend that the restoration and new use of the huts would make a positive contribution towards the preservation of the character and appearance of the conservation area.

Access:

- 8.6 As noted, the proposed access would be via the existing small overbridge across the drainage ditch. Details of the access and parking area are limited, so I propose the inclusion of a condition to ensure that these details are submitted to and approved by the Council to ensure that they have a minimal impact on the character and setting of the site and the conservation area.

Residential amenity:

- 8.7 I note the concerns raised by local residents with regard to possible issues adversely affecting residential amenity. There is concern suggesting that people staying in the holiday lets would not have a long term interest in the area and would not therefore

behave in an appropriate manner. In a recent enforcement appeal at Hole Street Farm, Kingsdown, where four holiday lets were enforced against as they were being used as permanent residences (and directly adjacent to existing residences), the same allegation was made. In his report, the Inspector replied as follows:

'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.'

I also fail to see why people renting holiday lets are likely to behave in an antisocial manner, just because they are away from home. I would also note that the huts are approximately one hundred metres from the nearest established dwelling.

- 8.8 I note the comments made regarding overlooking and that the proposal, if approved, would create a commercial business facing onto a residential street. However, these would be holiday lets, over one hundred metres away from the existing residential dwellings.

9. CONCLUSION

- 9.1 I acknowledge the concerns of local residents, but I am of the opinion that the proposal, if approved, would restore these structures, which are of historical interest, and would thus benefit the appearance of the conservation area. I therefore recommend that the application be approved, subject to strict accordance with the conditions given below.
Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 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.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus 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 (NE) 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 advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

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 (NKEPG).

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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

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

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

- 10. RECOMMENDATION** - GRANT Subject to the following conditions and collection of SAMMS mitigation payments.

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 new roof cladding shall have been installed unless a sample of the proposed material has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details.

Reason: In the interests of visual amenity.

- (3) No alteration to the roofs of the existing huts shall be carried out unless a 1:1 or 1:2 vertical construction section drawing of the treatment of the exposed leading

edge at the highest point of the rear facing monopitch roof over the existing huts has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details.

Reason: In the interests of visual amenity.

- (4) No work in connection with the erection of the extensions to the huts hereby approved shall be commenced unless a 1:1 or 1:2 part vertical construction section drawing of the glazed link roof structure and its junctions with the new build room form and re-modelled existing roof form, has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details.

Reason: In the interests of visual amenity.

- (5) No new retaining walls to be used up against the earth bank to help enclose and secure the courtyard/ terrace spaces shall be constructed unless a 1:10 vertical construction section drawing of the retaining wall structure(s) has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with these approved details.

Reason: In the interests of visual amenity.

- (6) No vents or flues to be used for the kitchens, shower rooms/bathrooms and laundry facility shall be installed unless in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

- (7) No work in connection with the erection of the extensions to the huts hereby approved shall be commenced unless details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the entire development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the approved details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- (8) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the holiday accommodation hereby permitted shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- (9) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been

submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate.
- The type, number, mounting height and alignment of any lighting units.

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

- (10) No occupation of the holiday accommodation shall be commenced unless full details of both hard and soft landscape works for the site and for the car parking, turning and access areas 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.

- (11) 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.

- (12) 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.

- (13) All external boarding to the existing huts shall be timber featheredged weatherboarding and this shall be stained black within three months of its installation.

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

- (14) No occupation of the holiday accommodation hereby permitted shall commence unless an interpretation panel concerning the historic use of the buildings has been installed at the site in accordance with details which shall have been first submitted and approved in writing by the Local Planning Authority. These details shall include the position of the panel and its dimensions.

Reason: In the interests of amenity.

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

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

Reason: In the interests of residential amenity

- (16) No further development, whether permitted by Classes A, C or D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

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

Reason: As the site lies outside any area intended for new permanent residential development and as the permission is only granted in recognition of the applicant's intention and the Local Planning Authority's wish to encourage suitable provision of holiday accommodation in this attractive rural area.

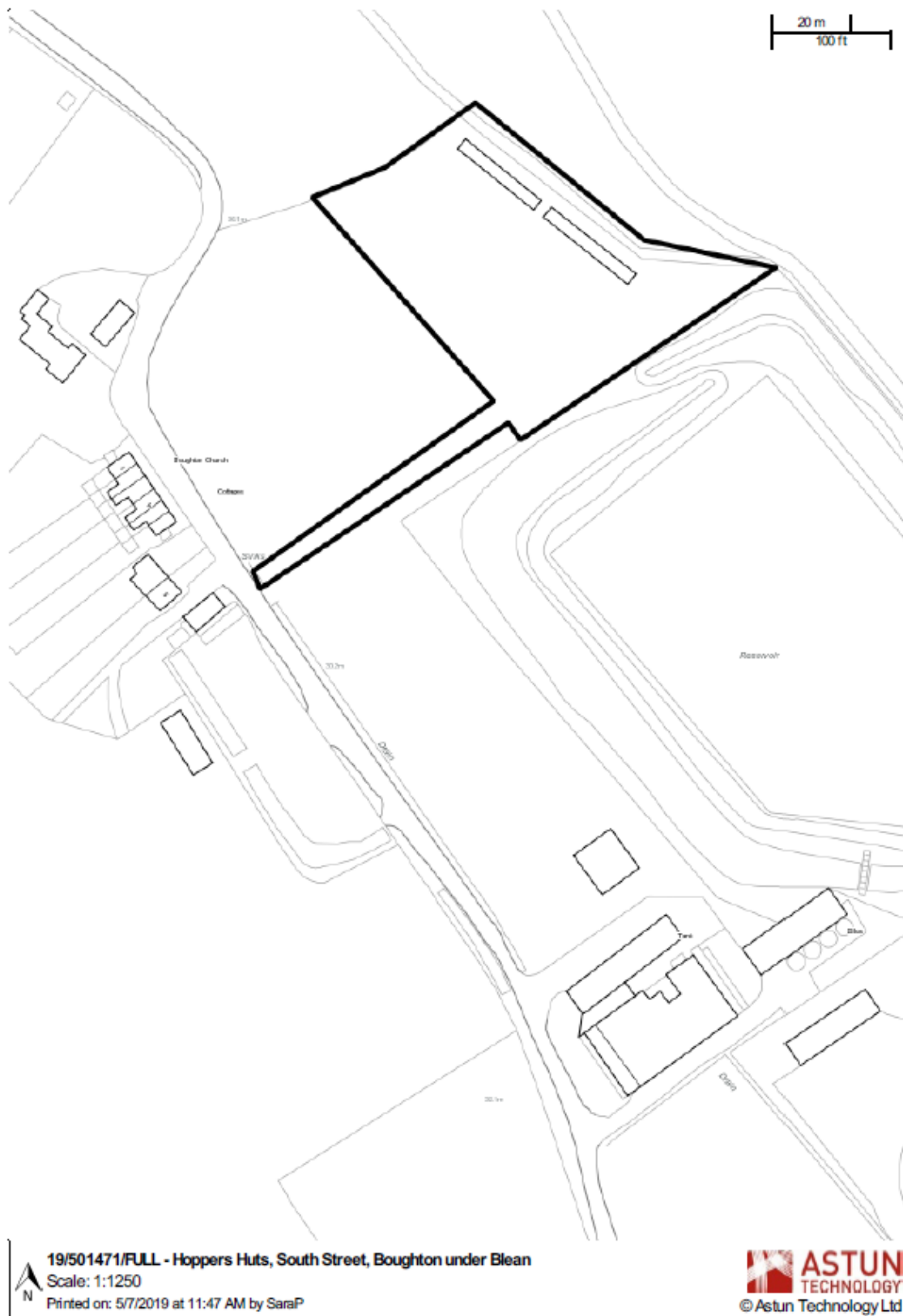
The Council's approach to the application

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.

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

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



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2.4 REFERENCE NO - 18/503057/FULL		
APPLICATION PROPOSAL Erection of a 3 storey, 66 bed care home for older people with associated access, car park and landscaping.		
ADDRESS Land At Perry Court Ashford Road Faversham Kent ME13 8YA		
RECOMMENDATION – Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
<ul style="list-style-type: none"> • The site forms part of a strategic mixed use development site as allocated under policy MU7 of the local plan. • The principle of a 60 bed care home has already been established through the grant of outline permission, and the impacts arising from a 66 bed care home are not considered to be materially greater. • The scale and design of the development is considered to be acceptable. • Other localised impacts have been assessed and found to be acceptable 		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to committee by Cllr Ben Martin.		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT LNT Care Developments & HDD (Faversham) Ltd AGENT LNT Construction Ltd
DECISION DUE DATE 18/09/18	PUBLICITY EXPIRY DATE 06/02/19	

Planning History

15/504264/OUT - Outline application (with all matters reserved other than access into the site) for a mixed use development comprising: up to 310 dwellings; 11,875sqm of B1a floorspace; 3,800sqm of B1b floorspace; 2,850sqm of B1c floorspace; a hotel (use class C1)(up to 3,250sqm) of up to 100 bedrooms including an ancillary restaurant; a care home (use class C2)(up to of 3,800sqm) of up to 60 rooms including all associated ancillary floorspace; a local convenience store (use class A1) of 200sqm; 3 gypsy pitches: internal accesses; associated landscaping and open space; areas of play; a noise attenuation bund north of the M2; vehicular and pedestrian accesses from Ashford Road and Brogdale Road; and all other associated infrastructure.

Approved Decision Date: 27.03.2017

17/506603/REM - Approval of reserved matters relating to scale, layout, appearance and landscaping for the erection of 310 dwellings, pursuant to conditions 1, 4, 10 and 24 of outline planning permission 15/504264/OUT. Approval sought for residential part of outline scheme only - Approved 01.03.2019

18/502735/FULL - Erection of a new supermarket (Use Class A1) and a hotel (Use Class C1) along with associated accesses, car and cycling parking, lighting, drainage, hard and soft landscaping and associated infrastructure – Under consideration

1. DESCRIPTION OF SITE

1.01 application site consists of a parcel of land of approximately 0.5 hectares in area, located approximately 100m to the west of Ashford Road, as part of a much larger area of land forming Perry Court. The land is raised above the level of Ashford Road, by up to 2 metres, and is partially screened by existing hedging.

- 1.02 The land was formerly part of larger agricultural fields, and forms part of the wider Perry Court development site as allocated under Policy MU7 of the adopted Local Plan. This wider land benefits from outline permission for a large scale development under application 15/504264/OUT, and from reserved matters approval for residential development of 310 units on a large part of the site (ref 17/506603/REM). The residential development has now been commenced.
- 1.03 As part of this existing permission, a new roundabout and access point into the site has been formed from Ashford Road. The land parcel subject to this application site is located to the west of this new access point.
- 1.04 The application site is surrounded to the north, south and west by the housing as approved under the above referenced application. The land to the east was shown at outline stage to accommodate a care home and hotel, but is now subject to a current planning application for a retail and hotel development under 18/502735/FULL.
- 1.05 A line of detached dwellings are located on the eastern side of Ashford Road and are the closest existing dwellings to the scheme.

2. PROPOSAL

- 2.01 This application seeks permission for a 66 bed care home building. The building would be arranged over three storeys, and over an L shaped footprint. The building would measure some 11.5 metres in height under a continuous hipped roof, and incorporates a number of vertical sections, distinguished by use of differing materials (cladding, brick and render), and also by a number of projecting bay details. The central bay (on the corner of the L shaped footprint) would be most prominent in height, and successive bays would gradually drop in height to the outer wings of the building.
- 2.02 The building would be sited with the two longest and most prominent elevations facing east and south, measuring some 54 and 42m in length respectively. The east facing elevation would face towards the proposed retail and hotel parcels and towards Ashford Road, and would be highly visible to persons entering the wider Perry Court site from the roundabout access. The southern elevation would face towards a footpath connection to the residential area, as approved as part of the reserved matters for the residential development. The building would be partially cut into land levels, which rise from north to south.
- 2.03 The proposal would include en-suites in all bedrooms, a range of communal rooms (lounge / dining areas, "quiet" lounges, a café / tea room, a gallery / library, garden room and hair salon) and communal grounds around the buildings, and a 20 space car park. The care home is expected to generate between 40 and 50 full time jobs.

3 PLANNING CONSTRAINTS

Within built confines of Faversham
Part of site allocation Policy MU7

4 POLICY AND CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) - paragraphs 2 (determination of applications), 7 (sustainable development), 8 (the three objectives of sustainable development), 10 (presumption in favour of sustainable development), 54-57 (use of conditions and planning obligations), 59-61 (to significantly boost housing supply / meeting needs of specific housing groups including elderly persons), 108-111

(sustainable transport), 117-121 (Making effective use of land), 124-131 (good design), 149-154 Planning for climate change, 155-165 (flood risk and drainage), 174-177 (biodiversity)

- 4.02 National Planning Practice Guidance (NPPG). The following guidance documents are of relevance - Air Quality, Climate Change, Design, Determining a Planning Application, Ensuring the vitality of town centres, Planning Obligations, Transport evidence bases in plan making and decision taking, Travel plans, Transport Assessments and Statements, Use of Planning Conditions.

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

- 4.03 Policy MU7 of the Local Plan is relevant insofar that it is a specific site allocation policy for the wider parcel of land at Perry Court, which this application forms a part of. The policy is copied in full below.

Planning permission will be granted for a mixed use development at Perry Court Farm, Faversham, as shown on the [Proposals Map](#), to include a minimum of 370 dwellings (inc. care home), together with 18,525 sq. m of B1a, B1b, B1c class employment uses (with a further 2 ha reserved for future employment use), supporting uses and landscaping and open space. Development proposals will:

1. Be in accordance with Policy CP 4 and in particular demonstrate and provide a strong landscape framework (shown by a submitted Landscape Strategy and Landscape and Ecological Management Plan, informed by a landscape and visual impact assessment) to include:

- a. substantial width of woodland planting along the site boundary with the M2, which shall additionally safeguard the setting of the Kent Downs AONB;*
- b. additional substantial areas of woodland planting and green space e.g. community orchards and allotments, within the south western quarter of the site near Brogdale Road;*
- c. retained, managed and enhanced hedgerows and shelterbelts;*
- d. footpath and cycle path routes within green corridors linked to the adjacent network; and*
- e. planting selected to reinforce the local landscape character area.*

2. Be of high quality design, with building siting, form, height and materials related to the existing built form and topography of the site and the surrounding context and to include consideration of:

- a. the setting of landscape and heritage assets;*
- b. the rural approaches to the town; and*
- c. building heights demonstrating they have been influenced by, and show respect for, views from the south.*

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

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

5. Submit a detailed Heritage Assessment to consider the significance of the impact of development at the local level on the heritage setting of the town and other heritage assets in accordance with policies DM 32-DM 33. An archaeological assessment should consider the importance of the site and, if necessary propose mitigation in accordance with DM 34;

6. Provide the majority of B1 class employment floorspace as B1a (offices). Employment uses other than B1 will not be permitted unless it is clearly shown that B1 uses would not be achievable.

Proposals for alternative employment uses must demonstrate they would not diminish the quality of the development, whilst proposals for main town centre uses will need to be the subject of an impact assessment;

7. Undertake an Air Quality Assessment to ensure that the Ospringe AQMA is not compromised, with, if necessary, the use of innovative mitigation measures;

8. Submit a Noise Assessment and implement any mitigation arising;

9. Be supported by a Transport Assessment to determine the need and timing for any improvements to the transport network and the phasing of development. Development shall undertake such mitigation as necessary which shall include:

a. interim improvements at Junction 7 of the M2;

b. improvements to the junctions of the A2/A251 and to the A2/Brogdale Road;

c. pedestrian and cycling routes;

d. public transport enhancements to improve links to the town centre; and

e. implementation of an agreed travel Plan; and

10. Provide infrastructure needs arising from the development, including those matters identified by the Local Plan Implementation and Delivery Schedule, in particular those relating to libraries, education and health.

4.04 Other relevant policies are ST1 (Delivering sustainable development), ST7 (The Faversham Area Strategy), CP3 (delivering a wide choice of homes), CP4 (good design), DM6 (Managing Transport Demand), DM7 (vehicle parking), DM14 (general Development criteria), DM19 (sustainable design), DM28 (biodiversity),

5 LOCAL REPRESENTATIONS

5.1 18 letters of objection received –

- The care home is taller (3 storeys) than approved (2 storeys)
- The care home would not relate well to the approved housing scheme
- Any development over 2 storeys would impact properties on Ashford Road
- Lack of screening / loss of hedgerows
- Concern that the development will increase surface water flooding
- The design is not in keeping with the area, with little regard for local influence / context
- The development will increase transport movements, causing further traffic and air quality impacts.
- The development would prevent building of the Ospringe bypass
- Lack of need - There are several former care homes in the area that could be brought back into use without the need for this one.
- Safeguarding issues re increased pedestrian movements adjacent to Abbey school
- Negative impact on residents on Ashford Road, including loss of light.
- Fails to take advantage of solar energy or provide EV charging points.
- The height of the building will be intrusive and invade privacy
- The A2 / A251 junction must be upgraded before further development is considered
- The application should be considered alongside the applications for housing development and retail / hotel development on the wider site.
- Light pollution
- The site is unsuitable for elderly residents as there is no easy access into Faversham

- Noise / disturbance from additional traffic, including doctors, nurses, ambulances, deliveries, visitors.
- The Council has adopted an incrementalist approach to planning in Faversham, dealing with separate application in isolation and not considering cumulative impacts.
- There is no indication whether the development would prevent the creation of a relief road through the site as advocated by residents / the town council.
- Fire risk arising from a three storey development
- The precise location of the care home has not been fixed.
- Legitimate objections raised by residents throughout all applications for Perry Court have been ignored.

5.02 1 letter received from the Faversham Society in support of the scheme –

- It is needed to replace accommodation lost at Jubilee Way
- The orientation and design are well thought out, and the access is off a spine road of the approved scheme

6 CONSULTATIONS

Faversham Town Council

6.01 Original plans – recommend that the application is deferred for the following reasons:

- The decision on the A251 / A2 junction upgrade remains outstanding and no applications should be considered whilst this is outstanding.
- Concerns raised by KCC re storm water drainage need to be addressed
- Parking is inadequate
- The design is poor and bland.

6.02 Further comments (March 2019) – support the changes to the proposal and state that previous issues have been addressed. But makes the following comments –

- FTC Still has serious concerns about the A2 / A251 junction and requests clarification from KVV Highways
- FTC has concerns regarding the new roundabout on the A251 which needs further review.

6.03 Further comments (June 2019) – take a neutral position on the recommendation, but repeat the above comments re the A2 / A251 and the roundabout at the site entrance.

KCC Highways

6.04 Original comments – advise that a 66 bed care home would have no material change to traffic impacts when compared to the approved 60 bed scheme, but require further information to justify parking provision, and demonstrate visibility / swept paths.

6.05 Further comments - Advises that parking provision is acceptable following clarification of staff numbers, and that technical drawings of visibility splays and swept paths are also acceptable. Advises that footway connections to the A251 must be provided prior to first occupation, and recommends conditions relation to construction, provision of vehicle and cycle parking, and provision of suitable access / highways engineering / furniture details.

Environmental Protection Team Leader

- 6.06 No objection subject to conditions requiring a construction management plan, control over extraction / filtration equipment, loading / unloading, and measures to deal with contamination not previously identified. Confirms that the increase in the number of units from 60 to 66 would not have a significant impact upon the conclusions of the Air Quality assessment associated with the Perry Court development as a whole.

Environment Agency

- 6.07 No objections subject to conditions relating to contamination not previously identified, surface water drainage, and control over piling works.

Natural England

- 6.08 Has no comments to make on this application

KCC Ecology (comments taken from application 18/502735 as ecology report covered both applications)

- 6.09 Raise no objection based on the ecological appraisal submitted. Advise that notable species (including reptiles, breeding birds and badgers) have been recorded within the wider site, and that development will need to follow a precautionary mitigation strategy. The mitigation proposed is appropriate. Require conditions relating to bat sensitive lighting, ecological mitigation, and ecological enhancements to the site.

Southern Water

- 6.10 Advise that there is an increased risk of flooding unless required network reinforcement is provided by Southern Water, and this will be funded through the New Infrastructure Charge, and SW Capital Works programme. Advise that a condition should be applied to enable occupation to be aligned with delivery of such improvements.

KCC Strategic Commissioning

- 6.11 Advises that the Kent Accommodation Strategy for social care projects that, by 2021, Swale will require additional capacity for dementia care. This strategy will be refreshed to forecast to 2031 and this will evidence further need due to increasing demographic changes for older people.
- 6.12 Advise that the care home is of a size and scale that would be financially viable and needed for older people although further discussions with KCC and the provider will be sought as the scheme is refined.
- 6.13 Overall KCC Strategic commissioning, on behalf of Adult Social Care, supports this application.

Kent Police

- 6.14 Advise the application has had regard to crime prevention and community safety, but there remain some outstanding matters re perimeter / boundary heights, secure gardens, security of windows, lighting, control of parking, surveillance, access control, drug store siting, staff security, securing storage areas, and securing cycles. Advise that a condition should be imposed to deal with these matters if not resolved during the application.

KCC Drainage

- 6.15 Advise that a cellular soakaway for water management is acceptable and raise no objections subject to conditions.

7 BACKGROUND PAPERS AND PLANS

- 7.01 The application includes an Arboricultural Assessment, Ecological Appraisal, Flood Risk Assessment, Landscape and Visual Impact Appraisal, Planning Statement, Preliminary Ground Investigation Study, Public Consultation leaflet, Staff Travel Plan, Transport Statement, Design and Access statement, Foul Drainage Strategy and Energy Statement.

8 APPRAISAL

Principle of Development

- 8.01 The site of the care home is located on land allocated under policy MU7 of the Local Plan for the wider mixed-use Perry Court development. The terms of the policy specify that the site will deliver a minimum of 370 dwellings (including a care home), together with employment land, landscaping and open space.
- 8.02 The site already benefits from outline planning permission for development, including provision of a 60 bed care home, as granted under application 15/504264/OUT. The key differences between the outline scheme and the application now presented to Members are that the proposed care home is a 66 bed unit, and that the siting of the care home has moved from the indicative location shown at outline stage (by the main site entrance) to a location further into the site and adjacent to the residential development.
- 8.03 The care home would provide specialist accommodation for elderly persons, including dementia care. This would cater for a sector of the population that is growing and predicted to grow considerably. The KCC Strategic Commissioning department advise that current care forecasts identify additional need for such facilities to 2021, and that further forecasts to 2031 will identify additional needs due to increasing demographic changes for older people. As the responsible authority for adult social care, KCC support this application. It would also comply with Policy CP3 of the Local Plan insofar that it would provide accommodation to meet the needs of an identified housing group.
- 8.04 Given the forecast need for such facilities, the policy requirement for a care home on this site and the existence of an extant outline permission which includes provision of a similar sized care home, I am satisfied that the principle of such development is clearly in accordance with policy and is acceptable.

Visual Impact

- 8.05 The building would occupy a prominent location within the wider Perry Court Development, being sited at the end of the main entrance road into the development from Ashford Road. Given the height and footprint of the building, it would also be one of the larger buildings within the wider development. The intention is that the building would form one of a group of three larger buildings centred around the site entrance, also incorporating a hotel and retail unit (these developments are subject to a separate application under 18/502735/FULL). The care home would be comparable in height to the proposed hotel development.

- 8.06 The building would also be flanked to the north, south and west by the residential development approved on the main part of the Perry Court site. This development consists of 2 and 2.5 storey dwellings. The applicant has partially lowered the ground floor of the care home into existing site levels. As a result of this, the height of the care home would be approximately 2 metres taller than the residential plots sited to the south (which would be approx. 25 metres distance from the care home). The site levels drop further to the north and west, and as a result, the care home would be some 4.5 metres greater in height than plots 149-151 to the west (separation distance of 20.9m), and 6 metres taller than plots 165-166 to the north (separation distance of some 44m with local play area in between).
- 8.07 Whilst my officers have sought to negotiate a scheme that lowers in height towards the ends of the building to deal with the variances with neighbouring buildings, this is not an acceptable position to the applicant, who has made clear that they require three full storeys to deliver their scheme. However on balance, I consider the scale of the building to be acceptable in street scene terms, taking into account the relationship with the commercial parcels to the east and the separation distances from the residential development to the north and south which would help absorb the differences in height in visual terms.
- 8.08 The design of the building has been improved through the use of different materials to break down scale, and also through the use of projecting bay features which drop progressively in height from the main corner feature on the south / east axis of the building.
- 8.09 I also note that the development parameters for the care home proposed under the outline scheme showed the provision of a 2 storey care home of up to 11 metres in height and 3,800 sqm in floor area. Whilst the proposal is over three storeys and is slightly greater in height (at approx.11.5m), it is smaller than the parameter footprint (3,390 sqm). As such, I do not consider the scale of the building to be significantly different to the parameters submitted with the outline application.
- 8.10 Overall, I am content that the scheme does meet policy tests for design and visual impact as set out under policies CP4 and DM14 of the Local Plan.

Residential Amenity

- 8.11 The proposed care home would provide single person bedrooms, all with ensuite bathrooms. The size of the bedrooms (at 15sqm) would exceed the standards set by the Care Quality Commission (12 sqm). A range of communal areas would be provided at a ratio of between 7.2 and 11.8sqm per resident, which would also exceed CQC standards of 4.1 sqm per resident. The facility would also provide outdoor space for use by residents. Overall, I am satisfied that the development would provide a good standard of accommodation for future residents.
- 8.12 The closest residential units to the care home would be those as approved to the west of the building (but not yet built) within the wider Perry Court site. Given the L shaped configuration of the care home, the closest point would be to housing plots 147, and 148-150. Plot 147 as approved is an end of terrace unit facing in a north-south direction. It would not directly face the care home, although the closest wing of the care home would be 11.2 metres from this property. This wing contains an escape staircase and subject to windows being obscure glazed I do not consider it would impact upon privacy to this property. Given the relationship between this plot and the care home, I do not consider it would be likely to result in any undue loss of light or outlook.

- 8.13 Plots 148-150 face east-west and the rear elevations would directly face the closest part of the care home at a minimum distance of 20.9m. This would again be the wing containing an escape staircase, which would be obscure glazed as specified above. Given the distance and use of obscure glazing, I am content that this would not cause any privacy issues. The care home would be on a slightly higher land level and would clearly be visible from the rear of these residential buildings. However I am content that this section of the care home would not result in unacceptable impacts relating to light or outlook given the distance that would be provided between buildings.
- 8.14 The main rear elevation of the care home building would be set back from the approved residential dwellings to the west (including plots 149-159) by a distance of between 35-40m and at this distance I am content that this section of the building would not result in any unacceptable amenity impacts.
- 8.15 The approved residential units to the south would be sited 25 metres from the care home, with an intervening public footpath between the two sites. I consider this relationship to be acceptable.
- 8.16 Some residents of existing dwellings on Ashford Road have raised concern over the size of the care home. However as the care home would be sited some 100m from Ashford Road, I do not consider it would be likely to cause any significant impacts upon the amenities of these properties.
- 8.17 Policy DM14 of the Local Plan states that development should not cause significant harm to amenity. In my opinion the development would accord with this policy.

