



## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 30 April 2020  
Time: 7.00pm  
Venue: Virtual Meeting Via \*Skype.

#### Membership:

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

Quorum = 6

#### INFORMATION FOR THE PUBLIC

\* Members of the press and the public can listen to this meeting live. Please email [democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417330 by **4pm on Wednesday 29 April 2020** to be added to the Skype meeting.

#### Update added below on 29 April 2020:

To join by phone (landline or mobile), dial 01795-417400

You will then be asked to dial in the following numeric code 3667905 followed by #. (Note the code is different for each Skype meeting). Follow the audio instructions to join the call. If asked for a PIN please just hit the # button. You will then be held in a lobby until the meeting organiser lets you in.

You may leave the meeting at any point and re-join the meeting by repeating the instructions above.

#### 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 meeting 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.

---

Pages

1. Apologies for Absence and Confirmation of Substitutes

2. Minutes

To approve the [Minutes](#) of the Meeting held on 5 March 2020 (Minute Nos. 614 - 622) as a correct record.

3. 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**

4. Deferred Item

5 - 22

To consider the following application:

19/500768/FULL, Owens Court Farm, Owens Court Road, Selling

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

Requests to speak on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on **Wednesday 29 April 2020**. Please note that instead of speaking live you will need to submit your 3 minute speech which will be read out by officers at the meeting. There will be no facility for the public to speak live at Skype meetings.

We will send you a Skype link 24 hours before the meeting so you can listen to the meeting.

5. Report of the Head of Planning Services

23 - 124

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 on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on **Wednesday 29 April 2020**. Please note that instead of speaking live you will need to submit your 3 minute speech which will be read out by officers at the meeting. There will be no facility for the public to speak live at Skype meetings.

We will send you a Skype link 24 hours before the meeting so you can listen to the meeting.

**Issued on Tuesday, 21 April 2020**

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](http://www.swale.gov.uk)

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

This page is intentionally left blank

**PLANNING COMMITTEE – 30 APRIL 2020****DEFERRED ITEM 1**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

|  |  |   |
|--|--|---|
| <b>Def Item 1 - 19/500768/FULL</b>   |  |   |
| <b>APPLICATION PROPOSAL</b>  |  |   |
| During the winter months, the stationing, unoccupied, of 1 welfare unit and 15 mobile homes used residentially in the preceding agricultural season to accommodate seasonal workers at Owens Court Farm, as shown on drawing 22259/56/200219V2 (Revised) |  |   |
| <b>ADDRESS</b> Owens Court Farm Owens Court Road Selling Faversham Kent ME13 9QN   |  |   |
| <b>RECOMMENDATION</b> – Grant subject to conditions  |  |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b> Deferred from meeting of 5 <sup>th</sup> March 2020  |  |   |
| <b>WARD</b> Boughton And Courtenay   | <b>PARISH/TOWN COUNCIL</b><br>Selling    | <b>APPLICANT</b> F W Mansfield & Son<br><b>AGENT</b> Finns (1865) Ltd |
| <b>DECISION DUE DATE</b><br>18/04/19   | <b>PUBLICITY EXPIRY DATE</b><br>25/03/20 |   |

**1. INTRODUCTION**

- 1.1 Members will recall that at the meeting of this Committee held on 5<sup>th</sup> March 2020, this application was deferred. The minute from the meeting reads as follows:

Resolved: That application 19/500768/FULL be deferred to allow more information to be sought regarding the existence of any PROWs and consequently the visual impact of the development on the AONB.

To better gauge the visual effect of the proposal on the Kent Downs Area of Outstanding Natural Beauty (AONB), the boundary of which is approximately one hundred metres to the south of the site (as such, the site is outside the AONB) I consulted with the Kent Downs AONB Unit; and to consider the effect of the proposal on any nearby Public Rights of Way (PROW) I consulted with Kent County Council's PROW Officer.

- 1.2 The original report is appended to this report as Appendix A.

**2. EFFECT ON THE KENT DOWNS AONB**

- 2.1 As noted above, the site is approximately one hundred metres outside the AONB.
- 2.2 The Kent Downs AONB Unit has responded to consultation as follows:

*'The application site lies in the setting of the Kent Downs AONB, by virtue of its proximity to the AONB. The importance of the setting of the AONB is recognised in the Kent Downs AONB Management Plan 2014 to 2019. The Management Plan advises that the weight to be afforded to setting issues will depend on the*

*significance of the impact with matters such as the size of the proposals, their distance and incompatibility with their surroundings likely to affect impact. The Kent Downs AONB Management Plan is adopted by all local planning authorities in the Kent Downs including Swale Borough Council. Policy SD8 of the Management Plan states that: Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and utilities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.*

*The NPPG confirms that AONB Management Plans can be relevant material considerations in determining planning applications. The NPPG also provides further amplification on setting. At paragraph 042 Reference ID: 8-042-20190721 reference is made to development within the settings of AONBs needing sensitive handling to ensure that potential impacts are taken into account.*

*Noting the change to the layout and the proposed additional screen hedging, we consider there would be very limited inter-visibility between the site of the stored caravans and the AONB. In order to assist in mitigating any potential effects, should the Council be minded to approve the application, we would be supportive of conditions that limit external lighting to protect the dark night skies of the adjacent AONB, requires the hedging to comprise indigenous species appropriate to local landscape character (further advice on appropriate species can be found on page 26 of the Kent Downs Landscape Design Handbook) and require the caravans to be coloured an appropriate muted shade, rather than the usual standard white/cream.'*

### **3. PUBLIC RIGHTS OF WAY**

- 3.1 There are no public rights of way (PROW) through the application site. To the east, footpath ZR463 terminates on Owens Court Road, approximately 100 metres from the site. This footpath leads onto Owens Court Road. The site can thus only be seen from the head of the footpath, adjacent to Owens Court Road.
- 3.2 To the south, footpath ZR646 also terminates on Owens Court Road, approximately 350 metres from the site. This footpath also leads onto Owens Court Road. The site cannot be seen from the head of the path, due to the existing agricultural buildings in between.
- 3.3 To the southwest, footpath ZR394 leads from Owens Court Road proceeding in a westerly direction. At its nearest part, ZR394 is situated approximately 620 metres from the site. The site cannot be seen from the path, due to the existing agricultural buildings in between.
- 3.4 To the west, there are no footpaths within 1km of the site.
- 3.5 To the north, footpath ZR641, which runs for a short distance north-south, ends on Selling Road, approximately 700 metres from the site. The site cannot be seen from the head of the path.
- 3.6 The KCC Public Rights of Way Officer has responded to my consultation as follows:

*“Thank you for consulting me on this planning application. There are no public rights of way affected by the application. I therefore have no objections to the proposal.”*

### **4. APPRAISAL**

- 4.1 As noted above, the AONB Unit has responded that they '*consider there would be very limited inter-visibility between the site of the stored caravans and the AONB*' and raise no objections, subject to conditions. I am happy to accept their expert advice.
- 4.2 With regard to PROWs, only one is within sight of the proposed stationed caravans, and that would be from a distance of over one hundred metres, with most of the caravans being obscured by the existing cold store building and other existing agricultural buildings. The KCC PROW officer has no objection to the application. As such, I am of the opinion that any possible effect on views from nearby PROWs is negligible and therefore acceptable.

## 5. CONCLUSION

- 5.1 In view of the above, it remains my opinion that the proposal is acceptable. I therefore recommend that the application be approved, subject to the conditions listed below.