Highways

- 8.18 The wider development site benefits from outline planning permission, of which the impacts of traffic relating to a 60 bed care home were considered and deemed to be acceptable. This proposal would increase the number of bed spaces to 66, and KCC Highways are content that this increase would have no material impact on traffic generation arising from the site. As the outline permission included a range of measures to mitigate traffic impacts from the wider development on Perry Court, I am content that no further mitigation is required to support this slight increase in bed spaces now proposed.
- 8.19 Notwithstanding the above, Faversham Town Council and some local residents have raised concern over the lack of plans for the junction improvements to the A2 / A251. Some Members may be aware that this matter was reported to the Swale Joint Transportation Board on the 24th June and that a recommendation was agreed to pursue a scheme for signalisation of the junction. Delivery of the scheme is expected in the next 18 months.
- 8.20 The care home scheme would accommodate 20 parking spaces and an ambulance / drop off point, and this quantum and arrangement is acceptable to KCC Highways.
- 8.21 Policies DM6 and DM7 of the Local Plan seek to ensure that new developments do not create unacceptable highways impacts and provide suitable parking. For the above reasons I consider this scheme to comply with these policies.

Landscaping / Ecology

- 8.22 The application provides opportunities for landscaping within the grounds of the site. At present, there are no current landscape features on this particular parcel of land.

- 8.23 The application includes an Ecological Appraisal. This sets out that whilst some ecological value was found on parts of the wider development site, this parcel of land contains no such features of value (such as trees / hedgerows). The report also identifies the presence of protected species on the wider Perry Court site, including badgers, bats and reptiles, although no habitat suitable to such species was identified within the site of the care home itself. Nonetheless, precautionary mitigation is proposed in the ecology appraisal.
- 8.24 The ecological appraisal covers both the care home proposal and the hotel / retail scheme submitted under 18/502735. The KCC Ecology comments from the latter application are set out earlier in this report, and should apply equally to this application. The ecologist is satisfied with the report and mitigation suggested for this part of the site. Subject to conditions, I am satisfied that the application would not harm biodiversity and would accord with Policy DM28 of the Local Plan.

Other Matters

- 8.25 Air Quality – As specified above, the small increase in bed spaces compared to the 60 bed care home approved at outline stage is not considered to cause any material increase in traffic. Given that the impact of traffic movements arising from the approved 60 bed scheme was considered in the context of the wider development of the site, I do not consider that the increase of 6 bed spaces would necessitate further consideration of air quality impacts. This is also the view of the Environmental Protection Team Leader.
- 8.26 Sustainable Design – Policy DM19 of the Local Plan states that development proposals should include measures to address and adapt to climate change. The applicant has submitted an energy statement which sets out the measures to be applied to insulate the building and to control / minimise energy use. It also sets out that the care home provider utilises renewable energy technology within its premises, that ground source heat pumps are preferred, and that solar panels can be installed on the southern roof slope of the building. The applicant intends that renewables would deliver in excess of 15% of the energy requirements of the care home.
- 8.27 In my opinion, these measures would go beyond the requirements of the above policy. I would propose to include a condition requiring the details of such renewable provision to be provided and implemented, together with a separate condition requiring compliance with BREEAM Very Good standards. On this basis, I consider the application would meet and potentially exceed the requirements of policy DM19.

9 CONCLUSION

- 9.01 The proposed care home would deliver a type of residential accommodation that is needed in the Borough and for which demand will grow. The location of a care home on the Perry Court site forms part of the allocation policy under MU7 of the Local Plan. The scheme has been amended to accommodate an appropriate design, would include sustainable construction measures and renewable energy, and the relationship with surrounding buildings within the wider Perry court site, as well as with existing dwellings on Ashford Road, is considered acceptable. The scheme would not give rise to any material traffic increases or air quality impacts, when compared with the 60 bed care home scheme approved under the outline permission for Perry Court.
- 9.02 On this basis, I consider the application would accord with the development plan, and recommend that permission is granted.

10 RECOMMENDATION

GRANT Subject to the following conditions

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

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

General

- 2) The development hereby permitted shall be carried out in accordance with the following plans – ME13 8RY A03-G, A04, A05-C, A05.1-B, A07-B

Reason: To accord with the application and in the interests of proper planning.

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

Reason: In the interests of visual amenity

- 4) No development shall be commenced until details of existing and proposed site levels and finished floor levels, which shall include cross-sectional drawings through the site, 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 order to secure a satisfactory form of development having regard to local topography.

- 5) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development beyond the construction of foundations shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reasons: In the interest of Security, Crime Prevention and Community Safety

Amenity

- 6) No dust or fume extraction or filtration equipment, or air conditioning, heating, ventilation or refrigeration equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reason : To safeguard the amenities of nearby residential properties.

- 7) No deliveries shall take place outside the hours of 0700 hours and 2300 hours Monday to Sunday.

Reason: In the interests of residential amenity.

Sustainability

- 8) The building hereby approved shall be constructed to BREEAM 'Very Good' Standard or an equivalent standard, and within 3 months following occupation of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

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

- 9) No development shall be commenced until full details of renewable energy measures to be applied to the development 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 promoting energy efficiency and sustainable development.

- 10) No development beyond the construction of foundations shall take place until details of electric vehicle charging facilities to be provided have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to first occupation of the care home, and maintained thereafter.

Reason: In the interests of sustainable development.

- 11) The measures contained within the staff Travel Plan shall be implemented upon first occupation of the building. The plan as approved shall be implemented, monitored and reviewed (on an annual basis) and a copy of that annual review and action plan arising shall be submitted to the Local Planning Authority for approval in writing and thereafter implemented as approved.

Reason: in the interests of sustainable development

Landscaping

- 12) 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.

- 13) 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.

- 14) 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.

Contamination

- 15) 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 does not contribute to, or 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.

- 16) 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 groundwaters.

Drainage

- 17) 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. 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 does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution.

- 18) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the proposed sustainable drainage scheme is submitted to and approved in writing by the local planning authority. The manual at a minimum shall include the following details:
- A description of the drainage system and it's key components
 - A general arrangement plan with the location of drainage measures and critical features clearly marked
 - An approximate timetable for the implementation of the drainage system
 - Details of the future maintenance requirements of each drainage or SUDS component, and the frequency of such inspections and maintenance activities

- Details of who will undertake inspections and maintenance activities, including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime

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

Reason: To ensure that any measures to mitigate flood risk and protect water quality on/off the site are fully implemented and maintained (both during and after construction).

- 19) Where infiltration is to be used to manage the 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.

Construction

- 20) 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:
- the parking of vehicles of site personnel, operatives and visitors
 - Measures for the loading and unloading of construction and delivery vehicles, including turning facilities, on the site.
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities and measures to guard against the deposit of mud and similar substances on the public highway
 - measures to control the emission of dust and dirt during construction
 - 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.

- 21) No construction work in connection with each phase of 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

- 22) No impact pile driving in connection with the construction of each phase of the development shall take place on the site on any Sunday or Bank Holiday, nor any other day except between the following times:- Monday to Friday 0800-1800hours, Saturday 0800 - 1300, unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Highways

- 23) The development hereby approved shall not be occupied until a surfaced footway linking the A251 Ashford Road to the proposed care home has been constructed in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of pedestrian safety.

- 24) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- 25) No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site for cycles to be parked in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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.

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

Reason: In the interests of highway safety.

- 27) Before the first occupation of the care home, the following works between that dwelling / premises and the adopted highway shall be completed as follows:

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

Reason: In the interests of highway safety.

Archaeology

- 28) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- (1) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
- (2) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

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

Ecology

- 29) The development shall be carried out in strict accordance with the mitigation measures set out in the Ecological Appraisal and Badger Report by FPCR, both dated April 2018.

Reason: In the interests of biodiversity.

- 30) No installation of any external lighting shall take place until a bat sensitive lighting scheme, to minimise impacts on bats, is 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 interests of biodiversity.

- 31) No development beyond the construction of foundations shall take place until a detailed scheme of ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be completed prior to first use of the building.

Reason: In the interests of biodiversity.

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>

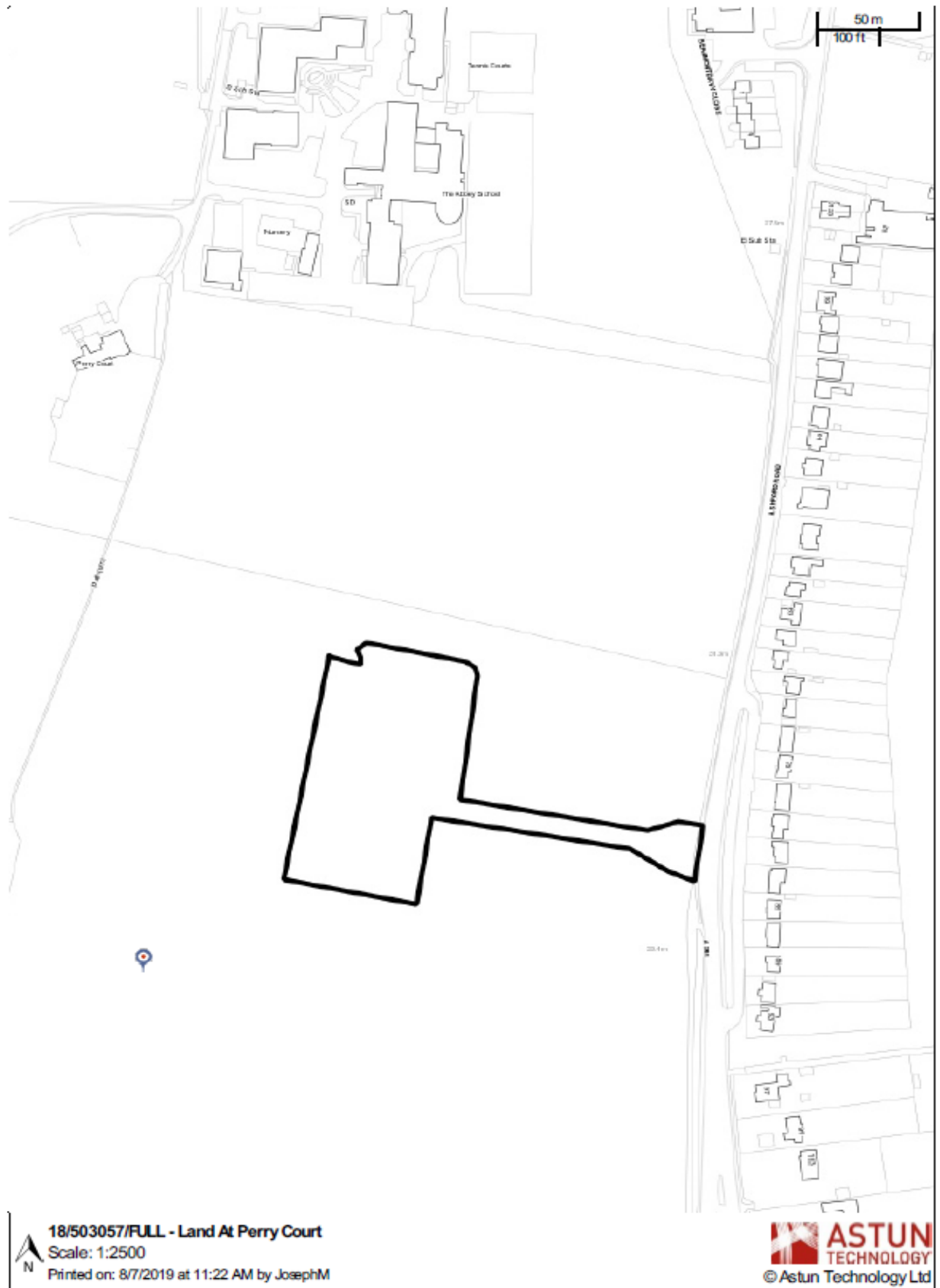
The Council's approach to the application

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.



2.5 REFERENCE NO - 19/501799/FULL		
APPLICATION PROPOSAL Demolition of existing outbuilding and erection of a single storey one bedroom dwelling with 4 roof lights and bike store. Proposed Parking and garden to side. (Revised scheme to 18/502384/FULL)		
ADDRESS Porch House The Street Eastling Faversham Kent ME13 0AY		
RECOMMENDATION – Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD East Downs	PARISH/TOWN COUNCIL Eastling	APPLICANT Gail Boucher AGENT Redsquare Architects Ltd
DECISION DUE DATE 10/06/19	PUBLICITY EXPIRY DATE 24/05/19	

Planning History for this building

18/502384/FULL

Conversion and rear extension of outbuilding to create a single storey one bedroom dwelling with 4 roof lights and bike store. Proposed Parking and garden to side.

Approved Decision Date: 30.07.2018

SW/88/1348

Conversion of existing barn and workshop to single dwelling.

Refused Decision Date: 10.11.1988

Planning History for Porch House itself

SW/10/1244

Change of use of three bedrooms of existing property to B and B use.

Approved Decision Date: 07.12.2010

1. DESCRIPTION OF SITE

- 1.1 The site is within the built-up area boundary of Eastling, within the Eastling conservation area, and within the Kent Downs Area of Outstanding Natural Beauty (AONB). It is also close to the grade II listed Porch House to the north and further listed properties to the south. The building in question sits behind dwellings fronting The Street, with access down a shared alleyway between existing dwellings; an alleyway that is currently used by several dwellings for access. Just to the north of Porch House a small two storey house known as Little Kings which sits back from The Street. This property is accessed only by a pedestrian path and has the appearance of once being an agricultural or storage building.
- 1.2 The application site/building is located to the south west of Porch House and lies directly to the rear of Laburnum Cottage and The Nook which are both houses that front onto The Street. The proposed development is within the extended curtilage of Porch House which actually runs across the rear of these adjacent properties, but the building is not part of its historic curtilage. Porch House has no direct vehicular access to The Street, but utilises the shared alleyway between two houses (The Old Post Office and The

Nook) to park at the rear of Laburnum Cottage, where it has use of a modern double garage and open parking areas to the immediate north of the current application building. The Old Post Office has several windows and a door facing onto this alleyway, and its occupants need to use the alleyway to get to their garden which lies at the end of the alleyway, as the land immediately behind the house is the garden to another house.

- 1.3 The planning history of Porch House includes numerous applications for alterations, but of more significance are three applications (see above) which relate to this area/building, all of which were opposed by neighbours on traffic and other grounds. Firstly, refusal in 1988 of an application to convert this exact building into a one bedroom house. Secondly, approval of Bed and Breakfast use of three bedrooms in Porch House in 2010 with guest parking shown at this location, where six parking spaces were said to be available. Thirdly, a recent approval in 2018 for conversion of this exact building into a new dwelling.
- 1.4 The 1988 application indicated conversion of the current application building into a one bedroom bungalow, but the scheme included alterations to the roof which showed a front facing window at first floor level. Although no upper floor accommodation was shown, the dormer window would have faced towards the private rear garden areas of Laburnum Cottage and The Nook. The application was refused on the following grounds, with the support of Kent Highways at that time.
- (i) The proposed residential development would, by virtue of its position, represent an undesirable form of backland development, seriously detrimental to the residential amenities of dwellings fronting The Street on either side of the proposed access by reason of increased traffic and disturbance over the access and unacceptable loss of privacy and amenity resulting from the permanent residential occupation of the site;
 - (ii) The proposal would introduce new development to the rear of the existing linear pattern of development in the village in a manner detrimental to the character and amenities of the conservation area;
 - (iii) In the opinion of the Highway Authority the proposed access design is below the approved highway standard. Visibility splays to the approved standard are not included in the application.
- 1.5 The 2010 planning permission for Bed and Breakfast use accepted additional use of the alleyway for access/parking by guests. This decision is far more recent and indicates a change in the highway position.
- 1.6 The current application follows on from a recent approval in July 2018 for the renovation and extension of the building to create a single storey independent dwelling which will provide one bedroom, an open plan living area and bathroom, with a cycle store and a log store. The previous approval has effectively been made redundant as, after appointing a structural engineer, the applicant has been told that the building is not structurally sound and would not be capable of conversion; hence this new application for a rebuild.
- 1.7 The outbuilding in question is a traditionally designed single storey structure, weatherboarded above a brick plinth with a clay tiled roof, but it is in a very dilapidated condition, and attached to another run down building (itself recently approved for rebuilding as a garage).

2. PROPOSAL

- 2.1 The replacement building now proposed would have the same footprint as the 2018 approved conversion, and would effectively be for the same proposal, with only a number of small alterations such as the repositioning of the bathroom window, the omission of an external door, and the widening of the bike store as this would now be the main entrance. The property would be single storey with only one bedroom window and one bathroom window facing neighbours.
- 2.2 The application is supported by a Design and Access Statement which outlines the differences between the approved scheme and that now proposed as follows;

The new replacement dwelling application follows that previously approved with the following minor amendments to suit the new build nature of the application:

1. *The proposed aligns with the existing building foot print, but is set out to suit the new topographical survey (as opposed to OS plan).*
2. *The previous existing external door to the bathroom has been omitted (given the new build strategy) ensuring general access to the side elevation via the bike store only, thereby omitting access, noise etc. opposite the adjoining rear properties.*
3. *The bathroom window has been slightly repositioned following the omission of the above external door.*
4. *As the only entrance (following the above), the bike store has been widened slightly by 300mm to ease house access/egress and maintain bike storage.*

3. PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Conservation Area Eastling

4. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF) Paragraphs: 11, 193 and 196.

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

ST3 (Swale settlement strategy)

CP3 (Delivering a wide choice of high quality homes)

CP4 (Design)

DM14 (General development criteria)

DM32 (Listed buildings)

DM33 (Conservation areas)

Supplementary Planning Guidance (SPG): Conservation Areas and Listed Buildings

5. LOCAL REPRESENTATIONS

- 5.1 Two neighbour objections have been received and these are summarized as follows:

- Main objection is increased traffic on the narrow 2.2m wide shared alleyway where vehicles have already caused damage

- Our main back door opens directly onto this alleyway and is the sole means of access to our rear garden and our main access to The Street
- Poor visibility and highway safety issues at the junction of the alleyway with The Street which is a narrow but busy road, especially at commuter and school times
- Possible use of the new dwelling for short term letting increasing the risk of accidents by those unfamiliar with the area
- Possible additional parking on The Street and use of the alleyway arising from rental or lettings
- Use of the alleyway for construction traffic leading to inconvenience, congestion, damage to buildings, underground pipes and existing sewerage facilities
- Loss of privacy with plants only providing screening at certain times of year
- The applicant says that the development will improve the setting of Porch House but in reality it is far closer to The Old Post Office and The Nook which are also established parts of the village
- This is not brownfield land as it has been a garden containing mature trees, which have recently been removed
- There should be analysis of any toxic residue to be analysed before development is permitted
- Contrary to policies E1 and E6 which relate to development being well sited with safe access, and not harming the character of the countryside. NOTE: These are now superseded Local Plan policies and this site is within the village's built-up area boundary where policy E6 (and current policy ST3) accepts new housing in principle.

6. CONSULTATIONS

6.1 Eastling Parish Council objects to the proposal for the following reasons:

- Access to the site is very restricted and not suitable for lorries, diggers and heavy machinery concerned with the proposed building of the new dwelling.
- During recent work by the applicant to install a new septic tank, which required a significant amount of heavy machinery using the driveway, the external water pipe running down the driveway sprung a leak, resulting in water entering the neighbours' cellar.
- The proposed new building is more than 50% of the current outbuilding (a small barn that has never been a dwelling).
- Porch House is not the nearest house to the new development (maybe not visible from the building of Porch House), the much nearer properties are The Nook, Laburnum Cottage, The Old Post Office and no. 2 The Street. The amenities of these very close 4 houses will be affected.

6.2 The agent has responded to the Parish Council's comments with comments that are summarised as follows:

- Recent works at Porch House and a neighbouring property have clearly indicated that any deliveries of machinery and materials can be conveniently and unobtrusively achieved.
- Deliveries are most likely to be made during the working day and outside of busier school trips.
- An experienced and professional builder will be appointed to complete the project who will be expected to extend every courtesy, respect and privacy to the neighbours during construction.
- The owners of The Old Post Office Cottage have planning permission for the demolition and rebuild of their garage which will presumably require the same level of delivery access for machinery and materials.
- Porch House has in the past been used as a B&B with up to 6 cars at the rear of the property. Usage and access have been firmly established in this regard and continues to not present concerns to the highway authority.
- A water leak did arise during recent works and was corrected within a 24 hour period at no cost to the neighbour.
- The new building will not impact on the outlook or amenities of neighbours who will continue to enjoy the same view across the fields
- There is discrete off road parking provided behind the existing garage which would not cause neighbours any access or parking related issues.

6.3 Kent Highways and Transportation state that the development does not meet the criteria to warrant involvement from the Highway Authority. At the time of the previous application in 2018 they initially said the same, but in the light of local concern about the access arrangements proposed (the same as now), I wrote to Kent Highways querying their lack of substantive comments in the following way,

Thank you for your note dated 28 June on this application, referring to the protocol arrangement. Heather has been dealing with this case but she is now on leave and I am trying to come to a decision on the application.

The situation is a little unusual and I wonder if I can ask you to consider it further. Bear in mind also that the [Borough] Council refused planning permission for a very similar conversion in 1988 (based partly on KCC Highway advice). In 1988 KCC Highways objected and the relevant reason for refusal can be seen as reason (iii) on the attached decision notice [see paragraph 1.4 above]. The narrow access to the site has not changed in the meantime.

I have also attached for your convenience copies of current Parish Council and neighbour objections, which include highway concerns. I would be grateful if you could give these your closest consideration.

Can I ask you to take a careful look at this unusual and very restricted access situation to see if you have any concern about its increased use; or if you feel that its increased use is compatible with maintenance of highway safety? The alleyway currently serves at least three individual properties, and there is evidence of damage to walls and close shaves. Parking on the highway also makes visibility on exit very difficult. It does strike me that at 2.2m the alleyway is far narrower than you would normally wish to see for multiple use,

and that sightlines are across third party land and cannot be guaranteed.

Kent Highways' response, which I consider equally relevant to current application was as follows (with the relevant part **emboldened**);

Further to our conversation please note the attached pre-application comments from Alun. Please note that the posted road speed limit along The Street now stands at 30mph instead of 40mph, which I presume was backed by an appropriate speed survey.

*As explained previously these proposals fall outside our protocol to typically warrant Highway involvement but despite the substandard access arrangement with The Street it appears that we would have diminished grounds to object in this instance. **The proposals for a one bed dwelling do not represent a material increase in vehicular use over and beyond that legally permitted for the existing dwellings and the previously approved bed and breakfast uses associated with Porch House. The access itself has no proven crash record and offers a sufficient degree of inter-visibility.***

6.4 The Environmental Health Manager raises no objection to the scheme saying only

“There are a number of residential properties in the locality, in order to protect the residential amenity of these properties during the construction phase I would recommend a standard construction hours condition”.

7. BACKGROUND PAPERS AND PLANS

7.1 All plans and documents relating to 19/501799/FULL.

8. APPRAISAL

8.1 This application needs to be assessed as to whether the principle of a new house is acceptable here, and if so, whether the detailed design is acceptable in policy, heritage and conservation, highway and residential amenity terms.

8.2 I considered the principle of the conversion of this outbuilding to a residential property in 2018 and I note that it benefits in terms of location from being within the village boundary of Eastling, a tier 5 village as outlined in Policy ST3 of the adopted Local Plan which is an area where the principle of an additional dwelling is acceptable. This is a village with a church, a village hall, a public house and a primary school all within walking distance of the site. These benefits apply equally to the current proposal. In addition I note the site provides sufficient amenity space and off street parking provision.

8.3 In 1988 the Council did not have an adopted Local Plan indicating a defined built-up area boundary for Eastling. Accordingly, it was appropriate to see this site as perhaps lying outside the natural boundary of the village as a backland site that was not suitable for development. The newly adopted Local Plan is positive towards small scale housing development within the defined built-up area of towns and villages. This site is within such an area, and is now clearly an acceptable location for development in current Local Plan policy terms; a quite different policy context to that which existed over 30 years ago. The settlement pattern of Eastling is mainly linear, but Little Kings just to the north of Porch House introduces a property set back from The Street, providing an example of how this can work. The proposed bungalow will be small, meeting local

needs and reflecting the location of Little Kings. Therefore the location of the new dwelling is not unusual in the context of the area.

- 8.4 The application building is located some distance away from Porch House and lies within the extended curtilage of the listed building, but not within its historic curtilage. As such, its replacement with a building of similar style, form and dimensions is unlikely to have any significant impact on the setting of this listed building. From a heritage conservation viewpoint there is no objection to the proposed development proposal provided the design, finish and materials are in sympathy with other neighbouring buildings in the conservation area. I do not consider the scale of the development will have an adverse impact on the other listed properties in the immediate vicinity.
- 8.5 Whilst new development can enhance a conservation area, and conservation areas are not designated to prevent any new development taking place, it is necessary to ensure that where development does take place, it is sensitive to the special character of the area and that it is of a high standard of design. I consider that the architectural character of the proposed development is appropriate to this sensitive setting and is therefore acceptable. I would expect that the details of the materials to be used would also be appropriate and have included conditions to cover this.
- 8.6 The application building is located to the rear of existing properties on The Street, notably Laburnam Cottage and The Nook. Laburnam Cottage is set directly on The Street and as such there is adequate distance between the rear of the property and the proposed site for the dwelling. Established vegetation is also in place and whilst there may well be a view of the building, as there is currently, I do not consider it would result in a lack of privacy to either occupant.
- 8.7 The rear garden of the Nook is directly opposite the application property. I note, however, that a block wall, trellis and climbing plants have been planted/erected by the occupants to protect their privacy from the current level of activity here, and thus the view of this and the other buildings and activity to the rear are somewhat obscured. The proposed dwelling has been designed such that the main activity and living areas are to the rear, shielded from the existing houses. Additionally, the location of the bedroom and bathroom to the front, with only ground floor windows will not result in mutual overlooking or lack of privacy sufficient to warrant refusal of this application. This scheme is different from the 1988 refused scheme, but similar to the 2018 approved scheme in this regard.
- 8.8 I am conscious that were the building to be renovated it could be used for purposes ancillary to Porch House with a level of activity not dissimilar to that likely to be the case now. The Bed and Breakfast permission also accepted increased use of the alleyway and the introduction of further activity here, and I see little difference between the implications of that permission, and what is being proposed here now.
- 8.9 I note the concerns of neighbours and have given consideration to their comments. However, given the relative compact size of the one bedroom property, and the provision of off street parking and amenity space I do not consider it would be likely to result in a level of disturbance sufficient to justify refusal of planning permission.
- 8.10 I have further considered comments made by neighbours in relation to potential damage to the pathway, drains and buildings from construction, but any such damage would be a private legal matter should such damage occur during construction or anytime after. Nor do I find it reasonable to refuse planning permission on the basis that more danger or damage might arise from vehicles controlled by those unfamiliar with the constraints of the alleyway,

- 8.11 The access onto The Street does need to be taken with care and I appreciate that the on street parking here does not aid this. However, one must expect drivers to operate within the conditions. The entrance onto The Street has limited visibility, mainly due to parked cars. Last year I specifically asked Kent Highways to reconsider their initial “non-protocol” response. Having done so, they did not raise objection to that application and circumstances are unchanged now. The alleyway is already in multiple uses, and occupants of The Old Post Office will be well aware of this. The level of additional movements now envisaged will be small, and I don’t think warrants refusal of the application. At The Street, vision is available across neighbours’ gardens, and whilst these sightlines are outside the control of the applicant, it is not likely that neighbours will block these – if only for their own safety.
- 8.12 I note the objection and comments from the Parish Council, but would suggest that the vehicles used during the construction would need to be suitable to enter and exit the site and as such this would be for the applicant/builder to negotiate and arrange. With the recent comments from Kent Highways in mind, I see no reasonable prospect of defending a refusal of planning permission on highway safety grounds.
- 8.13 On balance and with the attached conditions I consider the proposal to be acceptable and recommend that planning permission is granted.