## 6. RECOMMENDATION

GRANT Subject to the following conditions:

### CONDITIONS

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

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

- (2) No caravan shall be stored on the site at any time unless the site has been used for the purposes of agriculture including the stationing of caravans occupied by seasonal agricultural worker(s) working at Owens Court Farm in the preceding agricultural season.

Reason: In the interests of the amenities of the area and to ensure that the storage use hereby approved shall cease as soon as it is no longer contributing to the productivity of Owens Court Farm.

- (3) No caravan being stored on the site shall be used for human habitation.

Reason: As the site lies outside any area in which permanent residential use of the caravans would be permitted.

- (4) A new hedge using semi mature and mature native indigenous hedging species shall be planted in the position and to the full extent of the green line shown on drawing no. 2259/56/200219V2 prior to the first winter storage of any caravan. This hedge shall be maintained for the entire duration of all winter storage and no caravan may be stored on the site unless this hedge is in place.

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

- (5) Not more than 15 caravans and one welfare unit shall be stored on the site and these shall only be stored in the positions shown on drawing no. 2259/56/200219V2 (Revised).

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

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

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

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

- (7) The caravans hereby permitted shall be painted dark green.

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

### **Council's approach to the application**

The Council recognises the advice in paragraph 38 of the National Planning Policy Framework (NPPF) February 2019 and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case, 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.



This page is intentionally left blank

**APPENDIX A**

|   |  |  |                          |
|---|--|--|--------------------------|
| <b>2.4 REFERENCE NO - 19/500768/FULL</b>  |  |  |                          |
| <b>APPLICATION PROPOSAL</b><br>During the winter months, the stationing, unoccupied, of 1 welfare unit and 15 mobile homes used residentially in the preceding agricultural season to accommodate seasonal workers at Owens Court Farm, as shown on drawing 22259/56/200219V2 (Revised) |  |  |                          |
| <b>ADDRESS</b> Owens Court Farm Owens Court Road Selling Faversham Kent ME13 9QN  |  |  |                          |
| <b>RECOMMENDATION</b> - Grant   |  |  |                          |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Called in by Ward Councillor Tim Valentine   |  |  |                          |
| <b>WARD</b> Boughton And Courtenay  | <b>PARISH/TOWN COUNCIL</b><br>Selling          | <b>APPLICANT</b> F W Mansfield & Son<br><b>AGENT</b> Hobbs Parker Property Consultants |                          |
| <b>DECISION DUE DATE</b><br>18/04/19  | <b>PUBLICITY EXPIRY DATE</b><br>08/04/19       |  |                          |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |  |                          |
| <b>App No</b>   | <b>Proposal</b>                                | <b>Decision</b>  | <b>Date</b>              |
| 16/504494/FULL  | Planning permission for erection of cold store | Refused, Appeal allowed  | 21/09/2016<br>29/03/2017 |
| 15/505166/AGRREQ  | Prior approval for erection of cold store      | Planning permission required   | 27/07/2015               |
| 15/503788/AGRIC   | Prior notification for erection of cold store  | Prior approval required  | 27/05/2015               |

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is on an established fruit farm of 26.5 ha, situated in a rural area some distance outside any built-up area boundaries and adjacent to, but not within, the Kent Downs Area of Outstanding Natural Beauty (AONB). The site is reached by a narrow rural lane (with passing places). There is a line of semi-mature poplar trees to the front and the side of the proposal site, and a pair of privately occupied cottages fronting the lane.
- 1.02 The farm at present contains a number of agricultural buildings of varying ages and styles. One such building is no longer used in conjunction with the farm and was approved as an agricultural machinery repairs business, sales and servicing business under planning reference SW/13/0381.

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

1.03 Of some relevance is that a full planning application for a fairly small new cold store building on the site was refused by the Planning Committee, contrary to officer recommendation, and a refusal notice issued on 21<sup>st</sup> September 2016. At the subsequent appeal, planning permission was granted and costs were awarded against the Council. The conditions applied by the Inspector have been complied with, and the building is now nearing completion. The position of the current application site is immediately adjacent to this new building and the building would partially screen the site from the road, limiting its visual impact as, from other directions, the site is surrounded by orchards.

**2.0 PROPOSAL**

- 2.01 The original description of the current application was ***‘Provision of seasonal workers caravans, welfare unit and winter storage’***, and it was this description that the first round of local consultations was based on. However, the stationing of the caravans and welfare unit on agricultural land for use by seasonal workers engaged on the farm during the agricultural season would constitute permitted development. The welfare unit is essentially another caravan. As such, the application was actually seeking planning permission for use of the land to store these caravans in situ over winter, to save the applicant having to take all the caravans off site and storing them elsewhere. Accordingly, the description was then amended to ***‘Winter storage of seasonal workers caravans and welfare unit’***. However, concern was raised locally with regard to this description, and the description was again amended to the latest final version which reads as follows: ***‘During the winter months, the stationing, unoccupied, of 1 welfare unit and 15 mobile homes used residentially in the preceding agricultural season to accommodate seasonal workers at Owens Court Farm, as shown on drawing 22259/56/200219V2 (Revised)’***.
- 2.02 There has also been a change to the proposed layout of the caravans. The original proposed layout showed fifteen caravans situated approximately fifty metres from the boundary with Owens Court Cottages and seventy five metres from Owens Court Road. The caravans were to be placed parallel to the road in five rows of three, and the welfare unit would have been placed behind the caravans, furthest away from the road. The southern two rows of caravans would have been obscured from the road by the new cold store, and it was proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any further visual impact.
- 2.03 The layout has since been changed (December 2019) in accordance with a preferred layout suggested by a number of local residents. This more compact amended layout turns the caravans end on to the road meaning that they are less prominent and that three rows of caravans are now set behind the new building, which reduces the degree to which the overall group of caravans is visible. Additional screen hedging is also included in the amended layout, and this new layout has been the subject of local re-consultations.

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

2.04 A Planning Statement was submitted with the application, and despite the amendments to the site layout this statement remains unchanged. It includes the following description of the development:

*'The farm needs to accommodate 40 seasonal cherry workers to work in the cherry production and harvest at this site. Due to controls governing accommodation for seasonal workers, the farm must provide suitable accommodation and is restricted on the number of workers per caravan. This therefore results in requirement for the provision of 15 caravans, which the farm intend to provide as three rows of 5 caravans to group them in the best arrangement.*

*The farm currently buses in workers, on a daily basis, during the cherry season from other locations. This results in a financial cost to the business from the provision of transport and a cost to the environment, from a large number of daily trips to and from the farm to a variety of off-site accommodations. With the seasonal workers accommodated on site, a high level of traffic movements to and from the site can be removed, reducing traffic movements within the area. Accommodation on site also has the additional benefit of ensuring staff are available on site to address any issues that may arise with the crop.*

*The communal building is to be located close to the proposed caravans, for use as a communal area to serve the seasonal workers.*

*Whilst there is excellent local screening to the road network, the site is currently visible from the rear of properties at Owen's Court Cottages. In view of this, it is proposed to plant a screen hedge between the caravans and Owens Court Cottages, to mitigate any visual impact.'*

**3.0 PLANNING CONSTRAINTS**

- 3.01 Outside established built up area boundaries
- 3.02 Adjacent to (but not within) AONB

**4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies CP1 (Strong competitive economy), DM3 (Rural economy), DM6 (Transport), DM7 (Vehicle parking), DM12 (Dwellings for rural workers), DM14 (General development criteria), DM19 (Sustainable design), DM24 (Landscape), ST3 (Swale settlement strategy)