9. RECOMMENDATION - GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawings and details: 163/PA/007, 163/PA/008, 163/PA/009, 163/PA/010, 163/PA/011, 163/PA/014, 163/PC/1, 163/PC/2, 163/PC/3, 163/PC/4 and GGL/GPL Conservation Roof Window Specification.

Reason: In the interests of proper planning and for the avoidance of doubt.

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

Reason: In the interest of visual amenity

- (4) 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.

- (5) The two areas shown by dotted lines within the application site on approved drawing 163/PA/007 shall be made available as car parking spaces at all times that the dwelling is in use as such, and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

- (6) Upon completion, no further development permitted by Classes A, C or D of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.

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

- (7) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

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

Reason: In the interests of water conservation and sustainability.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019, the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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

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



19/501799/FULL - Porch House, The Street, Eastling, Faversham, Kent. ME13 0AY
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2.6 REFERENCE NO - 19/501385/FULL		
APPLICATION PROPOSAL Erection of 2no. semi detached dwellings to replace 1 existing derelict dwelling (Resubmission).		
ADDRESS 4 Jetty Road Warden Sheerness Kent ME12 4PS		
RECOMMENDATION Grant subject to conditions and to the issue of SAMMS payment being resolved.		
SUMMARY OF REASONS FOR RECOMMENDATION The submission of the new scheme overcomes the previous reasons for refusal. The scheme is considered acceptable in relation to visual and residential amenity as well as mitigating the flood risk.		
REASON FOR REFERRAL TO COMMITTEE Warden Parish Council object to the application which is contrary to Officer recommendation.		
WARD Sheppey East	PARISH/TOWN Warden	COUNCIL APPLICANT T & J Utting AGENT Peter Jackson Architects
DECISION DUE DATE 13/05/19	PUBLICITY EXPIRY DATE 14/06/19	

Planning History

18/505191/FULL

Erection of 2no. semi-detached dwellings to replace 1no. derelict dwelling.
Refused Decision Date: 05.12.2018

1. DESCRIPTION OF SITE

- 1.1 4 Jetty Road is a detached bungalow located in a row of low rise dwellings. It is within the built up area boundary and is also within Flood Zone 3. The plot itself is overgrown and the existing dwelling is in a state of disrepair. The site is accessed by an unmade track off Beach Approach.
- 1.2 The surrounding area is predominantly residential in nature, with the immediate stretch of Jetty Road consisting of bungalows. To the east of the site lies the sea wall and beyond that the beach.

2. PROPOSAL

- 2.1 This application seeks planning permission for the demolition of an existing dwelling and the erection of two semi-detached dwellings. The dwellings will each have associated parking and gardens, two storeys, a kitchen, dining room, living room, 3no. bedrooms, 1no. bathroom and 1no. en-suite.
- 2.2 The main roof will be pitched with a small section of flat roof connecting the dwellings and each dwelling will measure approximately 11.4m in depth, 3.9m to the eaves and 7.6m in overall height.
- 2.3 The proposed materials are brick with off white render and timber weatherboarding, with roof slates and grey UPVC/ powder coated aluminium windows and wood effect doors.

3. PLANNING CONSTRAINT

Potential Archaeological Importance

Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

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

Development Plan: Policies ST3, CP3, CP4, DM7 and DM14 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

The Council’s adopted Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders” is also relevant.

5. LOCAL REPRESENTATIONS

5.1 The initial neighbour consultation expired on 16/04/19 however having received amended plans a further consultation letter was sent out, allowing neighbours and consultees 2 more weeks to submit any additional comments.

5.2 No letters or comments of support were received.

5.3 10 objections from 7 properties were received on the initial consultation
The comments received are summarised below:

- Privacy and overlooking concerns
- Loss of light
- Noise disturbance as a result of new residents
- Loss of views
- New dwellings will overshadow the gardens and dwellings behind the plot
- Will set a precedent for new bigger dwellings
- Immediate area is characterised by single storey bungalows
- Will ruin the aesthetic and pleasing view of the area
- New buildings will be prominent in the streetscene
- Two storey dwellings not appropriate for the site – would see a replacement bungalow
- Existing dwelling has been deliberately made derelict
- The separation between the proposed dwellings is insufficient
- Side entrances will cause overlooking due to raised platform
- Design is a major blot on the landscape
- Concerns that building control regulations will not be met
- The change from 1/2 bedroom to 3/4 bedrooms is unsustainable
- Concerns relating to asbestos in the building to be demolished
- Removal of trees on site
- The access road is not suitable for more vehicles using it
- Safety concerns regarding use of the access road

5.4 A further 5 objections from 4 properties were received on the re-consultation.
The comments received are summarised below:

- Design and Access statement has not been revised

- Query whether the rooms comply with minimum space standards
- Query whether this requires a new application
- Development may sit in front of building line
- Elevations provided by the Environment Agency cannot be enforced as they are advisory
- Ridge heights are too high and will dominate above the existing building line
- Concerns regarding the demolition of the building and asbestos
- Structural heights of the dwellings invade privacy

6. CONSULTATIONS

6.1 **KCC Highways:** Falls outside of the Highways Authority criteria to comment.

6.2 **KCC Minerals and Waste:** No response received.

6.3 **Natural England:**

Refer to their standing advice.

(Received 20/06/19): *“The advice provided in our previous response applies equally to this amendment”*

6.4 **Environmental Health Manager:**

No objection, subject to standard planning conditions.

6.5 **Environment Agency:**

(Received 04/04/19): No objection, subject to a condition relating to finished floor levels.

(Received 10/06/19): *“We accept the indicated floor levels provided in the submitted drawings and refer back to our comments provided on 4 April 2019.”*

6.6 **KCC Archaeology:**

Confirmed that no archaeological measures are required.

6.7 **Warden Parish Council** objected to the superseded plans and also to the amended plans. Their reasons for objecting are summarised below:

*“New dwellings are out of keeping and oversized for this part of Jetty Road
Overlooking caused to surrounding properties
Query why the bedrooms are not on the first floor as the dwelling is in Flood Zone 3.”*

6.8 Further comments were submitted after the re-consultation:

*“Consider the amended design still out of keeping for the area
Wish for the property to be like for like
Raised concerns relating to the demolition of the building and asbestos.”*

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings for 19/501385/FULL and 18/505191/FULL.

8. APPRAISAL

Principle of Development

- 8.1 The application site lies within the built up area boundary where the principle of residential development is acceptable subject to amenity considerations.
- 8.2 A pair of semi detached two storey dwellings were refused on the site in December 2018 with three reasons for refusal (summarised below):
- The proposed dwellings were considered too large and bulky for the site and would appear significantly out of context with the surrounding dwellings.
 - The proposed dwellings were considered to have a harmful overbearing impact on the adjacent neighbouring dwellings as a result of their bulk, mass and scale.
 - An acceptable Flood Risk Assessment had not been submitted resulting in an objection from the Environment Agency.
- 8.3 The agent/applicant consequently submitted an amended scheme seeking to overcome the previous reasons for refusal and proposed 2no. detached two storey dwellings. The agent was advised that this design would not overcome concerns relating to the visual impact on the streetscene and the agent has since submitted amended plans which show a pair of semi detached dwellings reduced in scale and set further into the centre of the plot.

Visual Impact

- 8.4 This section of Jetty Road consists of 5 bungalows, well-spaced within their plots and fronting the road, however, 32m to the north of the site lie a pair of two storey semi-detached dwellings and adjacent to no.1 Jetty Road lies a detached two storey dwelling. Given this mix, I do not consider that this section of Jetty Road is uniform enough in design or style to resist the introduction of a pair of appropriately sized semi-detached dwellings. I note that on the previous submission 18/505191/FULL, the pair of dwellings were considered to appear incongruous in the streetscene, the refusal was not in relation to the principle of two storey dwellings in the streetscene but the particular massing and scale of this submission.
- 8.5 In this application 19/501385/FULL the initial scheme presented two detached dwellings that I did not consider overcame the previous reason for refusal in relation to the visual aspect. The two detached dwellings were considered to still appear bulky, causing an overdevelopment of the plot and in my opinion would appear out of context with the surrounding dwellings. The agent was advised of this and consequently submitted amended plans, reverting back to a smaller semi detached pair of dwellings.
- 8.6 The previous refusal 18/505191/FULL presented a pair of dwellings that had an eaves height of 5.5m and a ridge height of 9.7m, this was considered to be excessive in bulk, mass and scale. This new scheme with the amendments puts forward a pair of semi detached dwellings with an eaves height of 3.9m and a ridge height of 7.6m. The neighbouring dwelling no.3 has a ridge height of 6.3m and I do not consider the height of 7.6m to be particularly excessive. I also note that the proposed pair of dwellings are set further from the side boundaries of the site, allowing for a distance of 2.2m from the each side of the plot. I consider that this spacing helps to maintain the openness of the streetscene and this combined with the reduced mass and bulk of the dwellings results in a scheme suitable for the character of the area and I consider the impact on visual amenity to be acceptable.

Residential Amenity

- 8.7 The amenity of the occupiers will be of an acceptable level with a 10m depth garden and floorspace in line with national space standards. Each habitable room will be served by a window with an outlook and I consider sufficient light will enter each room.
- 8.8 To the rear there is a distance of 28m between the rear of the proposed dwellings and the neighbouring bungalows. This is comfortably in excess of the Council's recommended rear to rear separation distance of 21m. It is therefore not considered that any significant harmful overlooking would occur to the rear. There are steps leading to the side entrance which are 1.2m in height, in order to overcome any privacy concerns the agent has included a 1.8m privacy screen around the steps. This screen combined with the positioning of the proposed dwellings on the site, leads me to consider that there is no significant harm caused to either adjacent dwelling in regards to overlooking.
- 8.9 It is noted that no.3 Jetty Road has a first floor window facing towards the proposed development. It is noted that this is likely to serve a habitable room, and therefore it should be ensured that this is not significantly affected by the construction of 2no. new dwellings. The distance from the shared boundary with no.3 and the proposed pair of dwellings is 2.2m and I consider that this combined with the reduced eaves height of 3.9m assists in preventing excessive overshadowing and overbearing. I consider that the reduced eaves height helps to protect the amenities of the adjacent neighbours no.3. and no. 5 and I consider this successfully overcomes the previous reason for refusal relating to residential amenity.
- 8.10 There is a clear reduction in massing and scale when comparing the now proposed scheme and refused scheme 18/505191/FULL. Although the agent has reverted back to the pair of semi detached dwellings they are reduced in scale and no longer are situated right to the boundary of the site. The previous bulk of the dwellings have been reduced and a pair of modest semi detached dwellings are now proposed on the site which do not cause considerable harm to residential amenity.

Highways

- 8.11 The application proposes two parking spaces for both new dwellings which satisfies KCC requirements for properties of this size in this location. These parking bays shown on the plans each measure 4.9m in depth and 2.4m in width which is below the KCC minimum standard. However – there is sufficient space on each frontage to comfortably park two vehicles off street per dwelling. I note that the parking spaces are to the front of the proposed dwellings however I do not consider that the positioning would harm the streetscene as the plot is set back from the highway and in my view the proposal would not give rise to any significant harm to highway safety or amenity. I have included a condition (10) below to ensure the retention of these parking areas.

Flood risk

- 8.12 The site lies in Flood Zone 3. The agent has ensured that habitable floor levels are in line with the Environment Agency guidance and the EA have confirmed they have no objection to the proposed development, subject to conditions. I therefore consider that the previous reason for refusal relating to risk to human life in the event of flooding has been overcome.

Other Matters

- 8.12 The majority of the concerns raised in the objection letters have been discussed by virtue of the above appraisal. Of those that remain I respond as follows. The loss of a view is not a material planning. Whilst concerns are raised relating to noise levels from the dwellings I consider that as the proposed development is residential and only adds 1 additional unit to the site that any noise generated would not be significant within the immediate residential area. Concerns relating to asbestos are the responsibility of the Health and Safety Executive however the agent has been advised that planning permission is required to demolish the existing building and Environmental Health have also been consulted on this application.

SPA Payment

- 8.13 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for each new dwelling. The agent has confirmed the applicant is willing to pay this fee.

9. CONCLUSION

- 9.1 The proposed new dwellings overcome the previous reasons for refusal of application 18/505191/FULL and it is considered the proposed dwellings will not lead to unacceptable impacts on residential amenity nor will they cause harm to the character and appearance of the streetscene. As such I recommend this application be approved.

10. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

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

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

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

Reason: In the interest of visual amenity

- (3) The development shall be carried out in accordance with the following approved drawings: 2037/LOC/01.1/A, 2037/PL/03.1/A, 2037/PL/03.2/A and 2037/PL/03.3/A.

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

- (4) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include

existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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

- (7) No construction or demolition work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0800 – 1800 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

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

Reason: In the interests of water conservation and sustainability.

- (10) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether

permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

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.

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.

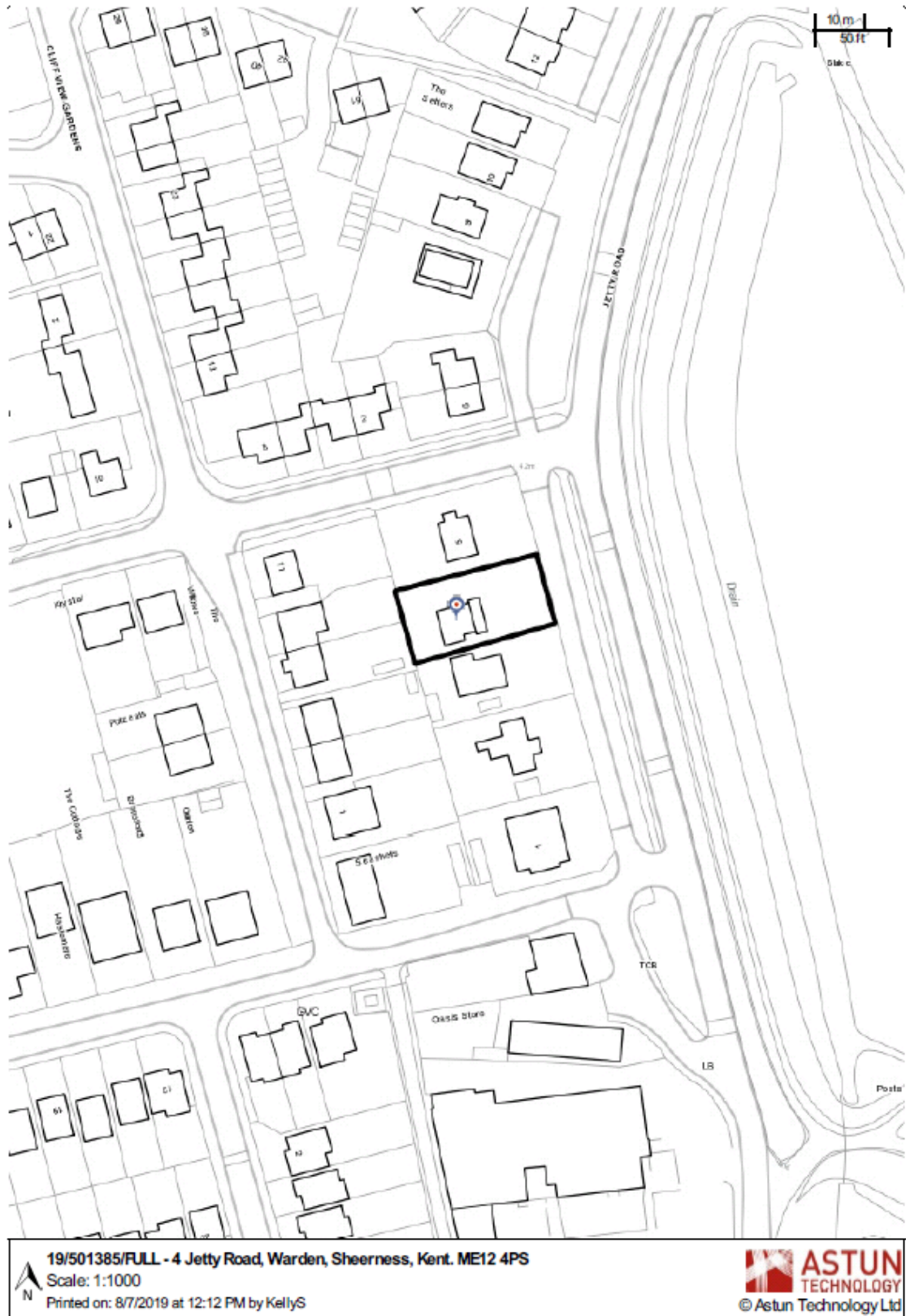
Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations 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 (to be 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/>).



2.7 REFERENCE NO - 19/501816/FULL		
APPLICATION PROPOSAL Change of use of the land for the stationing of a mobile home for a temporary period (Retrospective).		
ADDRESS Whitegate Stables Wallbridge Lane Upchurch Sittingbourne Kent ME8 7XH		
RECOMMENDATION Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The applicant and his family have a specific medical requirement for accommodation close to, but away from the family home, and is willing to accept a personal, temporary permission. Officers have reviewed the evidence and consider there is a case to made for an exception to the adopted policies in this instance, because of the medical need.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Palm Investments Ltd AGENT Tetlow King Planning
DECISION DUE DATE 07/06/19		PUBLICITY EXPIRY DATE 22/05/19

Planning HistorySW/10/0350

Erection of hay/straw storage building with ancillary machine store and formation of an illuminated all-weather manège, and change of use of land to equestrian use for the keeping of horses associated with the livery stables at Small Profits and Whitegates.

Approved Decision Date: 12.07.2010

SW/08/1265

Use of part of building as a one bed dwelling associated with livery stables.

Approved Decision Date: 28.08.2009

1. DESCRIPTION OF SITE

- 1.1 The application site is a parcel of land situated within the curtilage of Whitegate Stables (an existing equestrian operation) on Wallbridge Lane, in the countryside near Upchurch. The site is roughly rectangular and sits in the south-western corner of the wider Whitegate Stables site, which is accessed via a driveway off the lane.
- 1.2 The site contains a static caravan of a standard scale and design, a gravel parking area, and access to the existing driveway onto Wallbridge Lane. The land is set above the road but, due to changing land levels and existing fences and mature boundary planting, the static caravan is not visible from outside the site.
- 1.3 The main dwelling at the stables, known as Grooms Cottage, is to the north-east of the caravan, and the land to the north is in use as grazing / paddock for horses. To the

south of the site, beyond the lane, is Upchurch golf course; and to the east and west along Wallbridge Lane are existing dwellings of varying types and designs.

2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for stationing and use of a static caravan as a residential dwelling, for a temporary period.
- 2.2 As noted above, the static caravan is of a standard scale and design, and the application site boundary includes a gravelled parking / turning area. The site is accessed by the existing driveway for the stables and cottage.
- 2.3 The applicant is Palm Developments Ltd, although the application is made on behalf of the occupier of the caravan, who wishes to remain anonymous. The agent has submitted a detailed supporting statement setting out the occupier's specific health and care requirements which have brought about a need to live at the site. The statement contains highly sensitive medical information and, as such, a slightly redacted version has also been provided which is available for public view.
- 2.4 In brief, the occupier is an elderly gentleman with a serious chronic medical condition requiring daily professional care. His wife suffers from a serious medical condition herself which make it unsafe, and unsuitable, for him to be able to reside with her at the family home (which is close to the application site). He does need, and understandably want, however, to be close to the family home to be able to support his wife, and to ensure he receives treatment himself. The application is accompanied by a letter from the family's doctor who confirms the details set out within the supporting statement. The name of the occupier has been withheld, at the agent's request, because of the very sensitive nature of their circumstances.
- 2.5 The occupier's agent has confirmed they would be willing to accept a personal permission, and a temporary permission, to ensure the site is returned to its previous condition when the accommodation is no longer required.

3. SUMMARY INFORMATION

	Proposed
Site Area	416sqm
No. of Residential Units	1

4. PLANNING CONSTRAINTS

- 4.1 None.

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) generally restrict residential development outside of the defined built up area boundaries unless in accordance with specific exceptions (such as for provision of agricultural worker's housing, or a development of remarkably outstanding design) which this scheme does not meet.
- 5.2 Policies ST1 (sustainable development), ST3 (settlement strategy), CP2 (sustainable transport), CP3 (wide choice of homes), CP4 (good design), DM7 (vehicle parking), DM9

(rural exceptions housing), and DM14 (general criteria) of the adopted Swale Borough Local Plan 2017 are relevant.

- 5.3 Policies ST1, ST3, CP2, and DM9, in particular, discourage the provision of new housing in isolated, rural locations such as this.

6. LOCAL REPRESENTATIONS

- 6.1 A letter of support has been received from the owner of Whitegate Stables, stating that they are aware of the personal circumstances of the occupier and *“strongly support the application.”*

- 6.2 One letter of objection has been received from a neighbouring resident, raising the following summarised points:

- Approval will set a precedent for others to do the same;
- The occupier has done what they want, forced the hand of the Council, and a stand should be taken;
- No good reason has been provided as to why this should be approved; and
- Additional traffic and consequent highway safety concerns.

7. CONSULTATIONS

- 7.1 Upchurch Parish Council objects to the application on the basis that it is retrospective, having been submitted after the caravan was placed on the land and the occupier moved in. The Parish council comments that *“to grant this application will set a precedent that supports the next case.”*

- 7.2 Natural England have no objection subject to securing a standard SAMMS contribution towards management of the Swale SPA, as required on all new residential development within the borough.

- 7.3 KCC Highways have no comment save to note that the scheme falls below their protocol response threshold.

- 7.4 The Council’s Environmental Health manager has no comments to make.

8. BACKGROUND PAPERS AND PLANS

- 8.1 The application is supported by a site location / block plan and a supporting statement.
- 8.2 As set out above: the contents of the supporting statement are medically sensitive and thus confidential, but set out the particular circumstances of the occupier and his wife’s health which bring about the necessity for this development.

9. APPRAISAL

Principle of development

- 9.1 The site is outside of any defined built up area boundary and is therefore considered to lie within the countryside, where local and national policies of rural restraint restrict residential development other than in certain specific circumstances. This scheme

does not meet those circumstances and would ordinarily be considered unacceptable in principle.

- 9.2 The Council currently does not have an identified five-year supply of housing, in which case para. 11 of the NPPF sets out that development should be approved *“unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”* In this instance I consider that the inherently poor design of static caravans and the consequent harm to the character and visual amenity of the countryside, as well as the site’s unsustainable rural location, would amount to justifiable reasons to override para. 11 and refuse the application in principle.
- 9.3 The key issue to be considered here, in my opinion, is the personal circumstances of the occupier and the implications of a temporary permission.

Personal circumstances

- 9.4 The elderly occupier suffers from a serious and chronic illness himself, which requires daily intervention from professional medical staff. This in itself is sometimes sufficient justification for officers to consider schemes as exceptions to policy, and there are a handful of otherwise unacceptable developments in the borough (most usually overly-large extensions to residential dwellings) which have been approved on the basis of a genuine medical need. An entirely new dwelling is, perhaps, the most significant example of such exceptions but nevertheless there is an evident need here.
- 9.5 What compounds the situation in this instance, however, is that the occupier’s elderly wife also suffers from a serious medical condition. The condition is such that it is unsafe for the occupier to continue to reside at the family home. I am told that being unable to do so has caused significant distress for the couple, but that it is wholly necessary and in both of their interests. The occupier understandably wishes to remain close to his wife, and the application site suits this need in terms of proximity to their main dwelling.
- 9.6 The evidence from the occupier’s physician is that the static caravan caters entirely for the occupier’s needs. It enables him to remain close to his wife, but within a separate and secure dwelling where he can continue to receive the daily medical assistance he requires. I have no reason to dispute the medical evidence in front of me.
- 9.7 Taking these matters into consideration I am of the opinion that there is a definite need for the occupier to live at this site, and that a temporary permission would be appropriate and justified.

Highways

- 9.8 Use will be made of the existing vehicle access at the site, and I do not consider that one additional dwelling would give rise to a volume or frequency of traffic such that there would be any serious harm to local highway safety or amenity. I don’t consider there to be grounds for refusal on this matter.

Ecology

- 9.9 I note that Natural England request a standard SAMMS contribution, as on all new residential development. However the caravan is effectively serving as a detached,

remote annexe to an existing dwelling and occupation is restricted to the named occupier only, and for a temporary period.

- 9.10 As proposed the use, is not likely to give rise to any additional harm to the SPA, and I don't consider a SAMMS payment to be necessary or justified in this instance.

Landscaping

- 9.11 No additional landscaping or planting is proposed under this application, but I note that the site boundaries are already heavily planted and that the occupier has undertaken new planting on site ahead of this submission. Furthermore, and again with reference to the temporary nature of the permission, I consider this to be acceptable.

Local amenity

- 9.12 The caravan is sufficiently far from existing dwellings to not give rise to any serious issues of overlooking, overshadowing, or loss of residential amenity. Use of the caravan, for a temporary period, is unlikely to generate significant levels of noise or disturbance (and this would be addressed by the Council's Environmental Wardens under separate legislation if or when the need arose).

Conditions

- 9.13 Taking the above into account I consider a temporary permission for a period of three years to be reasonable, after which the occupier can reapply if necessary and officers will be able to review any further justification (medical or otherwise).
- 9.14 I have considered whether or not any temporary permission should be made personal, and am of the view that given the circumstances of this case that it should not. This is because this would require the occupier's name to be made public through publication of the decision notice (which is a public document) on the Council's website. However, a short temporary permission would protect the Council's position to the same degree in my opinion.

10. CONCLUSION

- 10.1 This is an unusual application seeking permission for siting and use of a static caravan as a dwelling, on a temporary basis, due to the particular exceptional personal circumstances of the occupier and his family. I have no reason to dispute the medical evidence put forward, and consider it compelling justification. I note local objections but do not consider they amount to a justifiable reason for refusal in these very specific circumstances.
- 10.2 Taking the above into account I recommend that planning permission should be granted for a temporary period of three years.

11. RECOMMENDATION

GRANT Subject to the following conditions:

1. The use of the land as a residential caravan site shall cease, and the static caravan hereby permitted shall be removed and the site restored to its previous condition on

or before three years from the date of this permission.

Reason: In order that the position may be reviewed at the end of the period stated.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 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').

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.



19/501816/FULL - Whitegate Stables, Wallbridge Lane, Upchurch, Sittingbourne, Kent. ME8 7XH
Scale: 1:1000
Printed on: 8/7/2019 at 12:56 PM by KellyS



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2.8 REFERENCE NO - 19/500051/LBC			
APPLICATION PROPOSAL Conversion, part demolition and extension of former school building to provide two 4 bedroom dwellings.			
ADDRESS Tunstall Church Of England Primary School Tunstall Road Tunstall Sittingbourne Kent ME9 8DX			
RECOMMENDATION Grant listed building consent.			
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection			
WARD West Downs	PARISH/TOWN COUNCIL Tunstall	APPLICANT Mr G Swift AGENT Penshurst Planning Ltd	
DECISION DUE DATE 11/03/19	PUBLICITY EXPIRY DATE 15/02/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
19/500050/FULL	Conversion, part demolition and extension of former school building to provide two 4 bedroom dwellings, and erection of two detached 4 bedroom dwellings with associated landscaping and parking.	Refused	28.06.2019
18/500738/FULL & 18/500739/LBC	Conversion of former school building to provide three dwellings with associated demolition/building works, internal and external alterations, provision of additional floorspace at first floor level, including three dormer windows, landscaping, and car parking	Approved	30.05.2018
17/502970/FULL & 17/502971/LBC	Part demolition and part rebuilding of former school building, conversion with first floor extension to create two 4 bedroom dwellings, together with the erection of two detached 4 bedroom dwellings, with associated landscaping, including removal of three trees and parking.	Withdrawn	13.02.2018

1.0 INTRODUCTION

- 1.01 Members will recall that this application was considered at last month's meeting following a working party meeting to consider both this application and a related planning application (19/500050/FULL) for conversion of the former school and the erection of two new dwellings at the rear of the site. Both applications were reported and considered together and the resolution of the Committee was as follows;

Resolved: That application 19/500050/FULL be refused as it was an over-intensification of the site resulting in harm to the Listed Building and Conservation Area from the public realm and streetscape. Poor residential amenity. The access to the site was too narrow. It would affect the setting of the listed building.

Resolved: That application 19/500051/LBC be refused as it was an over-intensification of the site resulting in harm to the Listed Building and Conservation Area from the public realm and streetscape. Poor residential amenity. The access to the site was too narrow. It would affect the setting of the listed building.

- 1.02 The decision to refuse the planning application has since been enacted and the final reasons for refusal are as follows;

(1) The proposal to erect two significant new dwellings at the rear of this site where they will be prominent from the nearby public right of way will constitute an over-intensive use of the site, resulting in harm to the character and setting of the former school which is a grade II listed building, and harm to the the character of the Tunstall conservation area resulting in harm to the public realm, contrary to policies CP4, CP8, DM14, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

(2) Use of the vehicular access to the rear of the site, which also functions as a public right of way, for access by occupiers of all the proposed dwellings proposed would, due to its narrow width and poor visibility onto the main road, create a danger to highway safety, including the safety of walkers using the public right of way contrary to policies DM6 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

(3) The lack of visibility of the new dwellings at the rear of the site from the highway, and their close proximity to the Tunstall Village Hall at the rear, would result in a poor level of residential amenity to the occupants of the proposed new properties, contrary to policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

Members will see that these reasons relate entirely to the effect of the erection of the new dwellings and the use of the listed building as two new houses. They do not relate to the impact of the changes sought to the listed building on its special architectural or historic interest. This anomaly has arisen because both applications were dealt with together and, whilst this is normal as usually a pair of applications relate to much the same works, in this case the applications are in fact for quite different works. If the applications had been determined individually this situation might not have arisen.

- 1.03 Members will be aware that planning permission and listed building consent have previously been granted for conversion of the former school building to three dwellings, and this application is for the alterations involved in converting it to just two dwellings. No objection to these works was raised at last month's meeting and I can see no objection to them. The description of this application as presented to last month's meeting did include the erection of the two new dwellings at the rear, but that was unnecessary and I have now amended it to make it clear that this application related only to works to the listed building itself.

- 1.04 My understanding from Members' discussion last month was that their concern was in relation to the new dwellings at the rear and use of the access, but not for the proposed alterations to the listed building. As such, I can see no reason to refuse listed building consent for these alterations, even though no accompanying planning permission for the change of use and external changes will be granted. This is an unusual but not unique situation, and to grant listed building consent does not detract from the Council's opposition to the new dwellings. It may, however, avoid difficulties at an

appeal where the Council may have to defend refusal of listed building consent for a scheme arguably less harmful than that for three dwellings that it has already approved.

1.05 I therefore invite Members to determine application 19/500051/LBC on the basis of the amended description above on its own merits.

2.0 RECOMMENDATION – GRANT listed building consent subject to the following conditions:

CONDITIONS

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

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

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

Reason: In the interest of visual amenity.

(3) All new external joinery shall be fabricated in timber, and no development shall take place until detailed drawings at a suggested scale of 1:5 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

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

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

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

(6) Before the development hereby permitted is commenced, a detailed schedule of works shall be submitted to and agreed in writing by the Local Planning Authority before any works commence. The schedule shall include details of works to be carried out (including any re-pointing), the removal of redundant wiring/cablings/pipework and modern insertions, including wall and floor finishes, suspended ceilings and radiators, etc. The schedule must include a timetable for the start and estimated completion of each item of work, and include inspection slots at appropriate intervals to allow the Local Planning Authority's Conservation & Design Manager to properly monitor the standard of work being undertaken on the listed building.

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

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

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

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

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

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

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

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

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

- (11) Before any works are commenced, a detailed schedule of repairs and necessary remedial works to the listed building (as identified by the project architect or building surveyor) shall first have been submitted to, and approved in writing by the Local Planning Authority. The schedule of repairs and remedial works to the listed building shall be drawn up drawing in accordance with the guidance and building conservation objectives set out in the British Standard document entitled Guide to the conservation of historic buildings (BS 7913: 2013). Thereafter, all of the works listed in the schedule shall have been carried out and completed (and the Local Planning Authority notified of this immediately in writing thereafter) before the new residential conversion units within the listed building are first occupied.

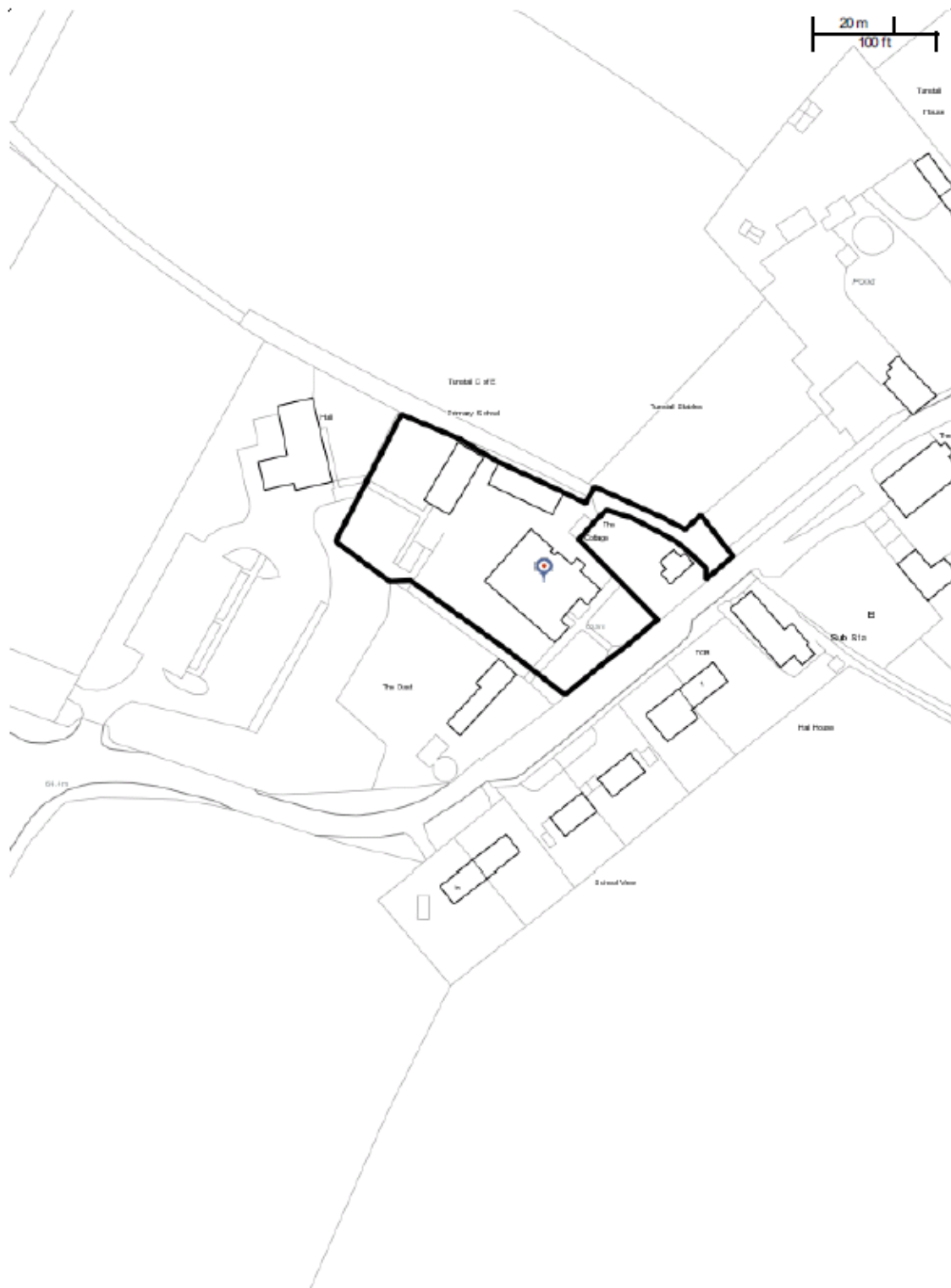
Reason: To protect the special character, architectural interest and integrity of the listed building.

INFORMATIVE

- (1) The Local Planning Authority recommends that the schedule of works is drawn up by a competent conservation accredited architect and/or building

surveyor/structural engineer. Details of the conservation accreditation schemes for architects, engineers and surveyors can be found on page 31 of the British Standard document referred to in the corresponding planning condition.

- 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.



19/500051/LBC - Tunstall Church of England Primary School, Tunstall Road, Tunstall, Sittingbourne, Kent. ME9 8DX
 Scale: 1:1250
 Printed on: 8/7/2019 at 13:27 PM by KellyS

2.9 REFERENCE NO - 19/500862/FULL			
APPLICATION PROPOSAL Erection of polytunnels (retrospective).			
ADDRESS Ewell Farm, Graveney Road, Faversham ME13 8UP			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is in accordance with National and Local Policy			
REASON FOR REFERRAL TO COMMITTEE Objection from Graveney with Goodnestone Parish Council			
WARD Boughton Courtenay	And	PARISH/TOWN Faversham Town	COUNCIL APPLICANT Edward Vinson Ltd AGENT Finn's
DECISION DUE DATE 31/05/19		PUBLICITY EXPIRY DATE 09/04/19	

Planning History

18/501478 Erection of communal building and installation of a new access, hard standing, a car parking area and an earth bund (part retrospective)
Granted 02.07.2019

15/501806/AGRIC
Prior notification for the erection of an agricultural building for its prior approval for siting, design and external appearance.
Decision Date: 12.05.2015

15/502738 Relocation and winter storage of 44 seasonal worker caravans and 4 mobile communal facilities
Granted 20.08.2015

SW/77/0963
Established use certificate for Horticultural waste tipping
Decision Date: 30.03.1978

1. DESCRIPTION OF SITE

1.01 Ewell Farm is located on Graveney Road Faversham with access to the application site via the main farm entrance off the Graveney Road. It covers 76ha and extends south towards the A2 London Road and east towards Homestall Lane.

A public footpath (ZR496) runs from west to east past some of the parcels forming part of the application.

The site boundaries are well screened by established vegetation but with intermittent gaps.

2. PROPOSAL

- 2.01 The proposal is for retrospective permission for the erection of polytunnels on land at Ewell Farm Graveney Road Faversham.

The farm covers 76ha in total and the application is to cover 4 fields with the polytunnels.

Field 1 is located to the east of the main farmhouse and farmyard and measures 90m by 380m. Field 2 is located immediately to the south east of this field along the eastern farm boundary and is to measure 115m by 280m. Field 3 lies further south still immediately adjacent to London Road A2 and is approx. 320m by 140m to 190m. Field 4 lies to the extreme west of the site along the western boundary and is the smallest measuring 105m by 200m.

- 2.02 The total area of the land where the polytunnels are sited extends to approximately 14.14 hectares.
- 2.03 The remaining 11 fields on the farm are of differing sizes and a number of them already have polytunnels on them for which the applicant intends to submit a lawful development certificate.
- 2.04 The design of the polytunnels is generally uniform and here each steel section is approximately 8.5m wide by 4.44m high at the apex.

Within the fields, there will be separation margins, generally measuring 10 metres from the edge of the tunnels to the boundary. The tunnels are all orientated in the north/south direction.

- 2.05 The tunnels are covered in a translucent plastic and are typically removed in the middle of November of each year and stored over winter and replaced at the beginning of February when growth commences.
- 2.06 Each tunnel has an open gutter so water is not caught and held back and drains into the ground. The framework is constructed of steel and is piled about 1.0 metre into the ground with no need for footings or foundations and the wire bracing is secured by screws and anchors to the ground.
- 2.07 The applicant argues that *“the use of protected growing environments in the fruit industry has increased over the last ten years to the point that the industry is utterly reliant on their use. Demand for soft and stone fruit, has grown and in order to fulfil this demand the use of tunnels is essential.*

The benefits of the protective coverings are principally a better guarantee of supply to customers, improved quality of fruit, less pesticide use and the ability to invest in premium varieties, increasing productivity and the ability to add value.

In addition to this, the use of tunnels is able to reduce the reliance on imported fruit and enable the pickers to work when it is raining and reduces moisture related diseases.

This application is essential for the continued economic vitality of the farm. The strawberries have to be covered to be a viable crop and without the tunnels it would not be viable to grow strawberries on the site and a large number of jobs would be at risk”

3. PLANNING CONSTRAINTS

- 3.01 Ewell Farmhouse Grade II listed building, Homestall House Grade II listed building and Homestall House Barn and Stables Grade II listed building are all in the immediate proximity to the site and is an area of potential archaeological importance.

4. POLICY AND CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) paragraph 2, 54-57(planning conditions and obligations), 80 (building a strong competitive economy), 83 (supporting a prosperous rural economy), 170 (natural environment) 189, 190, 192, 196 (proposals affecting heritage assets)
- 4.02 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 Policies CP 8 (conserving and enhancing the historic environment), DM3 (The Rural Economy) DM 24(Conserving and Enhancing valued landscape) & DM32 (Development involving listed buildings)

Policy CP8 states that:

To support the Borough's heritage assets, the Council will prepare a Heritage Strategy. Development will sustain and enhance the significance of designated and non-designated heritage assets to sustain the historic environment whilst creating for all areas a sense of place and special identity. Development proposals will, as appropriate:

1. Accord with national planning policy in respect of heritage matters, together with any heritage strategy adopted by the Council;
2. Sustain and enhance the significance of Swale's designated and non-designated heritage assets and their settings in a manner appropriate to their significance and, where appropriate, in accordance with Policies DM 32-DM 36;
3. Respond to the integrity, form and character of settlements and historic landscapes;
4. Bring heritage assets into sensitive and sustainable use within allocations, neighbourhood plans, regeneration areas and town centres, especially for assets identified as being at risk on national or local registers;
5. Respond positively to the conservation area appraisals and management strategies prepared by the Council;
6. Respect the integrity of heritage assets, whilst meeting the challenges of a low carbon future; and
7. Promote the enjoyment of heritage assets through education, accessibility, interpretation and improved access.

Policy DM3 states that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area. Planning permission for residential development will not be permitted where this would reduce the potential for rural employment and/or community facilities unless the site/building(s) is demonstrated as having no demand for such purposes or its use would be undesirable or unsuitable.

Development proposals for rural based employment will:

1. For all proposals:

- a. in the case of larger scales of development, be located at the rural local service centres and urban areas as defined by Policy ST3 and in accordance with Policy CP1;
 - b. firstly consider the appropriate re-use of existing buildings or the development of other previously developed land, unless such sites are not available or it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management of the countryside;
 - c. retain or enhance the rural services available to local communities and visitors without undermining or resulting in the loss of existing services unless demonstrated to be unviable for the existing use or other employment/community use;
 - d. for new buildings and ancillary facilities, the design and layout will need to be sympathetic to the rural location and appropriate to their context;
 - e. result in no significant harm to the historical, architectural, biodiversity, landscape or rural character of the area; and
 - f. avoid scales of traffic generation incompatible with the rural character of the area, having regard to Policy DM6 and Policy DM26.
2. For the agricultural/forestry sectors:
- a. enable the diversification of a farm; or
 - b. extend the growing season or improve the reliability of availability of local crops; or
 - c. provide for the storage, distribution or added value activities in central hubs located close to crop sources and the primary and secondary road networks; or
 - d. increase the availability of locally grown food sold direct to the consumer; or
 - e. increase the sustainable management of woodlands; or
 - f. increase the use of renewable energy sources in accordance with Policy DM20.

Policy DM24 states that the value, character, amenity and tranquillity of the Boroughs landscapes will be protected, enhanced and, where appropriate, managed. Furthermore development should be informed by landscape and visual assessment having regard to the Swale Landscape Character and Biodiversity Appraisal 'including, as appropriate, their guidelines, and the key characteristics, sensitivity, condition and capacity of character areas(s)/landscapes, taking opportunities to enhance the landscape where possible, including the removal of visually intrusive features'. For non designated landscapes will be protected and enhanced and planning permission will be granted subject to:

- a. the minimisation and mitigation of adverse landscape impacts; and
- b. when significant adverse impacts remain, that the social and or economic benefits of the proposal significantly and demonstrably outweigh the harm to the landscape character and value of the area.

Policy DM 32 states that Development proposals, including any change of use, affecting a listed building, and/or its setting, will be permitted provided that:

1. The building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved, paying special attention to the:
 - a. design, including scale, materials, situation and detailing;

- b. appropriateness of the proposed use of the building; and
 - c. desirability of removing unsightly or negative features or restoring or reinstating historic features.
2. The total or part demolition of a listed building is wholly exceptional, and will only be permitted provided convincing evidence has been submitted showing that:
 - a. All reasonable efforts have been made to sustain existing uses or viable new uses and have failed;
 - b. Preservation in charitable or community ownership is not possible or suitable; and
 - c. The cost of maintaining and repairing the building outweighs its importance and the value derived from its continued use.
 3. If as a last resort, the Borough Council is prepared to consider the grant of a listed building consent for demolition, it may, in appropriate circumstances, consider whether the building could be re-erected elsewhere to an appropriate location. When re-location is not possible and demolition is permitted, arrangements will be required to allow access to the building prior to demolition to make a record of it and to allow for the salvaging of materials and features.
- 4.03 Supplementary Planning Documents:
Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document of 2010 the application site is found within The Landscape Character Appraisal guidelines for Fruit Belt Landscape Types and states (page 63) that 'Whilst polytunnels form part of the character of the fruit belt landscape, they can be visually intrusive. Avoid polytunnels in visually prominent locations'. The guidelines for the Faversham and Ospringe Fruit Belt, in which this site lies, are to Conserve & Reinforce.

5. LOCAL REPRESENTATIONS

- 5.01 **Graveney with Goodnestone Parish Council** objects to this application due to the lack of a landscape and visual impact assessment with regard to the proximity of a listed building; and an environmental impact assessment due to concerns over what will happen to rainwater run off. We also have concerns regarding the retention and unrestricted usage of the public footpath which runs through the site.
- 5.02 **Swale Footpaths Group** commented that ZF 28/ ZR 496 crosses the site, but as the applicant has answered "No" to question 8 on the form I presume that it would remain unaffected.

6. CONSULTATIONS

- 6.01 **Historic England** originally noted that the polytunnels were to be sited to the south of Ewell Farmhouse a grade II listed building and that the building had a historic and functional relationship to this land which helps explain its origins as a farmhouse at the centre of a working agricultural landscape. From their initial assessment, they concluded that the polytunnels, which would be visible in long views of the building, were harmful to its significance, because the polytunnels are an unattractive visual intrusion which are alien to the rural agricultural character of land south of Ewell Farmhouse.

They awaited for the updated Heritage Statement and commented further stating that they do still conclude that the polytunnels within this application, would cause a small level of harm to the significance of the grade II* listed Ewell Farmhouse because they are unattractive and alien features to the rural agricultural character of the land which Ewell Farmhouse overlooks. They continue that minimising harm here is about adequate

levels of screening around the development to reduce its visual presence in long views and in conclusion Historic England does not object to this application on heritage grounds.

6.02 **Environment Agency** offered no comment

6.03 **Natural England** offered no objection to the proposal

6.04 **KCC Public Rights of Way Officer** states that public footpath ZF28 pass through the southern end of the most westerly area of poly tunnels and confirms that any planning consent given confers no consent or right to disturb or divert any Public Right of Way at any time without the express permission of the Highway Authority.

He further considers however that an application to divert the footpath to formalise the current situation on the ground would be necessary. The applicant's agent has confirmed this will be submitted in due course.

6.05 **KCC Highways** determined the application did not meet the criteria for their involvement

6.06 **KCC Flood and Water Management** commented that Kent County Council as Lead Local Flood Authority have reviewed the application and regard the development as low risk.

6.07 **KCC Archaeological Officer** commented that although the area involved has background archaeological potential, the impacts are limited to driven stanchions and the application is in any case retrospective. Given this I can confirm that no archaeological measures are required in connection with the proposal.

7. BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application 19/500862/FULL

8. APPRAISAL

8.01 In this case, I consider the key issues to be the policy context and the need for the development to support competitive farming, the visual impact of the proposal and its impact on the countryside and the nearby listed buildings.

8.02 In policy terms, the site is located in the countryside where the principle of development is generally resisted unless such proposals can be demonstrated to be necessary for agriculture or forestry purposes.

8.03 This application also needs to be considered on a more specific policy level where local and national policy is very much supportive of proposals which help to diversify or enable farming to continue. Therefore, the very basic principle of supporting farming operations is encouraged positively by policy. The local plan is also supportive of the need to support the sustainable growth and expansion of businesses and enterprises in the countryside (Policy DM3).

8.04 The applicant has stated in the submission that the use of polytunnels are needed for the efficient production of strawberries and it is accepted that they are now a common feature of soft fruit production in the UK and are commonly required and appropriate for the purpose of growing and harvesting UK fruit to customers, particularly supermarkets requirements relating to supply and quality. The use of polytunnels has a number of advantages over conventional unprotected growing which all result in extending the growing season, improved quality, less pesticide use and providing better and

continuous yields which results in efficient agricultural production. It also reduces reliance on imported fruit and enables pickers to work when it is raining and reduces moisture related diseases.

- 8.05 Additionally as a soft fruit farm it currently has 250 employees at Ewell Farm. As such, the contribution to the local economy of the continued success of this farm and its soft fruit production, through the employment opportunities and the subsequent local spending, is clear. The applicant states that if Ewell Farm was not an intensive fruit farm, but farmed as an arable unit, it would be unlikely to employ more than 1 person. As such the benefit of rural employment is a tangible benefit of the proposal.
- 8.06 Policy DM3 of the adopted Local Plan aims to provide support to such a business that can help provide local employment opportunities and thus will maintain the vitality or viability of other rural services. Proposals that would help to diversify the rural economy, provide new rural jobs and services or provide environmentally positive countryside management, will be permitted provided that the proposal is appropriate on a number of grounds. Relevant in this case is that the proposal is of a scale with its locality. Also that the site retains its rural character and has a positive impact upon, or no detriment to, the landscape character, biodiversity or countryside conservation, and here the coverings are in fact a common site in a thriving rural area and the additional vegetation and the strengthening of the shelterbelts, a defining character of the area, are a biodiversity gain of the proposal. Finally the use would also not result in a significant increase in traffic to the detriment of the character, quiet enjoyment or safety of the surrounding roads.
- 8.07 In terms of the potential visual impact of the proposal I have looked carefully at this issue and am also mindful of the long history of polytunnels being erected on this site and nearby in the surrounding area. I have walked along the public footpath to assess the impact of the proposal and whilst the polytunnels would be relatively prominent as they are located in very close proximity this is only part of the route the footpath takes through open fields.
- 8.08 I note the Parish councils concern regarding the retention and unrestricted usage of the public footpath however having walked the route although some deviation currently exists there remains an uninterrupted route through the farm. KCC PROW Officer has commented on the application and is aware of the deviation and is content for this to be resolved via a future formal application to divert the footpath, which the applicant's agent has confirmed is to be submitted.
- 8.09 Furthermore the Landscape Character Appraisal guidelines for Fruit Belt Landscape Types states (page 63) that '*Whilst polytunnels form part of the character of the fruit belt landscape, they can be visually intrusive.*' And to '*Avoid polytunnels in visually prominent locations*'. The guidelines for the Faversham and Ospringe Fruit Belt, in which this site lies, are to Conserve & Reinforce.
- 8.10 This site is fairly well screened by shelterbelts and hedgerows, and there is no suggested intention to not conserve the current screening, however the current landscape structure does need reinforcing in areas and the applicants agent whilst providing strong support and reasoning as to why this proposal is necessary, has considered the need to protect the character of the landscape, and has agreed that this does need addressing. Therefore I have included a condition to require the submission of landscape details as to where and with what planting will be provided to fill these gaps. This will also help go some way to address any concerns regarding the cumulative impact such structures have on the countryside noting at the same time that this area does not have any specific landscape designations as such.

- 8.11 In terms of residential amenity, the site is not located immediately adjacent to any residential properties and the nearest properties have a relatively obscured view of the site because of intervening shelter belt however this does have gaps in it which do need reinforcing and are to be secured via the landscape plan .
- 8.12 A further consideration is to the level of harm to the significance of the grade II* listed Ewell Farmhouse particularly as Historic England have described the tunnels as *“unattractive and alien features to the rural agricultural character of the land which Ewell Farmhouse overlooks and has a historic and functional relationship to.”*
- 8.13 In considering if the harm arising from this application has been avoided or minimised in line with Paragraph 190 of the NPPF I consider that adequate levels of screening around the development does reduce its visual presence in long views and the additional screening will further mitigate the impact of the tunnels. I am content that this along with the clear and convincing justification has been made to weigh up the protection of the landscape against the need to facilitate economic and social well-being to support farmers in their need to be competitive.
- 8.14 I note the Parish Council commenting on the lack of a landscape and visual assessment in relation to the nearby listed buildings, Homestall House (Grade II) and the converted Homestall House barn and stables (Grade II). This was an omission and was requested from the applicants after the initial consultations had been carried out. The revised Heritage Statement included such an assessment and was sufficient for officers and English Heritage to fully assess the impact of the proposal and to determine that additional screening will sufficiently offset any perceived harm from the proposed development here .
- 8.15 In terms of flood risk, the site is not located within a flood zone, and the proposed open gutters on the covers would avoid water being channelled and concentrated, so flooding is not likely to be a problem and whilst I note the concern from the Parish Council I note KCC Flood Management are satisfied with the details and are not objecting to the proposal.

9. CONCLUSION

- 9.01 Having considered the proposal on its own merits and against planning policies set out in NPPF and the Local Plan, I am of the view that this proposal can be considered as development necessary to assist in the viability and vitality of agricultural and rural business whereby it should be supported. In addition, whilst the site would be visible from the public footpath which crosses through the site I am of the opinion that on balance with some additional reinforcing of the landscaping around the site the development would result in minimal harm to the character of the surrounding countryside, and on the nearby listed buildings and any such harm would not be sufficient to warrant refusal of the application bearing in mind the supportive farming policies.
- 9.02 Taking all material planning consideration into account, I consider the proposal to be acceptable and therefore recommend that planning permission be granted subject to conditions.

10. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings 328.29/V/P1, and Hargroves polytunnel section drawing received on 21st February 2019.

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

- (3) Prior to the erection of the polytunnels hereby approved full details of a restoration tree planting and landscape scheme shall be submitted in writing to 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 and an implementation programme.

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

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

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

- (5) None of the polytunnels hereby permitted shall be covered with polythene for more than nine months in any calendar year, and all tunnels shall be clear of polythene for at least three months of the year, in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. The scheme, which shall include details of how and where the polythene would be stored, shall then be carried out in accordance with the agreed details.

Reason: To minimise the visual impact of the development on the rural landscape.

- (6) In the event of the coverings and/ or the frames becoming redundant for horticulture purposes, the coverings, frames and associated equipment shall be removed from the site within a period not exceeding nine months unless otherwise agreed in writing by the Local Planning Authority.

Reasons: To minimise the visual impact of the development on the rural landscape.

- (7) Any polythene cover erected under this planning permission shall be made of a translucent non-coloured material and retained as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reasons: To minimise the visual impact of the development on the rural landscape.

The Council's approach to the application

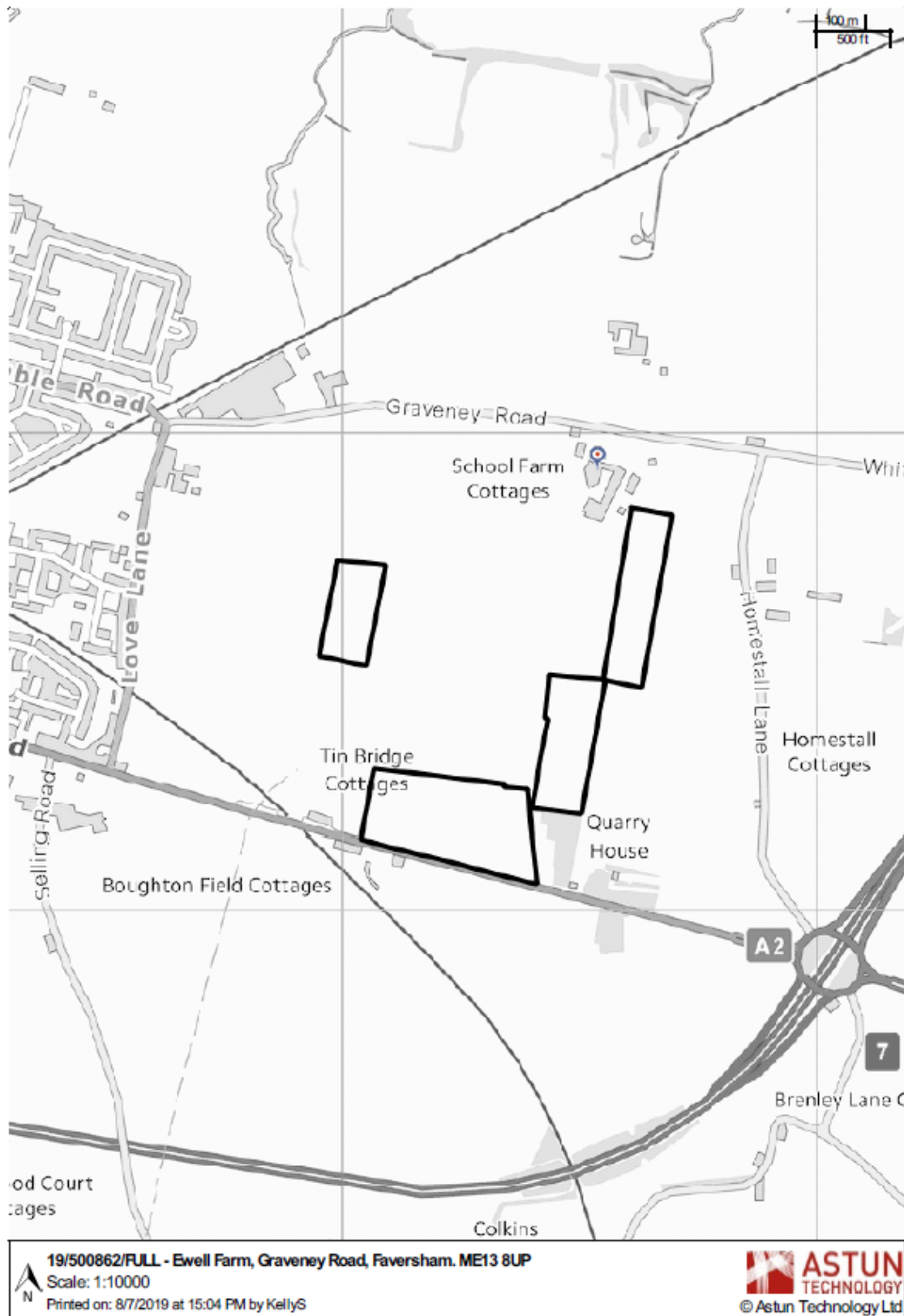
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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

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



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2.10 REFERENCE NO - 19/501160/REM		
APPLICATION PROPOSAL Reserved Matters relating to layout, scale and appearance of the proposed building and the landscaping of the site pursuant to outline application 16/505299/OUT for construction of a 60 bed care home (within Class C2).		
ADDRESS Coleshall Farm Ferry Road Iwade Kent ME9 8QY		
RECOMMENDATION Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is in accordance with national and local planning policy.		
REASON FOR REFERRAL TO COMMITTEE More than 3 neighbour objections have been received, and one of the ward councillors, Cllr Roger Clark, has requested the application to be decided at Planning Committee.		
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN Iwade	COUNCIL APPLICANT Frontier Estates (Frome) Ltd - AGENT Gillings Planning Ltd
DECISION DUE DATE 20/06/19	PUBLICITY EXPIRY DATE 26/06/19	

Planning History**16/505299/OUT**

Outline application for erection of a 60-bed care home with amenity space, car and cycle parking, associated development, landscaping and access.

Approval was granted for the detail of the vehicular access on(7/12/17. A copy of the decision notice is appended, and Members will note the conditions set out, which will in due course govern the development of the site.

SW/12/1392

Outline planning permission granted for a 60-bed care home.(Details of access only were approved.) Granted 15/2/13.

SW/08/1127

Outline application for development of housing, employment up to 3000sqm, public open space and pavilion (up to 110sqm), with access from School Lane and Sheppey Way, including roads, cycle paths, foot paths, stream crossings, landscaping and ancillary works.

(The current application is sited on land that falls within the site boundary for this permission. As Members may well be aware, the housing, open space and pavilion have now been built out.) Granted 6/6/11

1. DESCRIPTION OF SITE

- 1.1 The application site comprises of 0.44 hectares on land to the west of Sheppey Way known as land adjacent Coleshall Farm. The land was previously used for arable farming but is now vacant land enclosed by temporary mesh fencing. The site is lined with poplar trees on the southern side. These trees to the boundary are not subject to a Tree Protection Order.

- 1.2 There is a public right of way ZR92 which runs north-south through the centre of the wider area which then continues as ZU52, which in turn runs parallel with the poplar trees connecting to Sheppey Way and would be unaffected by the development of the site.
- 1.3 Access to the site is from Sheppey Way. The land adjoining to the west, to which the access road from Sheppey Way would be shared with, was allocated for an employment use but does not benefit from an extant permission and remains as an open field.
- 1.4 Immediately to the north are newly completed housing developments (approved under SW/08/1227) accessed from Peach Blossom Drive. This housing development and further beyond entails a mix of two-storey and three-storey properties. Further north of the site is Iwade medical centre located on Monins Road which is separated from the new housing by an area of open space. To the east of the site is Featherbed Farm, which consists of open grazing fields and a small farm shop. This land is the subject of a current application for 10 dwellings and a replacement farmshop (reference 19/500776/FULL). The land to the north of Featherbed Farm, known as Pond Farm is subject to a current application for the erection of 72 dwellings (reference 19/501332/FULL).
- 1.5 The surrounding land to the south is currently open arable fields.
- 1.6 The site is located close to the A249, which is reached via Sheppey Way. There are also links to public transport within the village with bus stops located approximately 60m away and a train station at Kemsley, providing links to Sittingbourne and Sheerness.

2. PROPOSAL

- 2.1 Approval is sought for reserved matters relating to layout, scale and appearance of the proposed building and the landscaping of the site pursuant to outline application 16/505299/OUT for construction of a 60-bed care home.
- 2.2 The indicative drawings of the approved outline scheme detailed a two-storey building measuring 2,878 sqm. A car parking area was indicated to the front of the building with 20 car parking spaces and two disabled spaces. The number of parking spaces in this application has now been changed to 25 which include 2 disabled spaces. Cycle storage for up to 8 bicycles was specified and some degree of landscaping around the perimeter boundary of the site. The layout plan presented a U-shaped building with wings on either side providing 30 bedrooms to each floor. The proposed location of the building indicated a 4m buffer strip from the existing poplar trees to the southern boundary. In addition, a 10m buffer strip was also detailed to the Sheppey Way frontage allowing a good separate distance from the proposed building and the road.
- 2.3 The building now proposed also comprises 2 storeys and measures 2,917m², it has an overall height of 10.95m, an eaves height of 5.55m, a depth of 29.3m and a width of 72m. The footprint of the building is a long rectangle with two wings at the ends, one projecting towards the north and the other projecting towards the south. The design of the building combines both traditional and modern elements of design such a gable features and large expanses of glazing in parts, and materials including brown brick and black weatherboarding.
- 2.4 At the front of the building there is a parking area with 25 car parking spaces which includes 2 disabled spaces and 12 cycle spaces. At the rear of the building is a landscaped garden area. Two pedestrian paths run from each end of the car park around the sides of the building to the landscaped garden at the rear.

- 2.5 Around the sides of the building and continuing to the landscaped garden at the rear is soft landscaping, in total 25 trees are proposed along the front of the car parking area and along the boundary with Sheppey Way. The row of poplar trees along the southern boundary are to remain with a 4m buffer strip from these trees to the southern boundary as was indicative in the approved outline permission. In addition the 10m buffer strip to the Sheppey Way frontage that was indicative in the approved outline permission is also shown on this application.
- 2.6 The residents of the care home would be elderly people with dementia. The residents accommodation includes 60 rooms, each with ensuite shower rooms and a sleeping area and seating area. Indoor communal facilities for the residents include dual purpose activity / lounge, lounge / diners and seating / activity areas, hairdressers, bathrooms and toilets. Outdoor facilities for the residents include a landscaped garden and seating areas. The accommodation to support the functioning of the care home include a café, offices, kitchen, laundry rooms, storage rooms, and refuse store and 2 lifts. Other facilities include a staff lounge, staff training room, staff male and female toilets.

3. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.44ha	0.44ha	0
Approximate Ridge Height (m)	N/A	8.2m and 10.95m	N/A
Approximate Eaves Height (m)	N/A	5.55	N/A
Approximate Depth (m)	N/A	29.3m	N/A
Approximate Width (m)	N/A	72m	N/A
No. of Storeys	N/A	2	N/A
Net Floor Area	N/A	2,917m ²	N/A
Parking Spaces	N/A	25 (plus 12 cycle spaces)	N/A
No. of Residential Units		60 beds care home	
No. of Affordable Units	N/A	N/A	N/A

4. PLANNING CONSTRAINTS

Public right of way ZU52

Potential Archaeological Importance (Matters relating to archaeological importance have been dealt with at the outline stage).

Listed building (The distance of the nearest part of the proposed building to the listed building (grade II listed Coleshall Farm Farm House) is 280m and there would be a screen of poplar trees between the two).

5. POLICY AND CONSIDERATIONS

The National Planning Policy Framework (NPPF). The following chapters are relevant:

(Chapter 2 Achieving sustainable development - para 8, Chapter 5 Delivering sufficient supply of homes – paras 59 & 61, Chapter 9 Promoting sustainable transport – paras 102, 103, 108 & 110, Chapter 11 Making effective use of land – para 117, Chapter 12 Achieving well-designed places- paras 124, 127 & 128, Chapter 14 Meeting the challenge of climate change, flooding and coastal change – para 163, Chapter 15 Conserving and enhancing the natural environment – para 170 and Chapter 16 Conserving and enhancing the historic environment – para 193 & 194).

The relevant Local Plan policies are as follows:

(Policies: ST 1 (Delivering sustainable development in Swale); ST 3 The Swale Settlement Strategy); CP 2 (Promoting sustainable transport); CP 4 (Requiring good design), CP 6 (Community facilities and services to meet local needs); CP 7 (Conserving and enhancing the natural environment); DM 6 (Managing transport demand and impact), DM 7 (Vehicle parking); DM 14 (General development criteria); DM 19 (Sustainable design and construction); DM 21 (Water, flooding and drainage); DM 28 (Biodiversity and geological conservation); DM29 (woodlands, trees and hedges), DM32 (development involving listed buildings), and DM 34 (Scheduled Monuments and archaeological sites).

6. LOCAL REPRESENTATIONS

6.1 A site notice was posted and the application was advertised in the local press. There have been 6 objections.

6.2 Reasons for objection are summarised as follows:

- Lack of information since the outline permission
- Lack of parking spaces for residents, staff and visitors
- Too close to neighbouring residential properties resulting in overlooking into gardens, will block out light to gardens
- Pollution from increased traffic
- The entrance is on a busy road, therefore a road hazard
- Building works will be disruptive and will cause noise and dust
- Wildlife will be adversely affected
- Pressure on health services (GPs, hospitals)
- There is not enough outdoor amenity space for the residents
- The entrance to the village will lose its rural aesthetic
- The building is domineering.

7. CONSULTATIONS

7.1 Environment Agency – have no comments to raise.

7.2 Natural England – have no comments to raise.

7.3 Kent County Council Drainage – Raise no objection.

7.4 Kent County Council Highways and Transportation – Raise no objection. Initial comments specified requirement for swept path analysis, the parking spaces to be increased in size from 2.4 x 4.8 metres to 2.5 x 5 metres and 3.7 x 5.5 metres for disabled bays in line with SPG4, a 1 metre turning aisle implemented on the other side of the

disabled bays closest to the building entrance and the space in the southeast corner of the parking area bound on one side by railings to be widened to 2.7 metres.

Final comments, in the light of additional information, by KCC Highways and Transportation related to advising conditions in respect of the submission of a Construction Management Plan, provision and permanent retention of vehicle parking and vehicle loading / unloading facilities and provision and permanent retention of secure cycle parking. Also KCC require 10% of car parking spaces to have electric charging points, which in this case equates to 2.

- 7.5 Kent County Council Strategic Commissioning – Raise no objection. KCC Strategic Commissioning recognise the need for more services of this nature in the area.
- 7.6 Iwade Parish Council – Raise no objection. The parish council had the following comments to make: “The Parish Council has no objections to the application. However, Councillors do have concerns regarding parking. We understand there are 25 spaces but taking into account staff and visitors we can foresee cars being parked on the access road and Sheppey Way. Planning application 18/506677/HYBRID is being considered and the entrance to this development will be in come proximity to the care home. The Parish Council feels that in light of the existing traffic calming and the two entrances this area should be looked at with a view to redesigning the highway to avoid future issues”. It should be noted that KCC Highways and Transportation raise no objection to the proposal on these grounds.
- 7.7 Kent Police – Raise no objection. Kent Police advise a number of security measures to be incorporated into the scheme.
- 7.8 Southern Water – Raise no objection and have no comments to make.
- 7.9 Environmental Health – Raise no objection. Conditions have been advised relating to hours of construction work, a mechanical ventilation system that may be installed, submission of a programme for the suppression of dust and lighting at the site.

8. BACKGROUND PAPERS AND PLANS

The proposed plans are as follows:

Application form

Supporting letter

Site Location Plan

Existing site plan and topographical survey (1827/PA/002)

Proposed first floor plan (1827/PA/020)

Proposed roof plan (1827/PA/030)

Proposed elevations (1827/PA/040)

Proposed elevations and sections (1827/PA/041)

Proposed elevations (1827/PA/042)

Proposed elevations sections – illustrative (1827/PA/043)

Proposed site plan (1827/PA/003 Rev B)

Proposed ground floor (1827/PA010 Rev B)

Swept path analysis (402.05494.00006.14.TR01.1)

General Arrangement Plan (Colour) SLR-06594-0001 P03

General Arrangement Plan (SLR-06594-0002 P06)

Softworks Plan (SLR-06594-0003 P05)

CGI View from NE

Arboricultural Development Statement

Ecological Assessment
Investigation for Archaeological Mitigation
Flood Risk Assessment and Drainage Strategy

9. APPRAISAL

9.1 Layout

As noted above, the proposed building is situated in the centre of the site. Its footprint comprises an elongated rectangle with a forward projecting wing at its east end (facing Sheppey Way), and a rearward projecting wing at its west end. At the northern side of the site, facing the access road, but also visible from Sheppey Way, will be a car park for visitors and staff. Swept path analysis (drawing ref: 402.05494.00006.14.TR01.1) shows that the car park has adequate manoeuvrable space for both small and large vehicles. Soft landscaping comprising trees and shrubs will help to soften the visual impact of the car park against the building frontage. There is further tree planting along the east boundary of the site which would also soften the impact of the side elevation of the building along Sheppey Way. At the southern side of the site, the existing dense row of poplar trees is to remain, providing a buffer between the development and the open countryside and also screening the development from views from the south. Between the southern elevation of the building and the row of poplar trees would be a garden for the dementia patients. The eastern boundary has been designed with open rail fences to allow for an open frontage along Sheppey Way, whilst the west will have close boarded fences to retain the sense of security for the occupants of the care home. The southern boundary with its poplar trees will have a 1800mm metal estate rail fence to allow views into the open countryside. The forecourt will have rail fences to retain an open and welcoming area. The layout of the development in general is considered to be of a good standard and in accordance with the relevant elements of the NPPF and the corresponding Local Plan policies and would encourage residents, staff and visitors to be able to freely move around the site.

Character and Appearance

- 9.2 The proposed building is a large two storey structure, reflecting the outline planning permission for a 60-bed care home that has already been granted (see “Summary information” set out above) A description of the layout of the building has already been given. The building has both traditional and modern elements. Its roof is traditional, with gable features at the front and rear. Modern features include considerable glazing at the rear and floor to ceiling windows and Juliet balconies / safety barriers to large windows. While the choice of materials are traditional (brick, render and black weather boarding), their arrangement on the external elevation of the building would be in the form of a modern application. The black weather boarding, also reflects Kentish rural architecture. It should be noted that the design of the building is bespoke and not a corporate clone design which the Council was not in favour of as this works against creating distinct places. The above having been said, the building is considered to be an example of good design, which together with the proposed hard and soft landscaping will result in a sympathetic addition to this important site on the edge of Iwade village.

Impact on the Setting of a Listed

- 9.3 Members will note that the principle of a 60-bedroom care home is already established on this site and that, as part of the outline planning permission, the height of the building has been limited to two storeys, which among other things limits the scope for harmful impacts on heritage assets, including Coleshall Farmhouse, which is Grade II listed.

The listed building in question is 280m to the west of the application site, it is known as Coleshall Farmhouse and grade II listed. Given this separation distance and row of intervening existing poplar trees it is considered that the development is unlikely to have an adverse impact on the setting of this listed building.

Residential Amenity

- 9.4 The nearest residential dwellings would be those houses within the recently-constructed estate to the north. The nearest dwelling being 28m away (from the nearest part of the building). Objection has been raised that the proposed building would result in overlooking and loss of light to the rear gardens of these houses. However, the separation distances between these existing dwellings and the proposed building are considered sufficient to mitigate against such adverse residential amenity impacts. Intermittent tree planting will further soften the impact.
- 9.5 Members will also note that the Environmental Protection Team Leader raised no objection to the outline planning permission subject to conditions in respect of construction hours, piling hours, dust suppression and external lighting details. The outline permission includes four conditions to cover these matters.

Highways and Parking

- 9.6 KCC Highways and Transportation raised no objection to the proposal, but advised a series of conditions relating to the submission of a Construction Management Plan and sustainable modes of transport. Members will note paragraph 7.4 above gives details of these conditions.

Landscaping

The soft landscaping of the site has already been commented on in the “Layout” section of this report, so not much further shall be said here except that a soft landscape plan has been submitted detailing the species of plants. All tree species proposed are native in origin and include Wild / Common Cherry, Bird Cherry, Hornbeam and Field Maple. Hard landscaping within the site includes permeable block paving for the car parking areas, paving slabs mainly within the garden area and tarmac for the pedestrian pathways, footpaths and road. A condition for the submission of those landscaping details that full details haven’t already been provided for is imposed below.

10. CONCLUSION

- 10.1 On the basis of the above, I consider that the reserved matters details that are proposed in respect of the layout, scale, appearance and landscaping of the development are acceptable and that, as such, the development would enhance the existing character and appearance of the area and will not give rise to harmful impacts to residential amenity or in any other regard.

11. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

- 1) No development beyond the construction of foundations shall take place until full until full details of both hard and soft landscape works (that have not been already been provided) 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.

- 2) Submission of a Construction Management Plan before the commencement of any development on site to include the following:
 - (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage

Reason: In the interests of highway safety and convenience.

- 3) There shall be the provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.

Reason: To ensure there is sufficient parking provision for the proposed development.

- 4) There shall be the provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

Reason: To ensure that there is sufficient space for the manoeuvring of vehicles within the site.

- 5) There shall be the provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: To ensure there is sufficient cycling parking provision in the interests of sustainable travel.

- 6) No development beyond the construction of foundations shall take place until details of electric vehicle charging facilities have been submitted to and approved in writing by the Local Planning Authority. The agreed facilities shall then be provided in full before the development is first used and then retained in perpetuity.

Reason: To encourage sustainable modes of transport.

- 7) The development hereby approved shall be carried out in accordance with the following approved plans:

Site Location Plan

Existing site plan and topographical survey (1827/PA/002)

Proposed first floor plan (1827/PA/020)

Proposed roof plan (1827/PA/030)

Proposed elevations (1827/PA/040)

Proposed elevations and sections (1827/PA/041)

Proposed elevations (1827/PA/042)

Proposed elevations sections – illustrative (1827/PA/043)

Proposed site plan (1827/PA/003 Rev B)

Proposed ground floor (1827/PA010 Rev B)

Swept path analysis (402.05494.00006.14.TR01.1)

General Arrangement Plan (Colour) SLR-06594-0001 P03

General Arrangement Plan (SLR-06594-0002 P06)

Softworks Plan (SLR-06594-0003 P05)

CGI View from NE

Arboricultural Development Statement

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

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

Reason: In the interests of visual amenity.

- 9) 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 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- 10) Details of any mechanical ventilation system that will be installed shall be submitted to and approved by the District Planning Authority and upon approval shall be installed, maintained and operated in a manner which prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity

- 11) The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the District Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the District Planning Authority.

Reason: In the interests of residential amenity.

- 12) No development shall take place until details of the lighting columns, the type and luminance of the lighting units with glare shields and details of lux levels both inside and outside the site have been submitted to and approved in writing by the District Planning Authority. All lighting shall be switched off (with the exception of any agreed security lights) when the site is not in use.

Reason: In the interests of residential amenity.

Informatives

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

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

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

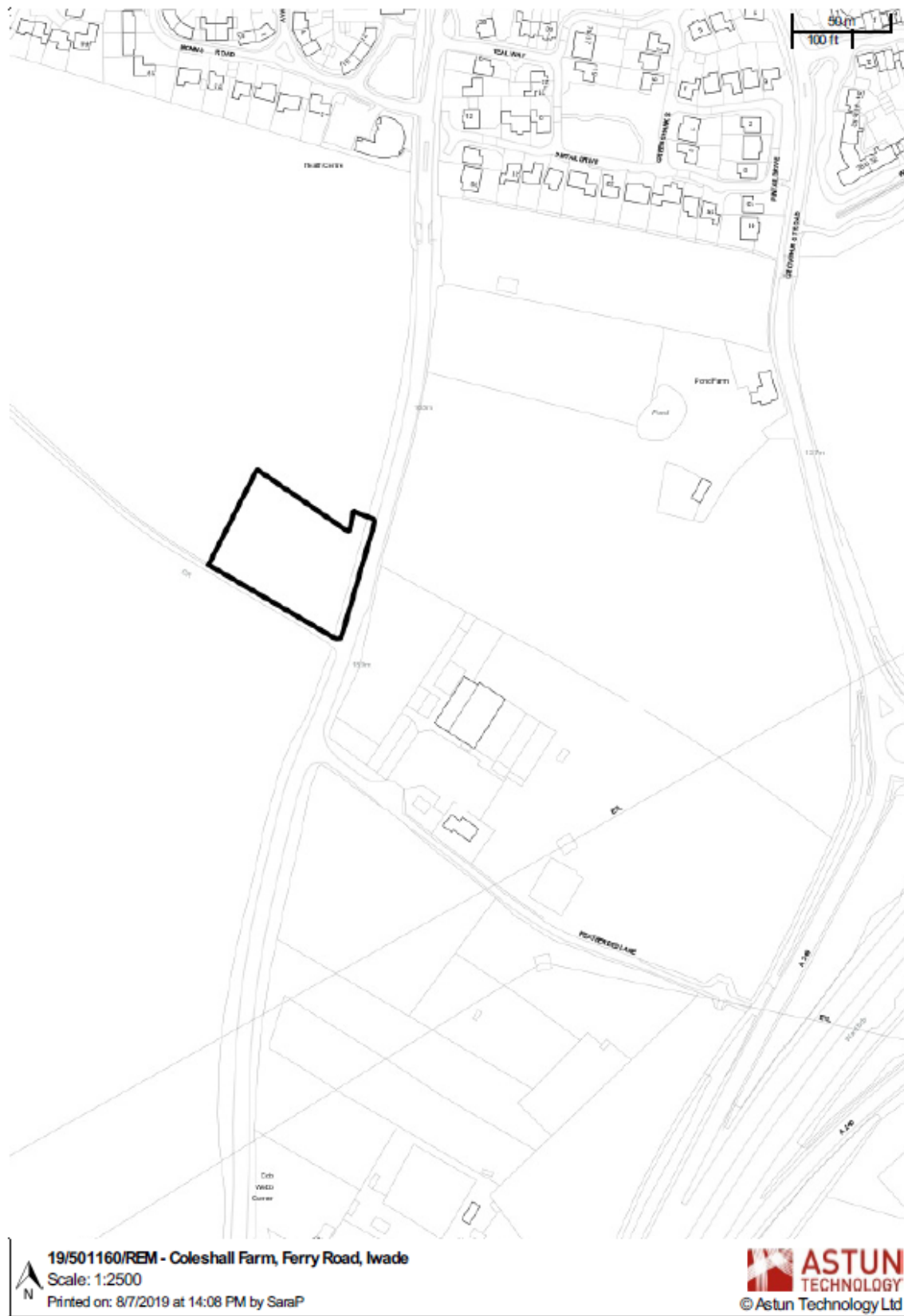
The Council's approach to the application

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.