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

**5.0 LOCAL REPRESENTATIONS**

5.01 Twenty-three emails and letters of objection were received from local residents prior to the amended site layout being received. The comments contained therein may be summarised as follows:

- *‘Storage of caravans is in itself not agricultural and therefore shouldn’t be allowed. This is the countryside and storage is only related to farming and agriculture when seasonal agricultural workers are being housed on the land. When the workers go home at the end of the season it then becomes storage of caravans in the countryside and this is unacceptable.’*
- Many workers will have their own cars, so traffic will increase
- No parking facilities
- Poor/non-existent public transport links
- No proven agricultural need
- Noise and pollution during occupation
- Harm to visual amenity and the AONB
- Owens Court farm is a small farm consisting of only 65 acres of cherries and 15 caravans to house farm workers on this site seems excessive
- Existing deciduous hedging would not screen the site during the winter months
- *‘Mr Mansfield has a reputation of providing substandard accommodation for workers on his farms, and for subletting caravans to other farms to supplement income.’*
- Vehicular access will directly affect us
- *‘Why is the site to be operational from March to September when the picking season only extends from June through July? It is my understanding that poly-tunnel erection and maintenance work, pruning etc. on Owens Court Farm undertaken by a number of UK based companies and is not performed by the European workforce described Section 6.3 in the application. Why do the caravans need to be permanent if only 6 week occupancy is required?’*
- This area of the site is prone to flooding
- No mention of the type of hardstanding for the site is given
- Owens Court Road is very narrow
- There are other sites better suited to serving the workers
- Employees can be shipped in as last year which worked quite well
- *‘Arranging the caravans in 5 rows of 3 instead of 3 rows of 5 would reduce the lateral spread of the site when viewed from Owens Court Road and the neighbouring houses, and help reduce its visual impact, and increase the number of caravans shielded from those views once the cold store approved is built.’*
- No details of sewage disposal
- *‘The application as currently presented conflates and muddles the separate planning considerations by suggesting a permanent change of use for stationing/storage of caravans can be granted on the back of Permitted Development Rights and that the two can somehow operate simultaneously. This*

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

*cannot be correct as land can normally only have one approved planning use at any time.'*

- Approval will result in a loss of privacy and visual appearance. There would also be excess of noise, smells and disturbance from this site
- This is agricultural land, not a caravan site
- If approved, this will produce a commercial caravan site

5.02 Since publication of the amended site layout, three separate objections (one sent both by a letter and by email) have been received. These raise objections covered by those noted above, but request certain conditions if the Council is minded to approve the application. These conditions include:

- Site layout should including screening hedging and fencing.
- Restrictions to storage period e.g. 1st September to 31st March each year.
- Parking restrictions e.g. no vehicles to be parked on the site during the storage period.
- Sewage and waste disposal methods to be adopted need further investigation.
- Other Damage limitation to an AONB:
- Units to be painted camouflage colour/dark green.
- No external lighting in storage period.
- No lighting poles/wires visible from Owens Court Road,
- No noisy activities after 10pm and before 8am.

5.03 Councillor Valentine asked for the application to be called into committee stating: "I would like to call in the planning application for caravans to be sited at Owens Court to be considered at planning committee".

**6.0 CONSULTATIONS**

6.01 Selling Parish Council did not originally comment on the application, but since submission of the amended site layout they say that:

*'The application was discussed at length and the agreed outcome is that the Parish Council, with great reluctance, will not object to the application but to mitigate the negative impact of this application on the area, request that the following enforceable conditions are met:*

- *The 15 caravans are restricted to the designated area and that this area remains classified as agricultural land.*
- *The use of the 15 caravans is restricted to the 4 – 6 weeks of the cherry-picking season and are not to be used for the remainder of the year.*
- *There should be no artificial overhead lighting, only safety low level lighting.*
- *The colour of the caravans should be an agricultural colour.*
- *Car parking is kept to the west of the site with enforceable restrictions that no*

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

*parking is allowed on the hard-standing at the Cold Store where the water tank is.*

- *The area that is used for the parking of vehicles at the front should not be used as being ancillary to the caravan site.*
- *If it is possible to change the entrance from the North-West as shown on the plan, without the need to go back out to consultation, then a move of entrance to the South-East would be preferred.*
- *There should be no disturbance of the Bat Feeding Station at the barn*
- *There should be substantial and effective evergreen screening hedges at height of 2 metres minimum, in front of the caravans.*
- *A fence, at a height of a minimum of 2 metres should be erected to screen the caravans whilst the natural screening grows, taking care not to damage or inhibit the growth of the natural screening*
- *A member of the Parish Council would like to speak at the planning meeting when this application is discussed and decided. I would appreciate it if you could let me know the date of the meeting at your earliest convenience please.'*

6.02 Kent Highways and Transportation advises that the proposal does not meet their criteria for a response.

6.03 No response has been received from the Council's Environmental Health Manager.

6.04 The Council's Rural Planning Consultant raised no objection to the application as originally submitted. His comments were as follows:

*'As you are aware F W Mansfield & Son are long-established fruit growers and who now farm about 1200 ha of orchards and soft fruit in the county, their main operational base being Nickle Farm, Chartham, where centralised fruit storage and packing takes place.*

*Owens Court is a 26.5 ha fruit holding comprised of relatively newly planted cherry orchards, in respect of which planning consent has previously being granted for protective frameworks for seasonal covering with polytunnels. The farm also obtained consent on appeal under planning reference 16/504494 for the erection of a cherry store.*

*As you are aware, temporary workers' caravan accommodation can be utilised as "permitted" development on a seasonal basis in any event, but planning consent is required if the units concerned are left on site throughout the year, and thus effectively stored there out of season when vacant, or if the accommodation is sought for a worker year-round.*

*It is common now for fruit and vegetable farms in Kent, who rely heavily upon casual workers (usually from abroad) to seek, and obtain, consent to leave "seasonal" caravans for workers on site all year round, subject to suitable*

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

*conditions including agreed periods of occupancy/ vacancy in any one year, without continuous year-to-year occupation. This avoids the costs and upheaval (and traffic impact) of having to move such units back and forth off the site.*

*In this case the proposal appears to be designed to secure a sufficient number of caravans of a suitable standard to attract, and properly accommodate, the required workforce (40 in this case), recognising that following the Brexit vote it has become more difficult to engage such staff.*

*Notwithstanding the agricultural merits of the proposal, the detailed siting of seasonal workers' mobiles needs to be weighed against the suitability of the particular location in each case, having regard to other Planning considerations; the overall Planning balance in this regard is a matter for the Borough Council to judge, but please let me know if you require any further advice.'*

He has confirmed that the amended layout does not alter his assessment of the application.

**7.0 APPRAISAL**

- 7.01 When assessing this proposal, it is important to remember that it is the impact of stationing of unoccupied caravans over the winter period which is the main factor to consider in this case. Importantly, the land could still be used for the purposes of agriculture during the farming season as this does not constitute development, and permitted development rights already allow for the provision of caravans for seasonal workers' accommodation over the farming season.
- 7.02 It should be noted that the amended site layout now being considered was suggested by local residents in an effort to reduce the visual impact of the proposal on the general character and appearance of the area, and that the applicant has accepted this suggested layout plan. With regard to this issue, I note that the site for the proposed caravans is approximately one hundred metres outside the Kent Downs AONB, which begins on the opposite side of Owens Court Road, and the caravans would be beyond the new cold store. As such, I believe that any effect upon the AONB itself is fairly limited.
- 7.03 The economics of modern fruit farming dictate that use of caravans to house seasonal workers is now widespread within the Borough and indeed in agricultural areas throughout the country. The applicant has made a sound case for the need to house agricultural workers on the site, and the small number of caravans proposed is commensurate with the scale of this particular farm. In such a situation my view is that it is up to the applicant where they place caravans during the farming season, but that if the applicant also wishes to keep these caravans in the same location over the winter, they should choose a suitable location that the Council considers appropriate. In this case I see no objection to the proposed location for winter storage of caravans as it

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

partially screened by the new building, which itself sits beside a substantial group of buildings. It is not isolated or particularly prominent location, and it has existing road access.