APPENDIX 1

Middlefields Limited
 C/O DHA Planning
 Eclipse House
 Eclipse Park
 Sittingbourne Road
 Maidstone
 Kent
 ME14 3EN



7 December 2017

PLANNING DECISION NOTICE

APPLICANT:	Middlefields Limited
DEVELOPMENT TYPE:	Large Maj Dwellings
APPLICATION REFERENCE:	16/505299/OUT
PROPOSAL:	Outline application for erection of a 60 bed care home with amenity space, car and cycle parking, associated development, landscaping and access (Access being sought)
ADDRESS:	Coleshall Farm Ferry Road Iwade Kent ME9 8QY

The Council hereby **GRANTS** OUTLINE planning permission subject to the following Condition(s):

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

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

MKPS – Working in Partnership with: Swale Borough Council
 Please Note: All planning related correspondence for SBC should be sent to:
 Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ
 Email: planningsupport@midkent.gov.uk
 Access planning services online at: www.swale.gov.uk or submit an application via
www.planningportal.gov.uk

APPENDIX 1

outline planning permission.

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

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

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

- (4) The development hereby approved shall be carried out in accordance with the following approved drawings in so far as it relates to access, as detailed on indicative drawing numbers:
A-596 O1 Rev A; A-596 02 Rev P7; A-596 03 Rev A; A-596 04 Rev A and A-596 OS-B.

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

- (5) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority

Reason: In the interests of residential amenity

- (6) The details submitted pursuant to condition (1) shall show a buffer strip of no less than 4 metres as separation distance of the proposed development from the root protection zone of the line of poplar trees running parallel to the southern boundary of the application site and shown on indicative drawing no. A-596 Rev A. Thereafter development shall be implemented and maintained as approved.

Reason: In the interests of visual amenity and landscape quality and to protect the mature trees.

- (7) The details submitted pursuant to condition (1) shall show the care home set back from the site frontage with the Sheppey Way by a minimum of 10 metres, and extending to no more than two storeys in height.

Reason: In the interests of visual amenity and the character and appearance of the area.

- (8) The landscaping details submitted pursuant to condition (1) shall include full details of both hard and soft landscape works including existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the

APPENDIX 1

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

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

- (9) No development shall take place until a tree protection plan; arboricultural impact assessment and arboricultural method statement in accordance with the recommendations of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail implementation of any aspect of the development that has the potential to result in the loss of or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It shall also detail any tree works necessary to implement the approved scheme.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

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

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

- (11) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

- (12) The details submitted pursuant to condition (1) shall include biodiversity enhancements, and a lighting scheme designed to minimise impact on any bats within

APPENDIX 1

the surrounding area in accordance with the Bat Conservation Trust's Bats and Lighting in the UK. The details as agreed shall be implemented in full prior to the first occupation of the development.

Reason: In order to secure biodiversity enhancements and to ensure no harm to commuting/foraging bats in the area and to ensure that such matters are dealt with before development commences.

- (13) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable 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 and to ensure that such matters are dealt with before development commences.

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

- (16) Before any work is commenced on site, a Construction Management Plan, including details of delivery routes and the timing of these, shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests highway safety and amenity.

- (17) As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reason: In the interests of amenity and road safety, and to ensure that such matters are agreed before work is commenced.

- (18) The development hereby permitted shall not be occupied until space as shown on the approved drawings has been laid out within the site in accordance with the approved

APPENDIX 1

drawings for refuse storage, car and cycle parking, and vehicle loading and unloading areas. Thereafter development shall be maintained as approved.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cars and cycles in the interests of highway safety.

- (19) The building hereby approved shall be constructed to BREEAM 'Good' Standard or an equivalent standard and prior to the use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved unless otherwise agreed in writing by the Local Planning Authority.

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

- (20) The premises shall be used for the purpose of a care home and for no other purpose, including any other purposes in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Amendment Order 2010.

Reason: In the interests of the amenities of the area

- (21) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity

Informative(s):

- (1) All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) and as such any vegetation must be removed outside the breeding bird season, and if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease within that area.
- (2) 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. 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.
- (3) The applicant or developer should enter into a formal legal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel 0330 3030119 or www.southernwater.co.uk).

APPENDIX 1

- (4) 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 3030119 or www.southernwater.co.uk).
- (5) This development is also subject to an agreement under Section 106 of the Town and Country Planning Act

Please note you must comply with all the conditions attached to this permission. Otherwise the permission may not be valid and any development may be unauthorised.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by: <https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit> Where possible, suggesting solutions to secure a successful outcome. As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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



James Freeman
Head of Planning Services
Swale Borough Council

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

PLANNING COMMITTEE – 18 July 2019**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO - 19/501570/FULL		
APPLICATION PROPOSAL Erection of rear extension (Retrospective) (Resubmission of 18/500629/FULL)		
ADDRESS 156 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LS		
RECOMMENDATION - Refuse.		
SUMMARY OF REASONS FOR REFUSAL Development is harmful to the character and appearance of the street scene, and to the amenities of the residents of 45 Lynmouth Drive.		
REASON FOR REFERRAL TO COMMITTEE Parish Council support the application.		
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr K Davies AGENT Ks Architectural Services
DECISION DUE DATE 19/06/19	PUBLICITY EXPIRY DATE 17/05/19	

Planning History18/500629/FULL

Retrospective application for erection of single storey rear extension to provide dayroom/and workshop/hobby area.

Refused. Decision Date: 31.10.2018

The reasons for refusal were:

- 1) *The proposed development, by virtue of its design, materials and prominence would cause significant harm to the character and appearance of the streetscene in a manner contrary to Policies DM14 and DM16 of the Swale Borough Local Plan 2017.*
- 2) *The proposed development, by virtue of its design and location relative to the adjacent dwelling (no.45 Lynmouth Drive) would amount to an overbearing structure, which gives rise to significant and intrusive overlooking, contrary to Policy DM14 of the Swale Borough Local Plan 2017.*
- 3) *The flue, due to its inadequate height and location relative to the adjacent dwellings, would give rise to harm to residential amenity by virtue of smoke and fumes, contrary to Policy DM14 of the Swale Borough Local Plan 2017.*

17/500207/FULL

Erection of a front porch and conversion of the garage into a habitable room to allow for disabled access and the storage of disabled equipment.

Approved. Decision Date: 27.02.2017

SW/01/0496

Erection of single storey side and rear extension and provide a garage and dining room.

Approved. Decision Date: 02.07.2001

SW/00/1170

Extension to form garage and dining room

Approved. Decision Date: 29.01.2001

Enforcement History:17/500827/OPDEV

Notice Issued (20 March 2019) against the development considered under 17/500207/FULL. The period to appeal against the notice has elapsed, and it therefore remains in force. The requirements of the notice are (in short) to remove/demolish the extension and return the site to its previous condition.

1. DESCRIPTION OF SITE

- 1.1 The application site is a detached bungalow situated on a corner plot in the built up area of Minster. The property is located on Scarborough Drive, with Lynmouth Drive to the side to which the properties front onto. Due to local land levels the property is significantly elevated from Lynmouth Drive and the neighbour to the rear.

2. PROPOSAL

- 2.1 Retrospective planning permission is sought for the erection of a single storey rear extension for dayroom, workshop and hobby areas. The extension measures approximately 3.4m x 6.7m x 2.6m high with flat roof, and is sited 1.2m from rear boundary. The development has a flue serving a wood burning stove projecting from the roof, and the submitted drawings show this being extended from its current height to the same height as the ridge of the main roof on the original property.
- 2.2 Despite the description as a dayroom / workshop, the development has actually been put to use as an annex for the owner of the dwelling, his family having moved into the main dwelling. The applicant has provided supporting information setting out various serious health problems which necessitate his family living in the property to assist him. However it appears from the letter from his occupational therapist that the need for essentially separate accommodation stems primarily from the applicant's son owning two large dogs, and laminate flooring being difficult for him to negotiate.
- 2.3 Apart from the increased height of the flue the application is identical to that which was refused planning permission last year under ref. 18/500629/FULL, and no additional supporting information has been provided.
- 2.4 Further to that refusal an enforcement notice was issued by the Council which required the extension and flue to be demolished / removed and the site to be restored to its original condition. The notice has not been appealed and therefore remains in force.

3. SUMMARY INFORMATION

	Proposed
Approximate Ridge Height (m)	2.6m
Approximate Depth (m)	3.4m
Approximate Width (m)	6.7m
No. of Storeys	1

4. PLANNING CONSTRAINTS

4.1 None.

5. POLICY AND CONSIDERATIONS

5.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – the following policies are relevant:

DM14 – General Development Criteria
DM16 – extensions and alterations

5.2 The Council’s adopted Supplementary Planning Guidance (SPG) entitled “Designing an Extension – A Guide for Householders” is relevant.

6. LOCAL REPRESENTATIONS

6.1 One letter of support from a neighbour, commenting that they do not object to the development overall, but do object to the flue as existing, and request that it be altered to prevent gases/smoke from entering their property.

6.2 One letter of objection commenting on the visual impact of the development, loss of garden space at the property resulting from the extension, potential for the property to be converted into flats, fumes and smell from the flue, and a perceived delay with the planning enforcement process.

7. CONSULTATIONS

7.1 Minster Parish Council supports the application “subject to improvement of the chimney for the dispersion of gases to avoid any negative impact on the neighbours’ amenities.”

7.2 It is worth noting, however, that the Parish Council objected to the previous (identical) application, commenting:

“Although Minster-on-Sea Parish Council has sympathy for the applicant, it cannot support this proposal on account of its close proximity to the neighbouring property, inadequate construction and associated fire risks and impact on the amenities neighbouring residents might reasonably expect to enjoy.”

7.3 The Council’s Environmental Health Manager suggests that more information is required in respect of the proposed flue, because the proposed height may not be sufficient to prevent smoke from entering the neighbour’s windows due to the close proximity of the extension to the boundary with 45 Lynmouth Drive:

“It is unclear from the drawings if the proposed extension of the flue will take it above the roof height of the neighbouring properties, although it looks unlikely.

In my opinion it is likely to continue to cause a nuisance to neighbouring properties especially since enforcement over the use of the correct fuels in the domestic sector is difficult.

I would recommend that further information is sought on the design of the wood burning stove, flue height calculations and building control approval.”

8. BACKGROUND PAPERS AND PLANS

- 8.1 The application is supported by relevant plans, a letter from the applicant’s doctor which sets his various health issues, and a letter from his physiotherapist which, as above, appears to set out that the need for the extension is predicated upon the applicant’s difficulties navigating laminate flooring and his son’s large dogs.
- 8.2 The historic applications noted above are also relevant, especially 18/500629/FULL, which is identical to this current application apart from the height of the flue.

9. APPRAISAL

Principle

- 9.1 The site lies within the built up area, where the principle of development is generally acceptable subject to design and amenity considerations.

Visual amenity

- 9.2 The development is poorly designed. The materials used do not marry well with the existing dwelling, and the flat roof and elevated position above the highway, together with visibility from public vantage points ensure that the development is prominent, obtrusive and harmful to visual amenity. This is contrary to Policies DM14 and DM16 of the Local Plan, and this amounts to a reason for refusal.

Residential amenity

- 9.3 The development lies very close to the rear boundary, with facing windows which directly overlook the flank window of the dwelling to the rear (no.45 Lynmouth Drive) at a distance of less than 4m. This gives rise to a significant and harmful overbearing sense of overlooking. In addition, due to the height difference between the two, the development appears overbearing, in my opinion, and gives rise to a sense of enclosure. These issues amount to reasons for refusal.
- 9.4 The previous scheme (ref. 18/500629/FULL) was refused partly on the grounds of the flue for the log-burner being of an insufficient height to allow for proper smoke dispersal, giving rise to harm to the amenity of neighbouring residents. The current application shows the flue increased in height, but it is not clear whether the additional height is sufficient to allow for proper smoke dispersal such that it would be carried away from the windows of 45 Lynmouth Drive. The Council’s Environmental Health Manager has suggested that additional information is required to resolve this but, given my in principle objections to the development as set out above, I think it would be unreasonable to put

the applicant to the additional expense of providing this information when the application is being put forward for refusal.

- 9.5 Therefore, however, the third reason for refusal of 18/500629 (as set out above) remains unresolved.

Personal circumstances

- 9.6 It is clear from the submitted information that the applicant suffers from considerable health problems. It is normally the case that personal circumstances will rarely outweigh conflict with the development plan or other material planning considerations. However, in this case the health problems of the applicant are apparently severe and ongoing. They are clearly capable of being a material planning consideration which should be taken into account.

- 9.7 However, the justification for the provision of this development does not appear to be directly related to the health of the applicant. Rather, due to the need to have family living at the site to assist him and his family owning dogs, the applicant needs to have separate accommodation. It appears to me to be questionable as to whether the dwelling has actually been subdivided into two. However, for the purposes of this application I will assume that it remains a single dwelling with an attached annex.

- 9.8 The need for the applicant to avoid contact with his son's dogs and his difficulty navigating laminate flooring are, in my opinion, insufficient justifications for the harmful development applied for here. These are not intractable problems, and could conceivably be solved by keeping the dogs under control and changing the flooring material rather than through construction of a harmful and unacceptable extension. Furthermore: the planning permission granted under 17/500207/FULL included the conversion of the integral garage into a separate lounge and entrance porch. According to the submitted plans this has not taken place; it would provide an almost identical amount of floorspace to the extension applied for here, and remains a viable alternative in my opinion.

- 9.9 Given the above, whilst I have great sympathy with the applicant's situation, I do not consider his ongoing health problems amount to sufficient justification for the grant of planning permission given the harm the development causes.

Next steps

- 9.10 If Members are minded to refuse the application the Council's planning enforcement team will progress with upholding the requirements of the enforcement notice, as set out above.

10. CONCLUSION

- 10.1 This application seeks retrospective planning permission for the erection of an extension to serve the needs of the seriously ill applicant. The extension is unacceptable in terms of scale, design, position, and impact on the amenity of neighbouring residents and the character and appearance of the area. The development is also largely identical to that which has previously been refused permission, and against which an active enforcement notice is in place. The previous reasons for refusal have not been overcome and, whilst

I have utmost sympathy for the applicant and his circumstances, there are other, less harmful solutions to his requirements.

10.2 Taking the above into account I recommend that planning permission should be refused.

11. RECOMMENDATION - REFUSE for the following reasons:

- (1) The proposed development, by virtue of its design, materials and prominence would cause significant harm to the character and appearance of the streetscene in a manner contrary to Policies DM14 and DM16 of the Swale Borough Local Plan 2017.
- (2) The proposed development, by virtue of its design and location relative to the adjacent dwelling (no.45 Lynmouth Drive) would amount to an overbearing structure, which gives rise to significant and intrusive overlooking, contrary to Policy DM14 of the Swale Borough Local Plan 2017.
- (3) It has not been demonstrated that the proposed flue would be of a sufficient height, relative to the adjacent dwellings, to ensure proper smoke dispersal. The development would therefore give rise to harm to residential amenity by virtue of smoke and fumes, contrary to Policy DM14 of 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), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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.



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3.2 REFERENCE NO - 19/502305/FULL		
APPLICATION PROPOSAL Demolition of existing outbuilding. Erection of two storey side extension, rear infill extension, loft conversion and detached triple garage to rear (Resubmission to 19/500129/FULL)		
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 Ingleton		
WARD Sheppey East	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT D Buckley Ltd. AGENT DEVA Design
DECISION DUE DATE 28/06/2019		PUBLICITY EXPIRY DATE 06/06/2019

Planning History

19/500129/FULL - Demolition of existing outbuilding. Erection of two storey side extension, rear infill extension and two detached two storey triple garages.
Refused 02.05.2019.

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

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

SW/98/0163 Replacement Dwelling
Approved in 1998.

1. DESCRIPTION OF SITE

- 1.1 The application site comprises of a modern detached dwelling located on a spacious rural plot on the north side of Plough Road. 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 policies.
- 1.2 The surrounding area forms part of the open countryside as defined by the Local Plan. A detached dwelling known as Appleyard Barn 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 is a revised proposal following refusal at Planning Committee dated 25th April 2019 (Planning Ref: 19/500129/FULL). The application was refused on the following grounds:

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.

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'.

- 2.2 This revised scheme retains one garage to the rear of the property but omits the detached triple garage originally positioned to the front of the dwelling, which overcomes the second of the reasons for refusal. However, no changes have been made to the proposals which relate to the main dwelling with the extent of the extensions and alterations remaining in their entirety.
- 2.3 The revised scheme proposes a two-storey side extension to the eastern flank of the building, a rear two-storey infill extension and one detached garage close to the north eastern corner 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.
- 2.4 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.
- 2.5 The rear garage 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. It would 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 building 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: Bearing Fruits 2031: The Swale Borough Local Plan 2017; Policies CP4, DM11 and DM14
 Supplementary Planning Guidance (SPG): Designing and Extension: A Guide for Householders' Paragraph 3.3 and 5.2.

5. LOCAL REPRESENTATIONS

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

- Incorrect boundary / existing boundary. The site's boundary is incorrect as it is shown closer to Appleyard Barn.

Officer comment: This is an ongoing civil matter which does not warrant the involvement of Planning Services.

- Application Boundary incorrect red and blue boundary lines

Officer comment: Providing that the applicant declares all land in current ownership that is located within close proximity of the site, the Council can proceed to make a decision

- Size of proposed extension to house not consistent to a small farm residential property where income should be derived from land

Officer comment: Noted, and addressed in further detail with the report appraisal

- Access to Plough Road. Construction of a new wall prejudicial to highway safety.

Officer comments: The presence of a new wall is acknowledged and is currently under the investigation of Planning Enforcement. It does not form part of this application and therefore is a separate planning issue.

- Residential caravan at rear. Acceptable whilst work is undertaken

Officer comments: Noted. Should the caravan remain after the works are completed, a suitable planning application should be submitted to avoid being liable for enforcement action.

- Landscaping

Officer comments: A landscaping scheme does not form part of this application but this could be required as part of any approval for the front boundary wall.

6. CONSULTATIONS

6.1 Minster Parish Council supports the application, saying; "The amendments are more in keeping resulting in a visually enhanced main dwelling and garage built to match."

7. BACKGROUND PAPERS AND PLANS

7.1 The submission is accompanied by the following plans and drawings:

- DC/461 Site Location, Block Plans, Existing Ground and First Floor
- DC/462 Existing Elevations
- DC/463 Proposed Ground and First Floor

- DC/464 Proposed Loft Room and Sections
- DC/465 Proposed Elevations
- DC/466 Proposed Triple Garage
- DC/471 Existing Out Building

8. APPRAISAL

- 8.1 The application follows a recent refusal from Planning Committee dated 25th April 2019. (19/500129/FULL). This revised scheme retains one garage to the rear of the property however omits the detached triple garage originally positioned to the front of the dwelling and as such overcomes one of the original reasons for refusal. Notwithstanding, the extent of the development to the main dwelling remains in its entirety and no changes are proposed. As such, I do not consider that the principle reason for refusal has been suitably addressed in this instance.
- 8.2 The application site lies outside the built-up area boundary of Minster and is therefore regarded as a countryside setting. It is important to note that Kingsborough Manor, the large residential housing estate that lies to the south of subject site sits within the built-up area boundary where larger scale is generally supported. As such, based on different site constraints of both sites I do not consider the sites to be comparable in this instance.
- 8.3 The main issues for consideration which remain relevant are the location of the site outside of the built-up area boundary, 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 garage on the setting of the dwelling and the surrounding streetscene.
- 8.4 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 Council's 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:

- 8.5 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% increase 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 Permitted Development rights for the property in recognition

of the significant increase in scale then approved, in order to safeguard the amenities of the area and to prevent harmful development in the rural area.

- 8.6 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. I note the points raised by the then Ward Members at the Planning Committee of 25th April 2019 that the proposal would *'balance it out and make the building more attractive.'* Whilst I agree that it would introduce a degree of symmetry to the building, 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 still appear overly large and incongruous. The scale of the proposed addition would dominate and subsume the character of the original building.
- 8.7 I note previous comments from Members regarding the Kingsborough Manor residential development southwest of the site, in that substantial development works have been allowed to properties within the residential housing estate, however it is reiterated that that the properties within Kingsborough Manor are located within the built-up area boundary where different policy restrictions apply. In addition, the northern site boundary of Kingsborough that runs along the southern side of Plough Road comprises of tall trees and high vegetation which obscures all views of the Kingsborough from the perimeter of Cripps Farm and adjacent public highway. This is a very pronounced change in character on the northern side of Plough Road, which retains a very rural appearance.
- 8.8 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.
- 8.9 With respect to the garages, the front triple garage has now been removed from the scheme and therefore an original reason for refusal omitted. With regard to the remaining garage, 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 garage proposed is of a simple design and intended to be ancillary to the established residential use of the main dwelling at the site.
- 8.10 The triple garage building is 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

- 8.11 The comments received from the neighbour at Appleyard Barn in regard to the size of the extension has been addressed in detail within the appraisal section of this report. The recent introduction of the front boundary wall is under investigation with our

Enforcement Section. 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 reason:

(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.

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.



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3.3 REFERENCE NO - 18/506680/FULL			
APPLICATION PROPOSAL Erection of a new detached two storey dwelling with habitable loft space and detached garage.			
ADDRESS Land South of 106 Scrapsgate Road Minster-on-Sea Sheerness Kent ME12 2DJ			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed development would have a detrimental impact on the amenities of the neighbouring residential occupiers and in the absence of any mitigation would have an adverse effect on the SPA and Ramsar site.			
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to Parish Council support.			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr A Brooks AGENT Anderson Design	
DECISION DUE DATE 11/03/19	PUBLICITY EXPIRY DATE 10/06/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/500006/FULL	Erection of new detached dwelling and garage	Granted	17.10.2016
The application was approved because it was considered to be in accordance with national and local planning policy, and the development would not have given rise to any significant amenity issues for neighbouring residents.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located on the western side of Scrapsgate Road. It comprises a rectangular parcel of land which currently forms part of the garden of No.106 Scrapsgate Road, a large detached bungalow. The site has a frontage width of 14m, a depth of 45m and an area of approximately 630sqm.
- 1.02 Scrapsgate Road is wholly residential in character comprising a mix of bungalows and two storey houses of varied design and period. The site is bounded by a mixture of bungalows to the north and south; open fields in equestrian use to the west; and, to the east on the opposite side of Scrapsgate Road by a two storey detached house and the rear gardens of two storey semi-detached houses fronting Kent Avenue.

2.0 PROPOSAL

- 2.01 The application seeks planning permission for the erection of a two storey detached house with rooms in the roofspace.
- 2.02 The proposed house would be set back some 25m from the public highway and 2m from the side boundaries with each of the neighbouring bungalows. It would have a

depth of 9.7m, a width of 9.5m and would be finished with a pitched roof having an eaves height of 5.5m and a ridge height of 9.5m. There would be a half width, flat roofed single storey projection to the rear with a depth of 4m and a height of 2.9m. The dwelling would be finished in red face brick with decorative soldier courses and brindle concrete roof tiles.

- 2.03 The accommodation would comprise a lounge, kitchen/dining room, study, bathroom and utility room on the ground floor; three bedrooms and a bathroom on the first floor; and a bedroom, bathroom and storage area within the roofspace. One of the first floor rear facing bedrooms would have a Juliet style balcony and the second would have a pair of glazed doors providing direct access to the flat roof of the single storey rear projection.
- 2.04 Amenity space provision would comprise a 10m deep private rear garden and an additional 10m to 12m deep amenity area to the front.
- 2.05 There would be a detached double garage towards the front of the property set back 6m from the back edge of the footway on Scrapsgate Road. It would have a 5.7m x 5.7m footprint and would be finished with a pitched roof with an eaves height of 2.7m and a ridge height of 4.4m.
- 2.06 The application currently under consideration is a revision to planning permission 16/500006/FULL, which granted consent for the erection of a two storey house and garage towards the front of the plot, roughly in-line with the existing building line. The applicant has indicated that a mains sewer runs across the site (as per Southern Water's comments, below) *'which was going to be rerouted to allow the building to be constructed as indicated on the original application. However, despite lengthy negotiation and dialogue an agreement cannot be reached with Southern Water regarding the house position. The building therefore needs to be repositioned further back on the site to give the necessary clearance from the sewer.'*
- 2.07 The salient differences between the current and previous approved scheme are as follows:
- The proposed dwelling has been set back from the public highway by 25m rather than 15m; and,
 - An attached garage at the front of the building has been replaced by a detached garage.

3.0 PLANNING CONSTRAINTS

- 3.01 Environment Agency Flood Zone 3.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF)
The NPPF and the National Planning Policy Guidance (NPPG) both advocate the provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.
- 4.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017
ST1 - Delivering sustainable development in Swale
ST2 - Development targets for jobs and homes 2011 – 2031
ST3 - The Swale settlement strategy

ST4 - Meeting the Local Plan development targets
 CP2 - Promoting sustainable transport
 CP3 - Delivering a wide choice of high quality homes
 CP4 - Requiring good design
 DM6 - Managing transport demand and impact
 DM7 - Vehicle parking
 DM14 - General development criteria
 DM19 - Sustainable design and construction
 DM21 - Water, flooding and drainage
 DM28 - Biodiversity and geological conservation

4.03 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is also relevant in as far as it advises that the maximum projection beyond the rear of existing houses should be 3m at ground floor and 1.8m at first floor.

5.0 LOCAL REPRESENTATIONS

5.01 No responses received.

6.0 CONSULTATIONS

6.01 Minster-on-Sea Parish Council supports the application, but does not provide any specific comments.

6.02 Natural England has no objection subject to securing a standard SAMMS contribution to mitigate against additional harm to the Swale SPA brought about by recreational disturbance from new residential development (new residents walking dogs in the SPA, for example).

6.03 KCC Highways and Transportation do not comment save to note that the scale of development falls below their protocol response threshold.

6.04 Environment Agency objects to proposed development "*due to inadequate assessment of flood risk.*" They comment that the site lies within Flood Zone 3 (the highest risk zone) and a full assessment of the implications of potential flooding and consequent finished floor levels within the dwelling must be assessed.

6.05 Southern Water- raise no objection subject to standard conditions and informatives. They have also provided a sewer plan showing the public sewer crossing the site at the point where the dwelling approved under 16/500006/FULL was going to be positioned (hence the reason for this alternative proposal).

7.0 BACKGROUND PAPERS AND PLANS

7.01 The submission documents include existing and proposed site plans, proposed elevations and floor plans, a Design and Access Statement and a Flood Risk Assessment.

8.0 APPRAISAL

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

- Principle of development
- Design and visual impact on the locality;

- The impact on the amenities of neighbouring occupiers;
- Standard of accommodation provided for the future occupiers;
- Highways and parking;
- Ecology; and,
- Flood risk.

Principle of Development

- 8.02 The application site lies within the built up area boundary of Minster-on-Sea where new residential development is acceptable as a matter of principle. Planning permission was granted in October 2016 for the erection of a two storey house and garage (Ref: 16/500006/FULL) on the site. Therefore, it is considered that there are no objections in principle to the proposed development.