7.04 I also note that there is a tall, albeit deciduous hedge adjacent to Owens Court Road; and that the proposed drawings show the planting of new hedges between the caravans and Owens Court Cottages. As such, and on balance, I consider that the proposal would not have a significantly detrimental effect on visual amenity.

7.05 Although the Council is only in a position to control the storage of caravans on the site out of the farming season, the situation may be, to some extent, controlled by conditions to alleviate some of the concerns raised by local residents, with whom I have some sympathy. I acknowledge the list of suggested conditions from Selling Parish Council and, whilst I have been able to include some below, some of the suggested conditions cannot be said to be either reasonable, necessary or enforceable and I have not been able to recommend them. However, I have recommended conditions below which will ensure that the effect of the proposal on residential and visual amenity would be kept to a minimum. These conditions ensure that caravans can only be stored if the land has been used for agriculture including seasonal workers' accommodation during the preceding season (to prevent the use continuing if the practice of seasonal workers use of the caravans ceases); that the caravans must be unoccupied over the winter; that the site should be laid out precisely as shown on the submitted drawing; and that the new hedge should be planted.

**8.0 CONCLUSION**

8.01 On balance, I therefore recommend that the proposal be approved, subject to the conditions set out below.

**9.0 RECOMMENDATION – GRANT** Subject to the following conditions:

**CONDITIONS**

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

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

(2) No caravan shall be stored on the site at any time unless the site has been used for the purposes of agriculture including the stationing of caravans occupied by seasonal agricultural worker(s) working at Owens Court Farm in the preceding agricultural season.

Reason: In the interests of the amenities of the area and to ensure that the storage use hereby approved shall cease as soon as it is no longer contributing to the productivity of Owens Court Farm.

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

- (3) No caravan being stored on the site shall be used for human habitation.

Reason: As the site lies outside any area in which permanent residential use of the caravans would be permitted.

- (4) A new hedge using semi mature and mature native hedging species shall be planted in the position and to the full extent of the green line shown on drawing no. 2259/56/200219V2 prior to the first winter storage of any caravan. This hedge shall be maintained for the entire duration of all winter storage and no caravan may be stored on the site unless this hedge is in place.

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

- (5) Not more than 15 caravans and one welfare unit shall be stored on the site and these shall only be stored in the positions shown on drawing no. 2259/56/200219V2 (Revised).

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

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

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

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

**Council's approach to the application**

The Council recognises the advice in paragraph 38 of the National Planning Policy Framework (NPPF) February 2019 and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without

**APPENDIX A**

Report to Planning Committee – 5 March 2020

Item 2.4

resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case, 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 A**



This page is intentionally left blank

## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**30 APRIL 2020**

#### 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

This page is intentionally left blank

## INDEX OF ITEMS FOR PLANNING COMMITTEE – 30 APRIL 2020

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

### DEFERRED ITEM

Def 1            19/500768/FULL        SELLING                    Owens Court Farm, Owens Court Road  
Pg 5 - 22

### PART 2

2.1            20/500229/FULL        TUNSTALL                    White Acres, Hearts Delight  
Pg 27 – 33

2.2            20/500169/FULL        FAVERSHAM                    Newton Place Surgery, Newton Road  
Pg 35 – 42

### PART 3

3.1            19/506123/FULL        FAVERSHAM                    St Nicholas Allotments, St Nicholas Road  
Pg 43 – 48

3.2            19/505886/FULL        FAVERSHAM                    2 Millers Cottages, Belvedere Road  
Pg 49 – 55

### PART 5 - INDEX

Pg 57 – 59

5.1            19/500661/FULL /        SHEERNESS                    3 Broadway  
Pg 61 – 63    19/502391/LBC

5.2            18/506097/FULL        MINSTER                    Bellever Marshlands Farm Lower Road  
Pg 65 – 67

5.3            19/504198/FULL        SITTINGBOURNE                    Former Brewers Yard St Michaels Road  
Pg 69 – 73

5.4            18/503135/OUT        MINSTER                    Land West of Barton Hill Drive  
Pg 75 – 105

5.5            18/503259/FULL        EASTCHURCH                    Caravan and Stables Old Billet Lane  
Pg 107 – 111

5.6            19/503080/FULL        SITTINGBOURNE                    58 Volante Drive  
Pg 113 – 119

5.7            18/506635/FULL        TONGE                    Hempstead Farm, Hempstead Lane  
Pg 121 – 124

This page is intentionally left blank

**PLANNING COMMITTEE – 30 APRIL 2020****PART 2**

Report of the Head of Planning

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

|  |                                |  |   |
|--|--------------------------------|--|---|
| <b>2.1 REFERENCE NO - 20/500229/FULL</b>   |                                |  |   |
| <b>APPLICATION PROPOSAL</b><br>Demolition of 1no. outbuilding and erection of a portal framed vehicle store. |                                |  |   |
| <b>ADDRESS</b> White Acres Hearts Delight Road Tunstall Sittingbourne Kent ME9 8JA                           |                                |  |   |
| <b>RECOMMENDATION</b> – Grant subject to conditions  |                                |  |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Parish Council objection  |                                |  |   |
| <b>WARD</b> West Downs   | <b>PARISH/TOWN</b><br>Tunstall | <b>COUNCIL</b>                           | <b>APPLICANT</b> Mr & Mrs Ansley<br><b>AGENT</b> Nigel Sands & Associates |
| <b>DECISION DUE DATE</b><br>19/03/20   |                                | <b>PUBLICITY EXPIRY DATE</b><br>25/02/20 |   |

**Planning History**

17/505254/FULL

Proposed first floor rear extension and rooflight

Approved Decision Date: 29.11.2017

SW/03/1131

Front and rear extension

Grant of Conditional PP Decision Date: 11.11.2003

SW/99/0966

Two storey front extension.

Grant of Conditional PP Decision Date: 01.12.1999

**1. DESCRIPTION OF SITE**

- 1.1 White Acres is a detached house which sits on a large plot in the rural location of Hearts Delight, Tunstall. The streetscene here is that of similar sized detached properties of differing styles on spacious plots backing onto open agricultural land.
- 1.2 There is amenity space and a driveway to the front of the property, and a long driveway to the side that reaches an area at the far end of the garden which has a hard standing area with stables and other simply designed outbuildings of varying construction. This area opens onto a field for paddock use and the keeping of small farm animals. The stables to be retained alongside the new building are 3.4m tall.

- 1.3 Neighbouring properties have a variety of domestic outbuildings in varying styles and a public footpath runs between two of these gardens; the site is two gardens away from the footpath.

## 2. PROPOSAL

- 2.1 This application proposes the erection of a new outbuilding to house the applicant's historic military vehicles. The new building would stand on the site of a smaller (5.5m x 3.5m x 2.5m tall) metal clad building that would be removed. The new building would sit alongside existing stables and would measure 14m x 7m with a ridge height of 4.7m. The proposed building would be in finished green metal cladding with the appearance of a small agricultural building. It will have two roller shutter doors and a small window to the front and a pedestrian door and window to the side. It will sit just over 35m from the rear of the main house adjacent to the paddock area with its short end facing back towards the house.
- 2.2 The application is supported by a short but well illustrated Planning Statement that explains the nature and purpose of the proposed building as follows:

*This application seeks permission for a detached portal framed building to store the applicant's historic military vehicles.*

*These vehicles are rare and of important historic importance and their protection in a controlled environment is essential to keep them in their current pristine condition.*

*The proposed building height is determined by the height of the GMC353 2 ½ ton truck and has been kept to a minimum size.*

*The building would be located on the eastern boundary of the site and would be screened from the adjoining building by existing mature trees.*

*The building would replace existing stables and storage unit existing hard standing would be retained for circulation.*

*Access to the building would be from the existing drive and crossover onto Hearts Delight Road*

- 2.3 Since submission, the drawings have been amended to show the stable building being retained rather than demolished, and the description of the application has been amended to that shown above. This leaves an anomaly between the Planning Statement (as originally submitted) and the current description of the application, although to my mind the drawings are now clear and unambiguous, and the change to the description of works has not prejudiced anyone.

## 3. PLANNING CONSTRAINTS

- 3.1 None.

## 4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017, policies CP4 – Requiring good design

DM14 – General development criteria

## 5. LOCAL REPRESENTATIONS

5.1 Two neighbours have commented on the application, raising the following summarised points;

- The planning statement says two buildings will be demolished but the application is for just one to be demolished. Which is correct?
- The planning statement refers to a controlled environment; what is this controlled environment, will it require air conditioning which may generate noise?
- Will the new building be higher than the stables? We would not want to see the building higher than the current stable block
- The proposed building will be visible from our rear windows and the visual impact, loss of privacy and overlooking are concerns
- Concern about additional external lighting
- The application form states that the work will not be visible from the road or public footpath, but it will be visible from both the road and the public footpath

5.2 In response to some of these points amended drawings have been submitted to indicate that the proposed building will not require demolition of the stables alongside it, and they show the new building slightly further down the plot, further from nearest houses.

5.3 The agent has confirmed that the new building would be 1.3m higher than the existing stable block, and that the height of the building is governed by the height of the tallest vehicle, a point he thinks has been missed by the Parish Council.

5.4 The agent has also confirmed that the controlled environment described only means that the vehicles would be housed in a fully enclosed building rather than the open fronted building that they are currently in. There are no intentions to include air conditioning units and there is no intention to provide additional external lighting.

## 6. CONSULTATIONS

6.1 Tunstall Parish Council has objected to the application in the following terms:

*Tunstall Parish Council has considered the application objects to the proposal*

*Whilst we do not have any specialist knowledge on outbuilding planning rules, we felt after discussion in the Parish Council meeting that we should object to the application on the grounds of the size of the building proposed and the potential impact on neighbouring properties.*

*The portal framed building is replacing a low-profile stables and shed which are more in keeping with the location a linear development of housing on a rural road, with fields to the back.*

*The proposal to replace with something more akin to an agricultural or storage barn is not in keeping with this area. Our concern is that the proposal is for a*

*large, dominant building at approx. 14m by 6m (84m<sup>2</sup>) and height of over 4.5m. An unusual building to be sited to the rear of a residential property. Whilst there are some mature trees on neighbouring properties, this building will not be completely screened off. In addition the building will be immediately on the boundary with the next door neighbour, and at over 4.6m high will be imposing above the fence-line.*

When it became clear that delays to the Committee's meetings were inevitable I sent the Parish Council a draft copy of this report and asked whether, in the light of my own conclusions on the proposal, they might wish to reconsider their objection to save the applicants waiting longer. They replied as follows:

*"Thank you for your email and report which has been circulated to all Councillors who have agreed the following response:*

*We do not feel comfortable with our objection to this planning application being rescinded. Whilst we recognise that we are in an unprecedented situation with Covid-19 we do not think that proper scrutiny of planning applications should be ignored. Given the situation we do not think that any building work could proceed anyway as the Government has advised against all non-essential work and journeys. We are happy to be flexible if regulations allow for planning committees to meet in some other way (remotely or by phone conference for example).*

*We feel we had valid objections and these were reflected in concerns of the neighbours.*

*The planning statement no longer matches the drawings. Whilst we appreciate that changes have been made to move the building further away from the houses we cannot be sure that the neighbours are now in support. There are no updated statements from them on the portal. There is no updated Planning Statement from the applicant/agent.*

*The Parish Council discussed during their meeting that the outbuilding was to house a military vehicle as described in the Planning Statement. They noted during discussions that this height is the reason for the planning application (which applies to outbuildings over 4m tall). They also note that there is already an existing tall outbuilding on the site (opposite to the planned building) which is visible from footpaths ZR 141 and ZR 147 but couldn't find any planning history for the other barn on Swale's Planning Portal. We sympathise that this is a rural location, but it is a residential linear development too and there have been neighbour objections.*

*We would also like to counter some of SBC's draft Committee Report. At para. 7.2 it is stated "the building is not particularly tall, no taller than a normal double garage would be". Yet garages are normally much smaller than the proposed dimensions. Swale's own Draft Parking Guidelines suggest a minimum size of 7m in length and 6m in width. Although there is no minimum or standard height given a quick Google search suggests a standard height for garages is 8feet or 2.4m as garage doors are a standard 7ft (2.1m). This barn is over double the width of a double garage at 14m and over double the height.*

*Swale's Draft Parking Guidelines also say there should be an allowance of 6m in front of garages. Whilst we recognise this is for additional residential parking, given that the applicants have such a large truck has enough allowance been made for access given the new proximity (in the revised plans) to the opposite building of approximately 4.0/4.5m? The dimensions of a GMC353 2 ½ ton truck are 2.8m tall with a length of 6.5m.*

*Given the dimensions and scale of this building we still believe there will be an impact on neighbouring residents and the building will be very visible from the footpaths noted above."*

6.2 Borden Parish Council has written to say they have no comment to make on the application.

## **7. APPRAISAL**

7.1 The key points to consider when reviewing this application are the impact on residential and visual amenity and good design.

7.2 There is potential for the proposed outbuilding roof to be visible from the road and from the public footpath. However, the building is not particularly tall, no taller than a normal double garage would be, and it would take the form and colours of a small barn which seems to me in keeping with these semi-rural surroundings. The proposed outbuilding would have 'Moorland Green' panels and doors, which is a khaki type colour that will aid in the camouflaging of the structure.

7.3 With regard to the amenities of neighbours, the main points here relate to the use and height of the building, and whether these could have any negative impact on the amenity or outlook of neighbours. In this respect, the outbuilding would be approximately 35m away from the main dwelling at the very far end of a very long garden. A building of this scale for private vehicle storage at this distance is unlikely to be significantly detrimental to the outlook of neighbours. The building will sit alongside/beyond other outbuildings, and in a position where such outbuildings might be expected and other outbuildings can be found elsewhere in this row of houses. To that extent I do not see this as a particularly intrusive building, or one that should not give rise to significant adverse impacts on neighbours.

7.4 There are two windows in the proposed outbuilding, but these are small and away from boundaries. I see no question of overlooking arising here, and it worth remembering that the proposed building would be replacing an existing metal shed and open hardstanding area.

7.5 In terms of design, the proposed building adopts an agricultural aesthetic which should fit well next to the paddock and open land to the north, without appearing out of keeping in what limited views from the road and footpath are available.