Design and Visual Impact

- 8.03 Policy CP4 of the Local Plan seeks to ensure that all development will be of a high quality design that is appropriate to its surroundings and Policy DM14 states that all development proposals should be well sited and of a scale, design and appearance that is sympathetic and appropriate to its location.
- 8.04 In its assessment of the earlier scheme the Council considered that although the proposed two storey dwelling would be sited between two bungalows, the varied nature of the townscape was such that this relationship would not appear out of character or be detrimental to the visual amenities of the area. In the current submission the proposed house would be set back a further 10m from the public highway, well behind the front building line established by the neighbouring bungalows. Therefore, it is considered that the house would appear significantly less prominent in the street scene and the contrast in heights between the proposed building and the adjoining bungalows less pronounced.
- 8.05 In terms of its scale, design and external appearance the proposed house is similar to that previously approved. Notwithstanding this, it is recommended that in the event of planning permission being granted, a condition be imposed requiring the submission and approval of materials.
- 8.06 The garage previously approved aligned with the front building line of the bungalow to the south of the site (i.e. No.104). In this case, although the proposed detached garage would project forward by a further 2m, it is not considered that it would appear unduly prominent or out of character within the street scene.
- 8.07 In respect of its design and appearance it is considered that the proposal accords with the aims and objectives of Policies CP4 and DM14 of the Local Plan.

Impact on Residential Amenity

- 8.08 Policy DM14 of the Local Plan seeks to ensure that new development does not adversely affect the amenities of the occupiers of adjoining and nearby properties. It is considered that in its amended position within the site the proposed two storey house would result in harmful levels of overlooking and an overbearing impact upon the neighbouring properties.
- 8.09 In the approved scheme the two storey side elevation of the proposed house would project to the rear of the bungalow to the south of the site (No.104) by 3.8m whilst in

the current application it would project some 14m. It is noted that No.104 has a low single storey outbuilding running along part of the common party boundary with the application premises however, it is considered that with a rearward projection to this depth, and an expansive two storey gable end sited only 2m from the boundary, would create a significant and oppressive sense of enclosure and would lead to an unacceptable overbearing impact upon the occupiers of No.104.

- 8.10 The proposed single storey element to the rear of the dwelling would have a flat roof onto which access could be gained from a first floor bedroom via a set of glazed double doors. It is considered that in the absence of any screen balustrading, the potential use of the flat roof as a sitting out area would give rise to both actual and perceived overlooking to the rear garden of No.104 to the detriment of the privacy of the occupiers.
- 8.11 Although the flat roof of the single storey part of the proposed house would be set back 7m from the boundary with No.106, in the absence of satisfactory screening, it is considered that its potential use as a terrace would give rise to an unacceptable degree of both actual and perceived overlooking to the rear garden of the property, adversely affecting the privacy of the occupiers.
- 8.12 The proposed two storey house would project 5m beyond the rear elevation of No. 106 and would be sited 2m away from the common party boundary with a building to building separation of approximately 3.5m. Given that the proposed house would be located to the south of No.106, it is considered that this spatial relationship would result in an unacceptable level of overshadowing to the rear garden of the property and the nearest rear facing habitable room window.
- 8.13 In conclusion, it is considered that the proposed dwelling, by reason of its size, siting and design, would have a harmful impact on the outlook and privacy of the adjoining residential occupiers, contrary to the aims and objectives of Policy DM14 of the Local Plan.

Standard of Accommodation/ Residential Environment Provided for the Future Occupiers

- 8.14 The dwelling is of a satisfactory size and would provide a good standard of accommodation for the future occupiers. With a rear garden depth of 10m, the size and quality of the amenity space provision would be satisfactory.

Highways and Parking

- 8.15 The proposed access and parking arrangements are comparable to those previously approved and as such, there would be no detrimental impacts on the level of on-street parking or highway safety.

Landscaping

- 8.16 Only limited details of landscaping have been provided in the submitted Design and Access Statement. Therefore in the event of planning permission being granted it is recommended that landscaping and planting details should be secured by condition.

Flood Risk

- 8.17 The application site is located within Flood Zone 3 and is at risk of both tidal and fluvial flooding. The Environment Agency had no objections to the previously approved

scheme. However, in this case it has reviewed the submitted Flood Risk Assessment and has indicated that it provides an inadequate assessment of the potential flood risk and that the ground floor level may not be of sufficient height above the 1 in 200 year design flood level to ensure that ground floor level residential accommodation is both appropriate and safe. This amounts to a reason for refusal.

Impact upon SPA and Ramsar Sites

- 8.18 Since this application will result in a net increase in residential accommodation impacts to the SPA and Ramsar sites may result from increased recreational disturbance. An HRA/AA is set out below. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £245.56 per dwelling. Given that the application is fundamentally flawed, particularly in relation to its impact on the amenities of neighbouring residential occupiers, the case officer considered that it would serve no material planning purpose to request the applicant to agree to make this mitigation payment.

Other Matters

- 8.19 It is acknowledged that the applicant has been unable to implement the original planning permission due to constructional difficulties arising from the presence of a sewer that runs through the site. However, this is not a consideration of such significance as to outweigh the detrimental impact that the re-positioned dwelling would have on the amenities of the adjoining residential occupiers.

9.0 CONCLUSION

- 9.01 Although the principle of residential development at this site is acceptable, a dwelling of this scale in the proposed position to the rear of existing properties would have an unacceptably harmful impact on the amenities of the neighbouring residential occupiers. In the absence of a commitment by the applicant to provide an appropriate mitigation payment the proposed development would have a harmful impact on the SPA and Ramsar site. For these reasons it is recommended that the application is refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

- (1) The proposed dwelling would, by reason of its siting, size and design, have a detrimental impact on the residential amenity of the occupiers of Nos.104 and 106 Scrapsgate Road through loss of outlook, overlooking, overshadowing, overbearing sense of enclosure, and loss of privacy contrary to Policy DM 14 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) and the Council's adopted Supplementary Planning Guidance entitled 'Designing an Extension'.
- (2) The proposed development would result in harm to the integrity of the Medway Estuary and Marshes SPA, having an adverse effect on this European site without any mitigation, contrary to Policies CP7 and DM28 Bearing Fruits 2031: The Swale Borough Local Plan (2017) which seek to, amongst other things, protect natural assets and restrict development that has an adverse effect on the integrity of a European site.
- (3) The submitted Flood Risk Assessment provides insufficient information to satisfy the Local Planning Authority that suitable flood mitigation would be

provided to ensure safe residential occupancy at ground floor level contrary to Policy DM 21 of Bearing Fruits 2031: The Swale Borough Local Plan (2017).

The Council's approach to this application:

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

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

In this instance:

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

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

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

APPROPRIATE ASSESSMENT UNDER THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

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

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

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

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

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

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the

impacts of a development on protected area, *“it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required by way of a financial contribution towards strategic access, maintenance, and management (a SAMMs contribution) of the SPA. No mitigation has been provided in the case of this application, and the development therefore has the potential to harm the integrity and objectives of the SPA. This amounts to a reason for refusal, as set out within the report.



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PLANNING COMMITTEE – 18 July 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 – Land Rear of Lord Stanley Bungalow, Upchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision to refuse permission for this housing scheme in the countryside.

- **Item 5.2 – 32 The Broadway, Minster-on-sea**

APPEAL DISMISSED

COMMITTEE REFUSAL

Observations

The Council won the appeal, but only on the specific grounds that it had not been demonstrated that the SAMMS payment required would adequately mitigate against harm to the SSSI, despite numerous other Inspectors finding precisely the opposite.

- **Item 5.3 – 20 Hustlings Drive, Eastchurch**

APPEAL ALLOWED

COMMITTEE REFUSAL

Observations

Members may recall that I recommended this for approval.

- **Item 5.4 – 12 Laxton Way, Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.5 – 1 Boughton Field Cottages, Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision to refuse planning permission for new housing outside the Local Plan defined built-up area boundary of Faversham.

- **Item 5.6 – 240-248 High Street, Sheerness**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

This decision results in permission being granted for a poorly designed and visually harmful development.

- **Item 5.7 – 240-248 High Street, Sheerness (ADVERT CONSENT)**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision to refuse consent for these intrusive signs.

- **Item 5.8 – Lodge Farm, Old House Lane, Hartlip**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal related to an agricultural occupancy condition, which the appellants sought to have deleted.

The Inspector shared the Council's concerns regarding its removal, specifically that the dwelling had only been approved in the first instance due to an agricultural need, and that although ineffective at present, the condition would become effective when the property was sold to a new occupier. The Inspector agreed with the Council that there were no cogent grounds for its deletion.

- **Item 5.9 – Land Rear of Unit 5, Stickfast Farm, Bobbing**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector gave weight to the previous use of the site, which they considered likely to be lawful. This is despite the fact that the Council provided clear evidence to demonstrate that the site did not have a lawful use and that the threat of enforcement action in the past had caused the unlawful use of the site to cease.

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Appeal Decision

Site visit made on 7 May 2019

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 June 2019

Appeal Ref: APP/V2255/W/18/3218833

The Old Woodyard, Land rear of Lord Stanley Bungalow, Otterham Quay Lane, Upchurch ME8 7UX

- 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 & Mrs A Jarvis against the decision of Swale Borough Council.
 - The application Ref 18/502708/FULL, dated 11 May 2018, was refused by notice dated 3 August 2018.
 - The development proposed is the erection of two detached chalet bungalows with associated parking and extension of residential garden (serving Lord Stanley Bungalow) with revised access arrangements following demolition of existing building.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the site is a suitable location for the proposed development, having regard to the settlement strategy, its accessibility to local services and facilities, and ii) the effect of the proposed development on the character and appearance of the site and surrounding area, including the Important Local Countryside Gap (ILCG).

Reasons

Suitable location

3. The appeal site comprises an area of hardstanding and buildings to the rear of a detached bungalow, with access onto Otterham Quay Lane. There is scattered development in the area, including industrial uses on the opposite side of the lane, but the clusters of built form are interspersed with open fields and a golf course, so that the area has a rural character and appears as part of the open countryside. It lies outside the defined boundary of any settlement.
4. Policy ST1 of the Swale Borough Local Plan 2017 (the Local Plan) seeks to deliver sustainable development that accords with the settlement strategy for the Borough. Policy ST3 sets out the settlement strategy and directs development to existing defined settlements and allocated sites. It seeks to restrict development in the countryside unless it is supported by national planning policy and able to demonstrate that it would contribute to protecting the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. As the site is not within a defined settlement, the proposed development for two dwellings is

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

Appeal Decision APP/V2255/W/18/3218833

contrary to the settlement strategy for the area. I acknowledge that the site comprises previously developed land and due to the scatter of development around the appeal site it cannot be considered isolated. However, Policy ST3 does not make provision for an exception to the restrictive approach to development in the countryside for such sites.

5. In terms of its accessibility to local facilities and services, I saw on my site visit that there is a continuous footway along Otterham Quay Lane which leads to Otterham Quay and the edge of Rainham, where there are some services available, including a primary school. There is no continuous footway beyond the appeal site towards Upchurch, and in places the road is narrow with poor forward visibility, which would not encourage pedestrians to use it as a regular route. My attention has been drawn to a network of public rights of way, but I have seen no evidence that they would provide a realistic option to access local facilities and services on an everyday basis. I understand from the evidence that there are informal bus stops nearby, although I have seen no details of the frequency and destination of the services. This leads me to conclude that it is likely that future occupiers would be mostly reliant on the private motor car to access local facilities and services, either in Upchurch or in larger settlements such as Rainham and Sittingbourne. As a result, it would have relatively poor accessibility to local services and facilities.
6. For the reasons set out above, I therefore find that the site would not be a suitable location for the proposed development, having regard to the settlement strategy and accessibility to services and facilities. It would thus be in conflict with policies ST1 and ST3 of the Local Plan, which seek, amongst other matters, to deliver sustainable development that accords with the settlement strategy by restricting development in the open countryside. It would also be contrary to the guidance in the Framework.

Character and Appearance

7. The appeal site is within an area of scattered development, with industrial uses and mobile homes opposite the site, as well as ribbon development along Wallbridge Lane, and residential cul-de-sacs at Woodruff Close. However, the remaining areas of open land give the locality a rural character. The site contains a large outbuilding situated close to the rear of the existing bungalow, and some areas of storage, but at the time of my site visit it was otherwise open and cleared of most vegetation. As a result of the low profile of the existing buildings on the site, it appears relatively open and undeveloped in views from the rear and does not significantly impinge on the openness of the area. The site falls within an area between Upchurch and the administrative boundary with Medway Council, which is designated by Policy DM25 of the Local Plan as an ILCG. The area is designated in order to retain the individual character and setting of settlements, where development will not be permitted if it undermines one or more of the purposes of the gaps, which are set out in paragraph 7.7.35 of the supporting text.
8. The appeal proposal would result in an increase in built form on the site, and the formation of residential curtilages. The proposed dwellings would be noticeably taller and bulkier than the existing outbuilding and would spread development onto the open rear part of the site. As a result, the site would have a more developed and urbanised appearance, which would result in piecemeal erosion by built form of the countryside gap, and would fail to

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

2

Appeal Decision APP/V2255/W/18/3218833

safeguard the open character of the countryside. It would thereby contribute to the erosion of the separate identities and character of the settlements. While I accept that the site is clearly defined and contained and has been in use as a woodyard, the proposal would nonetheless result in a more intensively developed site with a greater quantum of built form. While the site benefits from some screening on the boundaries, the proposed development would be apparent in glimpsed views from the surrounding area and Utterham Quay Lane. I therefore find that it would be harmful to the character and appearance of the area, including the ILCG.

9. As a result, I find that the proposed development would be in conflict with policies DM14, DM25 and ST5 of the Local Plan, insofar as they seek to retain the individual character and setting of settlements and conserve and enhance the natural environment. It would also be contrary to the guidance in the Framework.

Other Matters

10. I have had regard to the site's location in relation to a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. Although not identified as a formal reason for refusal, the Council has stated that mitigation is required and I note that the appellant has provided a Unilateral Undertaking. However, as any consideration of that matter would not affect my findings on the main issues, and the appeal would in any case be dismissed, it is not necessary for me to address that matter any further as part of this decision.
11. I note that the Parish Council has expressed concern about the exit onto the highway, due to its location close to a bend. This is reflected in the comments from the Highway Authority, who considered that a relocation of the access further away from the bend, as suggested by the appellant, would be preferable. However, as I am dismissing the appeal, I have not pursued this matter further.

Planning Balance and Conclusion

12. The appellant has stated that the presumption in favour of sustainable development applies due to an ongoing shortfall in housing supply, and the Council has not provided any evidence to dispute this. As a result, in accordance with paragraph 11 of the Framework, the most relevant policies for determining the application should not be considered up to date. Paragraph 11 states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, from the evidence before me, there are no specific policies in the Framework that indicate that development should be restricted.
13. In the context of the development plan, I have found that the proposal would be contrary to policies ST1, ST3, ST5, DM14 and DM25 of the Local Plan. For this appeal, I have found the policies to be generally consistent with the relevant aims of the Framework which recognises in paragraph 170 the intrinsic character and beauty of the countryside and the need to contribute to and enhance the local environment. While the site is not isolated, and the existing settlement boundaries carry much reduced weight due to the housing shortfall, I have found significant harm to arise in the context of the policies stated

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

3

Appeal Decision APP/V2255/W/18/3218833

above. The proposal would result in significant harm to the rural character and appearance of the area, including the ILCG, and would result in the likelihood of a dependency on the use of the private car for access to services. As such it would be contrary to the aims of the Framework to recognise the intrinsic character and beauty of the countryside, to minimise the need to travel and to support the transition to a low carbon future.

14. In terms of benefits, the proposal would make use of previously developed land to make a modest contribution to the supply of housing and towards helping to address the Council's shortfall, and occupiers would provide additional support to the vitality of the local community. The proposal refers to measures to enhance the appearance and biodiversity value of the site, although limited details are provided, and improve drainage by reducing hard surfacing. These are benefits to which I attach limited to moderate weight. While it would provide a limited amount of short term employment through the construction of the development, it would also result in the loss of the existing employment use, which is therefore a neutral consideration. I have seen no firm evidence that the use of the site as a woodyard generated significant levels of traffic, but it is unlikely that the proposed development would attract heavy goods vehicles, which is a limited benefit. The lack of harm to the residential amenity of neighbours is also a neutral consideration, as I have seen no evidence that the use of the site as a woodyard was harmful to their living conditions.
15. Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development, to which I afford substantial weight, significantly and demonstrably outweigh the benefits of the proposal, to which I have afforded limited to moderate weight. This material consideration indicates that the appeal should be dismissed.
16. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 26 March 2019

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 June 2019

Appeal Ref: APP/V2255/18/3215555

32 The Broadway, Minster-On-Sea ME12 2RR

- 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 & Mrs Raggett against the decision of Swale Borough Council.
 - The application Ref 18/502184/FULL, dated 24 April 2018, was refused by notice dated 17 August 2018.
 - The development proposed is 1 no. new dwelling within sub divided plot(s).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council determined the application, the Government has published the results of the 2018 Housing Delivery Test (HDT) measurement and the main parties have been given the opportunity to comment on the implications for this case.
3. The site is located approximately 1.4km from The Medway Estuary and Marshes Special Protection Area (SPA) which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Although not forming part of the Council's reason for refusal, it is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA. It is necessary to consider this matter as a main issue.

Main Issues

4. The main issues are therefore:
 - the effect of the development on the integrity of the SPA;
 - the effect of the proposed development on the occupiers of 28 and 32 The Broadway with regard to outlook, daylight and sunlight, and;
 - whether the proposed development would provide adequate living conditions for future occupiers in terms of privacy.

Reasons

Effect on the SPA

5. The main parties and Natural England are in agreement that the proposed development is likely to have significant effects on the features of interest of

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

Appeal Decision APP/V2255/18/3215555

- the SPA, due to the increased recreational use generated by the proposed development, in combination with other development. I have no reason to disagree with this conclusion. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out. I have sought further evidence on this matter, and Natural England was consulted in the course of the application.
6. I am aware of a recently dismissed appeal¹ for one dwelling, where the Inspector noted that this SPA was designated due to the international significance of the area for wintering birds, in particular waders and waterfowl, whose numbers were in marked decline, in locations with high levels of public access. I understand from the evidence that the primary causes of bird disturbance include walking, dog walking and predation of birds by cats. In this case, the proposal comprises an additional dwelling with two bedrooms, and due to its proximity to the SPA there is a reasonable likelihood that it would be accessed for recreational purposes by future occupiers of the development. Although this may be minimal by itself, a significant effect on the integrity of the SPA would occur, when considered in combination with other residential development in the surrounding area.
 7. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site. Due to the small scale of the proposed development there is no scope to provide on-site mitigation. However, Natural England and the Council have indicated that there is an agreed strategic solution to mitigate the effects, in the form of the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Scheme, (SAMMS) which requires financial contributions from developments.
 8. The appellant has submitted an agreement pursuant to Section 111 of the Local Government Act 1972, Section 12 and Section 93 of the Local Government Act 2003 and Section 1 of the Localism Act 2011 (the Section 111 Agreement), to deliver a payment towards the cost of measures identified in the SAMMS to mitigate the effects of the development on the SPA. However, that is not the end of the matter as I need to be certain that the payment now paid would be justified and used for its intended purpose as mitigation.
 9. The mitigation works would be carried out by Bird Wise, the brand name of the North Kent SAMMS Board, which is a partnership of local authorities, developers and environmental organisations. However, there are no details before me of a mitigation strategy, the justification for the mitigation tariff payment levels, the arrangements for administering the payments for their intended purpose and the nature of the mitigation measures, including effectiveness. Accordingly, I am not satisfied that an appropriate means of securing mitigation has been provided and I cannot therefore be certain that the proposal would not adversely affect the integrity of the site.
 10. The evidence before me indicates that there is potential for recreational disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SPA. The Habitats Regulations require me to consider whether there are any alternative

¹ APP/V2255/W/17/3188809

Appeal Decision APP/V2255/18/3215555

solutions. However, no such solutions have been put forward for my consideration. I must also consider whether there are any imperative reasons of overriding public interest. The provision of a single dwelling, taking into account the merits of the case, is not sufficient to amount to such overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted. I therefore conclude that the proposed development would result in harm to the integrity of the SPA.

Living conditions of the occupiers of 28 and 32 The Broadway

11. The appeal site is formed of the rear section of the gardens of a pair of semi-detached dwellings on a corner plot. The existing dwellings front onto The Broadway, and the appeal site has a frontage to Abbeyview Drive. The local topography is such that Abbeyview Drive slopes down towards The Broadway, so that the appeal site is set lower than the neighbouring dwellings at 1 Abbeyview Drive, and higher than the existing dwellings on The Broadway.
12. The appeal site contains a double garage with access from Abbeyview Drive. The proposal would replace the garage with a single storey bungalow with a low pitched roof. The resulting rear gardens for Nos 28 and 32 would be significantly shortened and as a result the outlook from the gardens and rear windows of Nos 28 and 32 would be restricted by the new boundary fence with the single storey bungalow behind, which would be set higher than the ground level of Nos 28 and 32. However, due to the single storey nature of the proposed dwelling, with a shallow pitched roof, it would not appear imposing, prominent or overbearing in the outlook from the garden or the rear ground floor windows.
13. The existing rear gardens and rear ground floor windows of Nos 28 and 32 currently benefit from morning sunlight, with some overshadowing being caused by the dwelling at 1 Abbeyview Drive, due to its elevated position and high roof ridge. As a result of the development, some limited loss of morning sunlight would occur to the garden and rear windows of No 32, and to a lesser extent No 28. However, this would be very limited, due to the low height of proposed bungalow and the existing level of overshadowing caused by No 1. The occupiers of Nos 28 and 32 currently benefit from rear gardens that receive sunlight until early to mid-afternoon, depending on the time of year. As a result of the proposal the occupiers would have shorter rear gardens which would therefore lose sunlight earlier in the afternoon. However, I do not find that this would be significantly harmful to the living conditions of occupiers as they would still benefit from sunlight for a large part of the day. Moreover, I note that No 32 has a small area of side garden and both dwellings benefit from front gardens that receive sunlight later in the day. I therefore do not find that the proposed development would cause an unacceptable loss of sunlight to Nos 28 and 32.
14. Some loss of daylight would occur to the rear habitable rooms of Nos 28 and 32, but this would be very limited due to the low height of the proposed dwelling. I have seen no detailed evidence to persuade me that this minimal loss of daylight would result in gloomy living conditions for the occupiers of Nos 28 and 32. Likewise the effect on daylight to the gardens would be limited due to the orientation and low height of the proposed dwelling.
15. For the reasons set out above, I find that the proposed development would not be harmful to the living conditions of the occupiers of 28 and 32 The Broadway

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

3

Appeal Decision APP/V2255/18/3215555

with regard to outlook, daylight and sunlight. I therefore do not find any conflict with policies CP4 and DM14 of the Swale Borough Local Plan 2017 (the Local Plan), which seek, amongst other matters, to ensure that development causes no significant harm to amenity.

Living conditions of future occupiers

16. The garden of the proposed dwelling would benefit from a degree of privacy due to its elevated position in relation to No 28, and the proposed boundary fence and hedge. In addition, I note that the kitchen would project beyond the main rear elevation of the proposed dwelling, creating a private outdoor amenity space with direct access from the main habitable rooms. I acknowledge that there would be a degree of overlooking from No 28, as well as from 1 Abbeyview Drive, which is not unusual in a built up area such as this, and I am satisfied that this would not be significant due to the separation distances involved.
17. I therefore find that the proposed development would not result in significant overlooking in terms of the new dwelling's private outdoor amenity space. As a result, the proposed development would not conflict with policies CP4 and DM14 of the Local Plan, insofar as they seek to ensure that development is of a high quality design that is appropriate to its surroundings and is not harmful to amenity.

Other Matters

18. I recognise that the dwelling has been proposed and specially designed in order to meet the medical needs of the appellant's family member, and would not be intended to be sold on the open market. While I have sympathy with their circumstances, the dwelling would be self-contained and permanent, and I am not persuaded that they override the harm I have identified, which would be long term. Furthermore, its future occupation would not be restricted following its initial occupation by the family member. It would not be appropriate to grant a personal or temporary permission, given the permanence of the building.

Planning Balance and Conclusion

19. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions. Paragraph 11 states that where policies which are most important for determining the application are out of date, permission should be granted unless specific policies within the Framework provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. The appellant argues that paragraph 11d of the Framework is engaged as the Council cannot demonstrate a five year supply of land for housing.
20. However, the first step is to consider whether there are specific policies in the Framework that indicate that development should be restricted. Paragraph 177 of the Framework makes it clear that the presumption in favour of development does not apply where a proposal is likely to have a significant effect on a SPA, either alone or combination with other projects, unless an appropriate assessment has concluded that it will not adversely affect the integrity of the site. For the reasons already set out, the proposal would be harmful to the

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

4

Appeal Decision APP/V2255/18/3215555

- integrity of the site. This provides a clear reason for refusing the appeal proposal. As such, the 'tilted balance' in paragraph 11d)ii would not apply.
21. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. I have also had regard to the rights conveyed within the Human Rights Act, in particular Article 8 of the European Convention on Human Rights which concern a right to respect for private and family life. There would be a serious interference with respect to this right and there would be an adverse impact on an individual with a protected characteristic. The negative impacts of dismissing the appeal will arise from the continuation of current living arrangements which are not ideal for the family member, or the investigation of alternative means of providing appropriate accommodation. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be justified and the decision would be necessary and appropriate, having regard to the harmful effect of the proposed development on the SPA.
22. Although I have found in favour of the appellant in relation to the second and third main issues, this does not outweigh the harm in relation to the SPA. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR

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Appeal Decision

Site visit made on 4 June 2019

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2019

Appeal Ref: APP/V2255/D/19/3226918

20 Hustlings Drive, Eastchurch, Sheerness, Kent ME12 4JX

- 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 Dennis Kavanagh against the decision of Swale Borough Council.
 - The application Ref 19/500219/FULL was refused by notice dated 11 April 2019.
 - The development proposed is the erection of a workshop garage with self-contained annexe above to facilitate the care of an elderly parent.
-

Decision

1. The appeal is allowed and planning permission granted for the erection of a workshop garage with self-contained annexe above to facilitate the care of an elderly parent at 20 Hustlings Drive, Eastchurch, Sheerness, Kent ME12 4JX in accordance with the terms of the application Ref 19/500219/FULL dated 15 January 2019 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan, CB-001, CB-002 Revision 01, CB-003, CB-004, CB-005 and CB-006.
 - 4) Before the building hereby permitted is first occupied, the window in the first floor rear elevation shall be obscure glazed, and it shall subsequently be maintained as such at all times.
 - 5) The building hereby permitted shall not be used or occupied at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as 20 Hustlings Drive.
 - 6) The relocated/replacement tree shall be planted within 12 months of the completion of the development in the position shown on Drawing No. CB-002 Revision 01. If the tree is removed, dying, being severely damaged or

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Appeal Decision APP/V2255/D/19/3226918

becoming seriously diseased within five years of planting, it shall be replaced with a tree of such size and species as may be agreed in writing with the Local Planning Authority and within whatever planting season is agreed.

Main Issues

2. I consider the main issues to be:

the effect of the proposal on the character of the existing dwelling and the appearance of the surrounding streetscene; and

whether the proposal would constitute the creation of an independent dwelling.