## **8. CONCLUSION**

8.1 The limited scale of the proposed building means that it will have little impact on neighbouring residents and the street scene. The use is for private vehicle storage, and when considering all aspects, and notwithstanding the Parish Council's criticisms of the

draft report, I consider that the building is acceptable and that planning permission should be 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 approved shall be carried out in accordance with approved drawings 19/3029/1 and 19/3029/2A

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

- (3) The garage hereby permitted shall be used only for the storage of a private motor vehicles or for uses ordinarily incidental to the enjoyment of the occupiers of the dwellinghouse.

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

**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.

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



This page is intentionally left blank

|   |                                      |   |
|---|--------------------------------------|---|
| <b>2.2 REFERENCE NO - 20/500169/FULL</b>  |                                      |   |
| <b>APPLICATION PROPOSAL</b><br>Erection of two storey extension for the creation of 8no. new consulting rooms with associated works and access provisions. Installation of 1no. lift and conversion of pharmacy to 3no. consultation rooms. |                                      |   |
| <b>ADDRESS</b> Newton Place Surgery Newton Road Faversham Kent ME13 8FH   |                                      |   |
| <b>RECOMMENDATION</b> – Grant subject to conditions   |                                      |   |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Councillor Alastair Gould is the applicant   |                                      |   |
| <b>WARD</b> Abbey   | <b>PARISH/TOWN</b><br>Faversham Town | <b>COUNCIL</b><br><br><b>APPLICANT</b> Dr Alastair Gould and Partners<br><b>AGENT</b> Urban & Rural Ltd |
| <b>DECISION DUE DATE</b><br>03/04/2020  |                                      | <b>PUBLICITY EXPIRY DATE</b><br>27/02/20  |

**Relevant Planning History**

18/502589/FULL

Instillation of one pole and ANPR camera, for the purposes of managing the car park at the surgery (retrospective).

Approved Decision Date: 29.08.2018

18/503055/FULL

Erection of a three storey rear extension and two storey over existing ground floor side extension including modifications to existing surgery pitched roof and a new entrance roof canopy. Demolition of existing bin store and erection of a new bin store and associated external works.

Approved Decision Date: 20.08.2018

**1. DESCRIPTION OF SITE**

- 1.1 Newton Place Surgery is located in the centre of Faversham close to the town centre and its various public car parks. The application site is in the conservation area but the building is modern and not of any historic significance in itself. The site sits between Preston Street to the west and Newton Road to the east where it has its main access point. Newton Road is a street of mainly late C19 houses, with some particularly fine houses directly opposite with some having terracotta tile, cream brick and stucco detailing on relief panels, pilasters, cornices and eaves and bargeboard roof details. The surgery has a quite sympathetic frontage in the context of the Victorian residential townscape.
- 1.2 The existing side and rear of the existing surgery building are on a much smaller scale when viewed from Newton Road and have no significant impact on the street. The buildings to the rear of the site face onto Preston Street and include a number of listed buildings. There is a public footpath connecting the surgery to Preston Street and the small, mostly single story part of the building faces this footway and presents a

conventional local health centre appearance.

- 1.3 Pedestrian access is available from both Newton Road and Preston Street and given its central location walking should be the predominant mode of movement. Public transport routes also surround the site. Vehicular access is available from Newton Road and staff and patient car parking is available to the side and rear of the site meaning that the landscape of the site is inevitably dominated by this car parking.

## **2. PROPOSAL**

- 2.1 The current application is for the construction of a linked two storey detached building for the provision of eight additional consulting rooms on the rear (west) of the site. As part of the application, the pharmacy space on the ground floor of the existing surgery building which was granted planning permission in 2012 is to be converted to consulting rooms. A lift is also to be installed in the existing lobby area for ease of access to the upper floors of the surgery.
- 2.2 The proposed structure will occupy a footprint of 12m by 12m. The existing building is to remain otherwise intact with minor internal alterations and a knock through wall on the western elevation to incorporate the proposed detached structure. A single level passageway links the two buildings to create a corridor which will ultimately serve as a waiting area. Materials are proposed to complement the existing building closely with a brick façade on the ground floor, engineered bricks, aluminium and metal frames in a colour palette to match or pick up on hues in the existing. Amended drawings now show a more sympathetic roof form that will be clad in slate to match the main building instead of the shallow metal roof originally indicated.
- 2.3 I raised early concerns about the design of the roof profile and material choice with the applicant and amendments have since been received to address these concerns. The amendments provide a more sympathetic solution to the concerns raised. It should be noted these changes were based only on aesthetics elements and they do not impact on the proposed scale, massing and fenestration detailing of the proposed building. For this reason, a re-consultation exercise was not deemed necessary.
- 2.4 The extension will result in the overall loss of five parking spaces for patrons, but an increase in disabled parking provision is to increase from two to three spaces.
- 2.5 The background to this application is that planning permission was granted in August 2018 for the erection of a three storey rear extension and two storey extension over existing ground floor side extension as detailed above under planning reference 18/503055/FULL referred to above. This application is extant however due to financial constraints, this project has not been viable and the applicant has opted for a detached standalone structure with a more simplified design and material choice in the form of this application.
- 2.6 The footprint of the latest application is similar to that previously approved. Due to the level changes and reduced number of floors, the proposed structure will provide eight consultation rooms with additional gain of three rooms from the conversion of the existing pharmacy which previously was to be improved.

The application is supported by helpful Design & Access Statement, Tree Survey and a “Case for Change” documents. In support of the application, the applicants have stated:

*‘The proposal represents a sensitive scheme which will bring the existing over-stretched medical centre closer to the level and size of facility required for the community it is serving.*

*This should provide some intermediate breathing space, whilst keeping open the option for a larger expansion at a later date to fulfil the full need. The scheme, if approved, will provide much-needed accommodation that the existing practice requires, as set out in their Needs Case.*

*The proposed design is thought to be of a high architectural quality and would not be detrimental to the site location or the conservation area. The height, scale and mass are all considered to be in-keeping and appropriate for its location. The building is served by an existing means of access which is thought to be entirely satisfactory for the proposed development.*

*It is considered that the proposal makes efficient use of an under-used large site, which would see the expansion of its existing uses entirely appropriate for this location. The scheme, if approved, will have great benefits for the local community providing a much-needed service and as such, with respect, we feel the scheme should be granted consent.”*

### **3. PLANNING CONSTRAINTS**

Conservation Area Faversham  
Listed Buildings MBC and SBC Ref Number: 1298/SW  
Description: G II 26 AND 27, PRESTON STREET, FAVERSHAM, ME13 8PE  
Section 106 or 52 Agreement SW/97/0676

### **4. POLICY AND CONSIDERATIONS**

#### **4.1 The National Planning Policy Framework (NPPF): Chapters 2, 8, 9, 12 and 16**

National Planning Practice Guidance (NPPG)

Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 - Policies ST1, ST7, CP4, CP5, DM14, DM16, DM19 and DM33

Supplementary Planning Guidance (SPG): Conservation Areas

### **5. LOCAL REPRESENTATIONS**

#### **5.1 The Faversham Society supports the application and stated:**

"This proposal should be SUPPORTED because it would help to deal with the increase in population in the town. It is regrettable that the previously approved larger scheme was not able to be carried out at this stage."

One nearby resident has objected to the application with comments below:

- I strongly object to this Application, as it will overlook my property and will result

in a loss of privacy.

- It will also adversely affect the re-sale value of my property. I have lived in and owned this property for twenty years.

## **6. CONSULTATIONS**

6.1 Faversham Town Council supports the application and provided comments noted below:

- It is vital that this practice is extended to continue the provision of services in the town centre. This extension will provide improved facilities.
- The extension is smaller than originally hoped but will allow further extension in the future.

Kent Highways and Transportation raise no objection subject to planning conditions and provided existing parking management measures remain in place, to ensure parking within the site is suitably managed.

## **7. BACKGROUND PAPERS AND PLANS**

7.1 Application papers for application 20/500169/FULL

## **8. APPRAISAL**

- 8.1 As with the previously approved scheme, the main issues for consideration are the principle of development; the quality of the layout and design and impact on heritage assets; impact on residential amenity and highway safety.
- 8.2 The site lies within the built up area boundary of Faversham where development is acceptable in principle, subject to compliance with local plan objectives and all material planning concerns. Policies ST1 and CP5 support proposals for new and enhanced uses of land and buildings for public and community uses, and also development that promotes healthy communities. Such proposals are expected to be in sustainable locations served by a choice of sustainable travel options. This is the case here.
- 8.3 The proposed extension to the surgery is sited within a sustainable town centre location with easy access to all modes of public transport and pedestrian connections. The proposed building would accommodate a range of medical facilities which would promote healthy communities. The development is clearly supportive of the health and wellbeing of the community. It would facilitate the on-going function of the surgery and address the over capacity issues they are currently experiencing. This is regarded as positive aspect of the proposed development which is supported and no objections in principle are raised.

### *Design*

- 8.4 In relation to design and heritage impact; the existing building has been amended to respond to the late C19 streetscape of Newton Road, which sits within the town's conservation area and for this reason the impact on the design on the area is of particular importance. The existing building will be untouched in the main by the development scheme, and will retain its character and the positive contribution it makes to Faversham conservation area when viewed from the east (Newton Road elevation). The proposed building will be contained on the rear of the existing with limited views from the main roads

- 8.5 It is my understanding that the design principle of the current application is for a stand alone structure with a clear delineation between existing and new by the use of materials. The design and roof form were however considered to be at odds with the existing structure and the scheme as originally submitted has since been revised through discussions involving input from the Conservation and Design Team. After receiving revised drawings, it is now considered that the scheme is well designed and sympathetic to the conservation area location.
- 8.6 The new structure as amended will retain its individuality and will be clearly distinguished from the existing. Subject to the use of quality materials which will match closely to the existing, the design of the proposal is now supported as these elements unify the buildings on site for a more pleasing visual impact.

#### *Residential amenity*

- 8.7 The application site is located in a predominantly residential area in close proximity to several residential dwellings. The impact of the proposal on neighbouring residential amenity will therefore have to be closely examined. Whilst I acknowledge that over the years the footprint of the surgery has increased through various extensions; it cannot be argued that this has been to the detriment of neighbouring occupiers.
- 8.8 The footprint of the current proposal will be closer to the boundary with properties to the south of the site and I note a neighbour at No. 34 has objected to the proposal (details noted above). Objections raised relate to the overlooking, loss of privacy and loss of property value. In response to the former concern, the proposed building will have two windows on the southern elevation (one on each floor). These windows will lead from circulation areas such as corridors and staircase landings. Such areas are not usually considered to be spaces people will usually congregate to create overlooking concerns. I believe a planning condition for the use of obscure glazed windows will be adequate to address any overlooking and loss of privacy concerns. The second point raised by the objector which relates to loss of property value cannot be address on this platform as this issue is not a material planning consideration.
- 8.9 Given the size and height of many of the buildings in the vicinity, I do not consider the proposed extension at two storeys is too high to create overbearing impact; its visible nature is due to the size of the site. Fenestration details are in positions where there will be minimal privacy impact. The siting of the proposal has been carefully considered, there will no doubt be uninterrupted views of the new structure from rear gardens of neighbouring properties. It is however considered that due to the separation distances involved and the screening from established vegetation along the common boundary to the south of the site, residential amenity would not be adversely affected by the proposal.

#### *Highway and parking*

- 8.10 The Highway Authority has assessed the application and is in support of the application subject to stated conditions. Although this is a busy town centre location, the Authority advises that the proposal will not result in a material impact on the highway network. They have considered measures the applicant has already put in place such as smart metering and advertisement to ensure the parking spaces for staff and patients are not abused by the general public.
- 8.11 A total of five parking spaces on site are to be lost due to the extension. Due to the restricted nature of the site, no additional spaces can be gained elsewhere but although the loss of vehicular parking could be seen as a negative aspect of the proposal, KCC's supplementary guidance on parking (2016) has standards for staff and patient parking need which are stated as maximum standards. The level of parking is also to be

balanced against the highly accessible and sustainable location of the site. Vehicular parking availability is considered to be acceptable in relation to set maximum guidance limits considering the town centre location. In light of existing parking management measures currently in place and of Kent Highways' comments, a planning condition requiring a construction management plan will be sufficient to limit impact on pedestrian and highway safety.

- 8.12 Swale's own draft parking standards (October 2019) also set as a maximum standard (see paragraph 85) so there is no conflict here either, especially in this central location where there are strong on-street parking controls and an increase in disabled parking is proposed.

*Summary of planning merits*

- 8.13 The proposal is clearly supportive of the health and wellbeing of the community and this is regarded as a very positive aspect of the proposed development having regard to policy CP5. The scheme in its current form is considered to be well designed and sympathetic to its conservation area setting and no negative impact on residential amenity has been identified.
- 8.14 The Highway Authority considers that the proposal will not result in a material impact on the highway network considering the existing parking management strategy. Having regard to the above considerations, and in particular, the positive community and health benefits of the proposal, it is considered that the scheme amounts to a sustainable form of development in a sustainable location and the application is recommended for approval.

**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 approved drawings A1453-105-P2, A1453-110-P1, A1453-111-P2, A1453-112-P2, A1453-020-P3, A1453-021-P3, A1453-022-P3, A1453-023-P2 and A1453-024-P2.

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

- (3) The roof shall be covered in natural slate and, notwithstanding the indications of proposed materials as set out in the applicant's Design and Access Statement, no development beyond the construction of foundations shall take place until samples of all proposed wall facing materials 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 preserving or enhancing the character and appearance of the conservation area.

- (4) The proposed windows on the southern elevation of the extension shall at all times be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and

these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level.

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

- (5) No development beyond the construction of foundations shall take place until a detailed hard landscape proposal showing pedestrian routes, parking areas and all materials to be used in the construction of this hard landscaping 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 promoting safe pedestrian access and of preserving or enhancing the character and appearance of the conservation area.

- (6) No development beyond site clearance and excavations for foundations shall proceed other than in accordance with a Construction Management Statement which has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. timing of deliveries
- ii. provision of wheel washing facilities
- iii. temporary traffic management / signage
- iv. measures to control the emission of dust and dirt during construction
- v. 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.