Reasons

3. The appeal dwelling is situated within a primarily residential area of dwellings of similar form, with notably large plots on prominent corner locations. The appeal dwelling is a large detached modern dwelling on a corner location. It is situated in a large garden and the space between the dwelling and the neighbouring dwelling at No. 22 Hustlings Drive is larger than the predominately smaller gaps between dwellings in the surrounding area.
4. The proposal includes a detached garage with a self-contained annexe above, to be situated to the side of the existing dwelling adjacent to the property at No. 22 Hustlings Drive. There would be a new driveway to the garage. The proposed building would be similar in design to a building situated within the curtilage of No.18 Hustlings Drive, which is another large corner plot.
5. The materials would match those on the dwelling and the building would follow the same orientation as the dwelling. From my observations, due to the scale and design of the proposed building, I consider that it would appear subservient to the existing dwelling and would be in keeping with the character of the dwelling. In addition, the proposed new driveway would not appear as an incongruous addition. Whilst the proposal would reduce the gap between dwellings, this gap is significantly larger than many in the immediate area. As such, I do not consider that the proposal would create a cramped appearance and it would not have an adverse effect on the appearance of the surrounding streetscene.
6. The proposal includes the provision of a self-contained annexe above the garage. Whether this would be an annexe or an independent dwelling is a matter of fact and degree. The distinctive characteristic of a dwelling house is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.
7. The provision of a kitchenette and shower room would indicate that the building would be capable of being used independently with no functional or practical linkage to the main dwelling. However, the habitable floor space of the annexe would be a limited area of only some 23.9m² useable space, as it would be situated in the pitched roof of the garage. Therefore, due to the scale of the annexe, I consider the proposed development would constitute an annexe dependant or ancillary to the main house, rather than being capable of being used independently as a separate dwelling.

Appeal Decision APP/V2255/D/19/3226918

8. In reaching my conclusion, I have had regard to all matters raised. Concern has been raised regarding precedent. I have determined the proposal on its individual merits, particularly the location of the proposed building.
9. Concern has been raised regarding loss of sunlight to the rear garden of No. 22 Hustlings Drive and loss of privacy. Due to the scale and position of the proposed building, I do not consider that it would cause unacceptable overshadowing of the adjacent rear garden. However, I do consider that the proposed position of the first floor rear window would cause an unacceptable loss of privacy for neighbours when in their rear garden. Therefore, I intend to impose a condition requiring this window to be obscure glazed to prevent such a loss of privacy to neighbours.
10. For the reasons stated above, I conclude that the proposal would not have an adverse effect on the character of the existing dwelling or on the appearance of the surrounding streetscene and would not constitute the creation of an independent dwelling. Thus, the proposal would be in accordance with guidance in the Council's Supplementary Planning Guidance: Designing an Extension - A Guide for Householders and in accordance with Policies DM14 and DM16 in Bearing Fruits 2031: The Swale Borough Local Plan (2017), where they seek to ensure high quality design. I consider these Policies are broadly consistent with the National Planning Policy Framework where the Framework seeks to ensure good design.
11. Apart from standard time, materials and plans conditions, the Council has suggested conditions regarding obscure glazing, ancillary use and replacement of the Silver Birch tree. The Silver Birch tree makes a positive contribution to the appearance of the streetscene and would need to be relocated to construct the proposed driveway.
12. As mentioned above, in the interest of residential amenity, I consider it reasonable and necessary to impose a condition regarding obscure glazing to the rear window. In the interest of the amenities of the area, I consider it reasonable and necessary to impose conditions regarding ancillary use and replacement of the Silver Birch tree.
13. I have amended the suggested conditions, where appropriate, in the interest of precision and enforceability.

J L Cheesley

INSPECTOR

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Appeal Decision

Site visit made on 4 June 2019

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2019

Appeal Ref: APP/V2255/D/19/3224992
12 Laxton Way, Faversham, Kent ME13 8LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Amy Klosek against the decision of Swale Borough Council.
 - The application Ref 18/506632/FULL was refused by notice dated 21 February 2019.
 - The development proposed is a first floor side extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the proposal on the living conditions of occupiers of No. 14 Laxton Way, with particular reference to visual impact.

Reasons

3. The proposed side extension would be situated above an existing side projection. The side elevation would comprise a solid brick wall with no openings and two pitched roofs at a lower level than the existing main ridge. It would provide two additional bedrooms at first floor level.
4. The front of the adjacent dwelling at No. 14 Laxton Way faces towards the side of the appeal property. These properties are separated by a footpath. Due to the close proximity, height and design of the proposal, I consider that it would have an overbearing visual impact on occupiers of No. 14 Laxton Way. In particular, as the front of that neighbouring property would be facing a tall blank elevation wall, I consider this would be an extremely dominant overbearing extension.
5. In reaching my conclusion, I have had regard to all matters raised. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I note the family circumstances,

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

Appeal Decision APP/V2255/D/19/3224992

including the restrictions of the existing staircase and the intention to convert one of the bedrooms into a large bathroom for necessary space required. However, the proposal before me is for two additional bedrooms and not for a larger bathroom or altered staircase. I do not consider the proposed two bedrooms to be essential accommodation and it does not follow from the PSED that the appeal should succeed.

6. The appellant has stated that the current owners and prospective buyers of No. 14 Laxton Way support the proposal. Nevertheless, it is necessary to consider the effect of the proposal on the living conditions of any future occupiers, in the interest of good planning.
7. I conclude that the proposal would have an adverse effect on the living conditions of occupiers of No. 14 Laxton Way. Thus, the proposal would be contrary to Policies CP4, DM14 and DM16 in Bearing Fruits 2031: The Swale Borough Local Plan (2017), where they seek to protect residential amenity and ensure high quality design appropriate to the context. I consider these Policies are broadly consistent with the National Planning Policy Framework, particularly where the Framework seeks to protect residential amenity.

J L Cheesley

INSPECTOR



Appeal Decision

Site visit made on 8 May 2019

by A Thompson BSc BTP MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 19th June 2019

Appeal Ref: APP/V2255/W/18/3210087

1 Boughton Field Cottages, Canterbury Road, Faversham, ME13 8YW

- 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 Paul Messenger against the decision of Swale Borough Council.
 - The application Ref 18/502770/FULL, dated 22 May 2018, was refused by notice dated 8 August 2018.
 - The development proposed is demolition of existing outbuilding and erection of 2no. new semi-detached 3 bedroom dwellings and 1no. detached 3 bedroom dwellings on land adjacent to Boughton Field Cottages.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that when the application was first submitted, the Council requested the description of development be amended to include reference to the demolition of an existing outbuilding. As the Council's description is more accurate and has been adopted by the applicant when making the appeal, I have amended the banner heading above to follow the Council's wording and determined the appeal on that basis.

Main Issue

3. The main issue is whether the site would provide a suitable location for housing, having regard to the development plan and the scheme's implications for the countryside and accessibility to services and facilities.

Reasons

4. The site is located outside the built-up area of Faversham defined in Bearing Fruits 2031: The Swale Borough Local Plan, adopted in 2017 (the local plan). The land and buildings outside the identified settlement boundary areas are defined as areas of open countryside in the local plan. The settlement strategy for Swale set out in Policy ST 3 of the Local Plan seeks to prevent development in the open countryside, other than when it is supported by national policy and achieves other policy objectives designed to protect and enhance the countryside.

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

Appeal Decision APP/V2255/W/18/3210087

5. The Council has an up to date local plan and considers it can demonstrate an adequate supply of housing land. Thus, I have determined the appeal on basis of the current development plan and the specific planning evidence before me.
6. The appeal site is not an allocated development site in the local plan and the thrust of Policies ST3 and CP3 of the local plan, in line with paragraphs 68 and 118 of the National Planning Policy Framework (the Framework), is to encourage the redevelopment of suitable windfall sites, such as previously land, within existing settlements.
7. Although most of the appeal site comprises previously developed land, the site is some distance, and separated by open fields, from the edge of Faversham. There are no local services or facilities nearby, apart from two bus stops, one on each side of the A2 Trunk Road.
8. Notwithstanding the proximity of the bus stops and the provision of a footpath alongside the A2 towards Faversham, it is likely that future occupiers of the development would be largely reliant on the car trips to meet their day to day needs.
9. Furthermore, aside from the outbuilding and some limited storage, the site is largely open and, when viewed from the A2, is set against a backdrop of mature trees that line the railway cutting behind the site. Redevelopment of the site to provide three new dwellings, with associated parking, hardstanding and other features would substantially reduce the openness of this land and introduce a significant element of urbanisation that would materially harm the character and appearance of the open countryside in this location.
10. There is no substantive evidence to suggest that the development might be justified on the basis of maintaining or enhancing the vitality of existing rural communities, nor is it proposed that the dwellings would provide affordable housing which meets identified local needs.
11. In the light of these findings, I find no basis for concluding that development of the site might meet the requirements of Policy ST3 for allowing development exceptionally within the open countryside. Nor do I consider that the proposal would accord with objectives for achieving sustainable development set out in the Framework.
12. To conclude on this issue. Development of the site would be contrary to the settlement strategy of the local plan. Occupiers of the development would have poor access to services and facilities. Redevelopment of the site would materially harm the character and appearance of the open countryside. Accordingly, the proposal would conflict with Policies ST3 and CP3 of the local plan, which amongst other things, seek to steer new development to within settlements of appropriate scale and restrict development in the open countryside.

Other Matters

13. I accept that there is a strong need to boost housing supply in England and, although modest in number, I give weight to the benefit the development would offer in terms of providing additional housing, however this does not outweigh the harm I have identified above.

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

2

Appeal Decision APP/V2255/W/18/3210087

14. I note that there were no objections from some consultees, including Faversham Town Council or Kent County Council, but that does not alter my conclusion in this case. I also note that the applicant was aggrieved at the Council's handling of the application. This is not a matter that can be resolved through the S78 appeal process. It is open for the appellant to take up his concerns with the Council. My assessment has been made on an impartial assessment of the planning merits of the case and the evidence before me.
15. I have had regard to site's location in relation to European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017. Although not identified as a formal reason for refusal, the Council have stated that application should not be approved, unless a financial contribution is secured to mitigate the effect on the designated sites. As any consideration of this matter would not affect my finding on the main issue and as the appeal would, in any case, be dismissed, it is not necessary for me to give any further consideration to this matter.

Conclusion

16. For the reasons set out above, and having regard to all other matters that have been raised, I conclude that the appeal should be dismissed.

Anthony Thompson

INSPECTOR

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Appeal Decision

Site visit made on 6 June 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 20th June 2019

Appeal Ref: APP/V2255/W/19/3224525
240-248 High Street, Sheerness ME12 1UP

- 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 B Dedushi against the decision of Swale Borough Council.
 - The application Ref 19/500059/FULL, dated 5 January 2019, was refused by notice dated 5 March 2019.
 - The development proposed is front extension to increase dining area and create a store room.
-

Decision

1. The appeal is allowed and planning permission is granted for front extension to increase dining area and create a store room at 240-248 High Street, Sheerness ME12 1UP in accordance with the terms of the application, Ref 19/500059/FULL, dated 5 January 2019, and the plans submitted with it.

Procedural Matters

2. The application is retrospective, with the extension having been built.
3. I have also dealt with another appeal (Ref: APP/V2255/Z/19/3224020) on this site. That appeal is the subject of a separate decision.

Main Issue

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

Reasons

5. The appeal site is a former petrol station occupying the corner of a street junction on the approach to Sheerness Town Centre. On the site currently is a hand car wash operation and café situated within a building which had been in use as the petrol station shop. The canopy, set on two columns, which had stood over the petrol pumps in front of the shop has been removed and a front single-storey pitched-roof extension built broadly in the same location. Also part of the appeal scheme is a smaller single storey element of the extension forming a store, to one side of the main forward projection of the development.
6. While the extension is a more enclosed form of development than the canopy it replaces, it occupies a smaller footprint and sits within a large and mostly open forecourt some 10 metres from the highway. Therefore, it does not unacceptably harm the feeling of spaciousness and openness of the junction setting.

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Appeal Decision APP/V2255/W/19/3224525

7. I accept that the existing shop building was of a simple design. However, the added extension is not particularly complicated in its features or jarring in its appearance. While the main extended element possesses a pitched-roof, it is modest and rises only slightly above the flat roof of the original structure. It is smaller in footprint than the original building and appears sub-ordinate to it. The element of the extension serving as a store is low-key and assimilates well into the overall development through the use of common materials.
8. Consequently, I do not share the Council's view that the development results in a cluttered appearance. Further, the appearance of the development benefits from the removal of the canopy, which in the absence of other petrol station paraphernalia, would have produced a confusing and incongruous collection of structures on the site given its current use.
9. The development is prominent given its visibility near the junction location. However, for the reasons above, its appearance is satisfactory and is not out-of-keeping with the mixed commercial and residential setting, which has a variety of building forms contributing to its character.
10. Therefore, I do not find that the appeal development causes harm to the character and appearance of the area. As such it is not in conflict with Policies CP4, DM14 and DM16 of the Swale Borough Local Plan (2017) which together seek to ensure that proposals, including extensions, are of good design and protect character and appearance. The development is also in accordance with paragraph 130 of the National Planning Policy Framework, which has the same objectives.

Conclusion

11. The appeal development accords with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal is allowed.

Andrew Walker

INSPECTOR



Appeal Decision

Site visit made on 6 June 2019

by **Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH**

an Inspector appointed by the Secretary of State

Decision date: 18th June 2019

Appeal Ref: APP/V2255/Z/19/3224020
240-248 High Street, Sheerness ME12 1UP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Bedri Dedushi against the decision of Swale Borough Council.
 - The application Ref 19/500296/ADV, dated 21 January 2019, was refused by notice dated 21 February 2019.
 - The advertisement proposed is advertisement board to proposed cafe.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of the advertisement set out above, which is taken from the application form, it is clear from the plans and accompanying details that the advertisement comprises 2 fascia boards. The Council dealt with the proposal on this basis and so shall I.
3. The application is retrospective, with both fascia boards having been erected.
4. I have also dealt with another appeal (Ref: APP/V2255/W/19/3224525) on this site. That appeal is the subject of a separate decision.

Main Issue

5. The main issue is the effect of the appeal proposal on the visual amenity of the area.

Reasons

6. The appeal site is a former petrol station occupying the corner of a street junction on the approach to Sheerness Town Centre. There is a hand car wash operation and café situated within a single-storey flat-roofed building which had been in use as the petrol station shop. A large fascia board advertising the café is present to the top of this building, on the left-hand side of its frontage. The board extends above the level of the flat roof.
7. A single-storey pitched-roof extension has been added to the front of the building, running perpendicular to it. A large fascia board has been added to the ridge line of this extension, running its entire length and with the board rising around 1.2 metres above the ridge height. It has signage on both sides advertising the café, with the same wording and design as the fascia board on the main building. It appears particularly large when compared to the scale of the single-storey extension on which it sits.

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Appeal Decision APP/V2255/Z/19/3224020

8. Due to their size, scale and positioning the fascia boards would be unacceptably prominent within the streetscene. This would be aggravated by the positioning of the boards above roof level, where they would not appear sub-ordinate to the building and would harm its appearance. Further, the appeal site at the corner junction is a highly visible location, which although mixed has a largely residential character which would be significantly harmed by the over-dominant commercial signage.
9. I acknowledge the presence of other advertisements locally, including those highlighted by the appellant. Although some are indeed large, the local examples provided are located within the context of their associated buildings and therefore are materially different to the appeal signs which rise above their roofs. In any respect, other signs in the locality do not set precedence and I have considered the appeal proposal on its merits.
10. I have also taken into account the fact that the former petrol station canopy, according to the submitted plans, had advertisement signage upon it (the word "Gulf" in two locations). However, unlike the appeal proposal, the canopy advertisement would not have been out of scale relative to the structure on which it was located nor rising above it.
11. In accordance with the Regulations¹, I have taken into account the provisions of the development plan so far as they are material. Policies CP4, DM14 and DM15 of the Swale Borough Local Plan (2017), supported by the Council's adopted Supplementary Planning Guidance "The Design of Shopfronts, Signs & Advertisements", seek to protect amenity and so are material in this case. As I have concluded that the advertisements would harm amenity, the appeal proposal conflicts with these policies. The proposal also conflicts with paragraph 132 of the National Planning Policy Framework, which seeks to protect amenity from poorly-sited and poorly-designed advertisements.

Conclusion

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

Andrew Walker

INSPECTOR

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007



The Planning Inspectorate

Appeal Decision

Site visit made on 7 May 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2019

Appeal Ref: APP/V2255/W/19/3221958

Lodge Farm, Old House Lane, Hartlip ME9 7SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs H Love against the decision of Swale Borough Council.
 - The application Ref 18/502834/FULL, dated 24 May 2018, was refused by notice dated 13 August 2018.
 - The application sought planning permission for an agricultural dwelling without complying with a condition attached to planning permission Ref SW/98/796, dated 8 February 2001.
 - The condition in dispute is No 2 which states that: *The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed locally in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990 or in forestry and any dependent of such person residing with him (but including a widow or widower of such a person).*
 - The reason given for the condition is: *As the site lies outside any area in which planning permission would normally be granted for a new dwelling and this permission is only granted because the dwelling is considered essential in the interests of forestry or agriculture.*
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not it is appropriate to remove the condition restricting occupancy of the dwelling to an agricultural worker.

Reasons

3. Lodge Farm is a detached bungalow located in the open countryside between Gillingham and Sittingbourne. It is obscured from view by mature conifer trees along its boundary with the main road. It sits within a site of approximately 3.77 hectares of agricultural land used for fruit growing.
 4. The appellants state that the dwelling has been occupied by them since 1988 and that consent was granted in 2001, subject to the agricultural occupancy condition (AOC) and an associated Section 106 Agreement, which also restricted its use as an agricultural dwelling. In 2018 a Lawful Development Certificate (LDC) was granted as it was accepted by the Council that the appellants had occupied the dwelling in breach of the AOC for a period of 10 years.
-

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

Appeal Decision APP/V2255/W/19/3221958

5. The appellants are now seeking the removal of the AOC on the basis that the LDC has established that it is no longer reasonable, necessary or enforceable. This is disputed by the council which states that whilst the appellants are currently immune from enforcement action due to the LDC, if they were to cease being in breach of the AOC, then it would once again be enforceable. Either way, I conclude that should the appellants no longer occupy the dwelling, its original use which was the subject of a planning condition and a Section 106 Agreement would still apply and any breach of the occupancy condition would be enforceable.
6. The appellant has submitted a valuation of the appeal site, which includes the associated agricultural land, and asserts that the effect of the AOC is to significantly reduce the appeal site's value. Further, even at its reduced value it would be beyond the means of an agricultural worker and with the AOC it's full market value could not be achieved.
7. Based on the evidence submitted, it is not certain whether the dwelling could be afforded by those on an agricultural income. Beyond the appellants valuation report, there is no substantive evidence to support any results of a prior marketing exercise to indicate the level of demand for this type of property with an AOC. In the absence of this, I am not persuaded there is sufficient justification to support the removal of the AOC.
8. Moreover, given that the dwelling was approved only on the basis of agricultural need, the removal of a dwelling with an AOC could leave the Council in the position of having to approve further dwellings in the countryside, rather than make use of the existing stock. The Council's rural restraint policies at that time which are still relevant now, would result in the principle of a dwelling with unrestricted occupancy being unacceptable.
9. I conclude that in the absence of any evidence to demonstrate the level of local demand for an agricultural worker's dwelling, it would not be appropriate to remove Condition 2 which places a restriction on the occupancy. This would support a supply of agricultural worker's dwellings and avoid the piecemeal erosion of the countryside. Therefore, its removal would be contrary to Policies DM12 and DM14 of the Swale Borough Local Plan Bearing Fruits (2017) and paragraph 79 of the National Planning Policy Framework (2019), which when read together seek to avoid the development of isolated homes in the countryside.

Other Matters

10. Whilst I have had regard to the evidence submitted by the appellant regards case law; to other applications where an AOC condition has been removed; these do not alter my decision and in any case each case must be judged on its own merits.
11. I note reference is made by the appellant to a Prior Notification Consent for the development of a barn, but as very limited information has been submitted, it does not alter my decision and I have not pursued the matter further.

Conclusions

12. For the reasons set out above the appeal is dismissed.

Paul Wookey

INSPECTOR

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

2



The Planning Inspectorate

Appeal Decision

Site visit made on 7 May 2019

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th June 2019

Appeal Ref: APP/V2255/W/19/3221646

Land rear of Unit 5, Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP

- 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 Harry Stockwell, Grovehurst Cars Ltd against the decision of Swale Borough Council.
 - The application Ref 18/502358/FULL, dated 1 May 2018, was refused by notice dated 8 August 2018.
 - The development proposed is described as to park and store and sell used cars and light commercial vehicles in connection with MOT service facility.
-

Decision

1. The appeal is allowed and planning permission is granted to park and store and sell used cars and light commercial vehicles in connection with MOT service facility at Land Rear of Unit 5 Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent, in accordance with the terms of the application reference 18/502358/FULL, dated 1 May 2018, subject to the schedule of conditions attached.

Procedural Matters

2. The address shown in the banner above is taken from the Council's Decision Notice. This is incorrect and should read as per the appeal form, Land Rear of Unit 5 Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP. The appellants has indicated that the site boundaries edged red shown in the plan submitted alongside the application is incorrect and the correct site boundary is shown in drawing reference 1477/1, submitted as part of the the appeal. The Council's officer report considers the site to be the area enclosed within the existing palisade fence line which is the same as the red line shown on drawing 1477/1. On the basis that accepting the amended plan would not be prejudicial from a public consultation point of view, or lead to a fundamentally different scheme, I have based my decision on the amended drawing 1477/1.
3. Based on my site visit, whilst there was evidence of cars being stored within the enclosed area formed by the palisade fencing, there was no clear evidence that these cars were being sold from the site or that they were being stored in connection with the MOT use of Unit 5. Therefore, I have determined the appeal on the basis that development proposed is not retrospective.

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Appeal Decision APP/V2255/W/19/3221646

Main Issue

4. The main issue is the effect of the development on the character and appearance of the countryside including when viewed from the adjacent public right of way.

Reasons

5. The application site comprises land to the rear of Unit 5 which is a small industrial unit located on a small commercial industrial estate. The appeal site falls within land designated as countryside.
6. Unit 5 is located towards the rear of the estate: the storage area to the rear is not visible from the main highway and is only partially noticeable from the concrete apron at the front of the terrace of units. In the context of its wider surroundings, Unit 5 forms part of a terrace of other small commercial units and immediately adjacent to the appeal site, across a public right of way there is a relatively large agricultural storage building and farm worker accommodation comprising mobile homes and its associated car parking. Immediately to the rear of the appeal site is also land designated as countryside and which appears to be in agricultural use.
7. Running along the boundary of the flat storage area at the rear of Unit 5, which would be used for the storage and sale of cars associated with the MOT service operating out of the unit, is a metal palisade fence which is approximately 2 metres in height. The evidence before me indicates that the palisade fence has been in place longer than four years: the Council state that it is immune from enforcement action and it is therefore lawful.
8. Whilst the parties dispute whether the area to be used for storage purposes is lawful or not, the photographic evidence submitted by the appellant indicates that for a period of more than ten years it was used for a variety of uses, including what appears to be a storage use. The appellant states that in 2008 the palisade fencing was erected for security reasons, due to thefts of equipment stored on the site. Either way, it is reasonable to conclude from the evidence submitted that the site was used for a range of uses, including storage, since 2007. Prior to that it would appear to have been in agricultural use.
9. Based on my site visit observations, which included the storage of a number of cars within the fenced area, it was evident that the palisade fencing was the most prominent and conspicuous element on the site, particularly when viewed from the adjacent public right of way. Whilst I acknowledge that stored cars are partially visible from the public right of way, I do not consider that they would appear materially out of place or visually intrusive within this contained site and to the rear of the commercial units.
10. Based on my own site visit observations of the appeal site when viewed from the public right of way and from the concrete apron at the front of the commercial units, the appeal site is seen in the context of the adjacent agricultural building which has a significantly greater visual impact than the palisade fencing and the area which would be used for car storage. Therefore, I consider that the appeal development would appear visually subservient in the landscape setting relative to the more prominent and visible agricultural buildings in the immediate locality.

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

2

Appeal Decision APP/V2255/W/19/3221646

11. The appellant has submitted a proposed landscaping scheme and has also indicated that he would accept a condition limiting the height of any vehicle stored on the site. I am satisfied that this would mitigate the visual impact and prominence of cars stored on the appeal site when viewed by users of the adjacent public right of way and other public areas. Indeed, it would seek to ensure that the character and appearance of this countryside location is preserved. Subject to the imposition of such planning conditions, the resultant development would not have a significant detrimental effect on the character and appearance of this countryside location.
12. I have also taken into account policy CP1 of the adopted Swale Borough Local Plan Bearing Fruits 2031 (2017) (LP) which aim to support businesses and particularly those located in a rural location. I also note that the operation of Unit 5 is linked to another commercial operation nearby, which is reliant on the appeal proposals to support further growth, diversification of its business and the maintenance of a number of local jobs. These are matters which weigh in favour of allowing the appeal.
13. For the collective reasons outlined above, I conclude that subject to the imposition of planning conditions the storage and sale of vehicles on the land to the rear of Unit 5 would not have a significantly adverse effect on the character and appearance of the countryside and would not cause any material harm to enjoyment of users to the adjacent public right of way. Therefore, the development would accord with policies ST1, CP4, DM3 and DM14 of the LP which amongst other things seek to deliver sustainable development, build a strong economy, encourage good design and landscaping proposals and support businesses in rural areas.

Conditions

14. The Council suggested a number of planning conditions which I have assessed taking into account the tests as outlined in paragraph 55 of National Planning Policy Framework. Where appropriate, I have amended the conditions in the interests of precision and necessity.
15. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
16. In the interests of the living conditions of occupiers of nearby properties, and the peaceful enjoyment of the countryside and nearby public footpath, it is necessary to impose a planning condition relating to the hours of use of the site by visiting members of the public. In the interests of ensuring that there is appropriate control in terms of use of the site from a living conditions and countryside impact point of view, there is exceptional justification for confining the permission to only the use as applied for.
17. In the interests of the character and appearance of the area, planning conditions are necessary in respect of landscaping, lighting and the maximum height of vehicles to be stored/parked on the site.

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3

Appeal Decision APP/V2255/W/19/3221646

Other Matters

18. I have had regard to the comments raised by concerned parties and consider that the conditions imposed would provide an effective mechanism in relation to effects of parked vehicles and operating hours.
19. The Council has asserted that if the open storage and sale of vehicles was allowed this would set a precedent and that other planning applications for development would be submitted on land surrounding the appeal site. I have determined this appeal on its individual planning merits and, in any event, I am not aware that there are other sites nearby which have the same planning history. Therefore, none of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

20. For the reasons set out above, and taking into account all other matters raised, the appeal should be allowed.

Paul Wookey

INSPECTOR

Appeal Decision APP/V2255/W/19/3221646

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1477/1 and 1447/2.
3. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
 - A statement of why lighting is required, the proposed frequency of the use and the hours of illumination
 - A site plan showing the areas to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
4. The site shall not be open to the public other than between the hours of 7am to 7pm on weekdays and Saturdays, and not at all on Sundays or Bank Holidays.
5. The site hereby permitted shall be used for the storage and sale of vehicles only and for no other uses 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.
6. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use

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

5

Appeal Decision APP/V2255/W/19/3221646

in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

9. No vehicles shall be stored on the site above a height of 1.5 metres.