### **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.

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

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

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



**PLANNING COMMITTEE – 30 APRIL 2020****PART 3**

Report of the Head of Planning

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

|  |  |  |
|--|--|--|
| <b>3.1 REFERENCE NO - 19/506123/FULL</b>   |  |  |
| <b>APPLICATION PROPOSAL</b><br>Retrospective application for erection of boundary fence and entrance gates. (Works complete) |  |  |
| <b>ADDRESS</b> St Nicholas Allotment St Nicholas Road Faversham Kent ME13 7PB  |  |  |
| <b>RECOMMENDATION</b> - Refusal  |  |  |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Applicant is a member of the Town Council   |  |  |
| <b>WARD</b> Watling  | <b>PARISH/TOWN</b><br>Faversham Town     | <b>COUNCIL</b><br>Faversham Town Council |
| <b>DECISION DUE DATE</b><br>09/03/20   | <b>PUBLICITY EXPIRY DATE</b><br>10/02/20 |  |

**1. DESCRIPTION OF SITE**

- 1.1 This retrospective application relates to land used as allotments that is located within the Local Plan defined built up area of Faversham. The allotments are now in the control of the applicant following their transfer from Borough Council ownership some years ago. The site is now being restored for allotment use after a long period of dereliction. Access to the site is by two narrow footpaths from St. Nicholas Road, one of which leads south-westwards to a level crossing on the main railway line where it runs to the south of the allotments.
- 1.2 The allotments adjoin established housing to the north and east. Along its eastern boundary the fence runs at the bottom of the gardens of ten houses, whilst along its northern boundary it runs on the far side of a path that provides the only access to the front doors of five houses that face the site.
- 1.3 To the west of the allotments site is the southern part of the former Cremer and Whiting brickworks site which has been vacant for some years, but which is now being redeveloped for new housing under outline planning permission 14/502729/OUT (approved on 23 December 2015) and reserved matters application 18/506283/REM (approved 30 October 2019). These decisions authorise the re-development of the former brickworks and land to its north for up to 250 dwellings. The approved site layout includes two areas of public open space and five houses with relatively short rear gardens (and a small block of flats) alongside the allotments and the new fence. The approved layout indicates a path leading from the new estate directly in to the allotments adjacent to these new houses approximately halfway along the western boundary of the allotments.

- 1.4 A Section 106 Agreement (dated 22 December 2015) tied to the outline planning permission has secured an index linked financial contribution towards “Off-Site play Space and Allotment Contribution” of £861.24 per dwelling payable prior to the first occupation of the 63<sup>rd</sup> dwelling on the site. This contribution is intended to fund the construction of off-site play equipment in Lower Road and the refurbishment of the St. Nicholas Road Allotment Site, but it has not been triggered yet as the development has not yet reached that stage.

## 2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for the erection of a boundary fence and entrance gates to the allotments site. The galvanised palisade fencing completely surrounds the allotments site and is 290m long and 2.4m in height. The fence has three pedestrian gates, one each on its northern, south-western and south-eastern sides. It does not have a gate on its western side where the path from the new housing estate is due to be built.

## 3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance

## 4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF)

- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies

Policy CP5: Health and wellbeing

Policy DM14: General development criteria

Policy CP5 reads as follows;

*The Council, working in conjunction with relevant organisations, communities and developers, will promote, protect and work to improve the health of Swale’s population, and reduce health inequalities.*

*Development proposals will, as appropriate:*

- 1. Bring forward accessible new community services and facilities, including health facilities;*
- 2. Safeguard existing community services and facilities where they are viable or can be made so, or where replacement facilities can be provided without leading to any shortfall in provision, or where the local Clinical Commissioning Group has indicated a need for health facilities;*
- 3. Safeguard or provide as appropriate, open space, sport and recreation in accordance with Policy DM 17, additionally enabling access to nature in accordance with the Local Plan Natural Assets and Green Infrastructure Strategy in Policy CP 7;*
- 4. Promote healthier options for transport, including cycling and walking;*
- 5. Improve or increase access to a healthy food supply such as allotments, markets and farm shops;*
- 6. Create social interaction and safe environments through mixed uses and in the design and layout of new development;*

*7. Create a healthy environment that regulates local climate by providing open space and greenery to achieve shading and cooling, particularly within existing urban environments; and*

*8. Undertake and implement a Health Impact Assessment for relevant proposals that are:*

- a. required to undertake Environmental Impact Assessments; or*
- b. within Swale's most deprived wards; or*
- c. identified as required by the Local Plan.*

In terms of Policy DM 14 amongst the criteria to assess all development proposals it includes the following:

“ .....7. Be both well sited and of a scale, design ,appearance and detail that is sympathetic and appropriate to the location.

8. Cause no significant harm to amenity and other sensitive uses or areas.....”

## **5. LOCAL REPRESENTATIONS**

5.1 Two letters from residents of wider Faversham have commented, in summary, that:

- the area had become a derelict area for some 20 years, with rubbish, fly tipping and anti-social behaviour
- local residents have worked hard to clear up the site and bring it to a condition fit for general and social use
- the fencing is absolutely necessary as the ground had been used for illegal fly tipping and other anti-social behaviour
- the fence not only provides security to the allotments site, but also to the rear boundaries of adjoining houses in St Nicholas Road
- when the site was unfenced tools were stolen from a wooden shed
- the fencing is standard industrial grade fencing used around the town
- planting is and will continue to be provided to reduce the initial stark nature in front of 96 to 104 St Nicholas Road
- the eastern boundary is already hidden by tall trees and adjacent domestic fencing and sheds
- the western boundary is set against rising land and the approved development includes trees which will screen the fencing

## **6. CONSULTATIONS**

6.1 The KCC Public Rights of Way East Kent Area Officer has raised no objection as long as the access gates open into the allotments. One resident of wider Faversham has written in response to point out that as the fence has already been built it can be seen that the gates open into the allotments.

- 6.2 The County Archaeological Officer has confirmed that no archaeological measures are required.
- 6.3 Swale Footpaths Group says that they have nothing to add to the KCC Public Rights of Way Officer's comments.
- 6.4 The Council's Green Spaces Manager has commented as follows:

*"I would recognise the strong desire to secure an allotment site given the level of both anti-social behaviour and theft that can be experienced both in terms of interference and theft of produce and from tool sheds etc. As such, supportive of fencing as it is not unusual for sites to have similar secure fencing to appropriate heights, for example East Hall Allotment site in Sittingbourne.*

*The St. Nicholas site is vulnerable tucked in behind housing with limited natural surveillance while also having a boundary on a public footpath with passers-by viewing potential "opportunities".*

### **APPRAISAL**

- 6.5 The main consideration in the determination of this planning application is the impact of the proposed fence on residential and visual amenity, and whether any adverse impact is outweighed by the benefits of the fencing.
- 6.6 In my view the new 2.4m high pallisade fence has a very intrusive and harsh appearance close to existing and proposed housing. It is prominent and harmful to visual and neighbouring amenities, especially those properties fronting onto it, and to the new development that was permitted close to it without an expectation of such an intrusive fence. The residents at 96-104 St Nicholas Road have short front gardens which face the new palisade fencing at close range, and they must pass the fence every time they enter or leave their homes. The fence has a very distinct industrial appearance and an enclosing effect and is very intrusive. The other surrounding properties (including the new housing development under construction to the west), have/will have rear gardens enclosed with appropriate fencing which are less intrusive.
- 6.7 The land has previously been set between rear gardens and the brickworks to the west. The former brickworks has been closed for some time and this may have reduced natural security and surveillance of the allotments site. However, the re-development of the brickworks site will bring back that natural security and reduce the need for such a high security fence. To my mind the need for the fence is doubtful and its harm is not outweighed by the need.
- 6.8 Whilst a 2m fence could be erected without the need for a planning application the applicants have exceeded that height without considering the need for planning permission. I see no reason why most, if not all, of the benefits of the fence cannot be secured by a 2m high fence, and that solution still exists. To that extent refusal of the current application does not deny the applicant from securing the site.
- 6.9 I have considered the supportive comments of the Greenspaces Officer in relation to the similar fencing around allotments at East Hall in Sittingbourne. However, that fencing is largely screened by established planting, is far further from and less intrusive to

neighbours, and surrounds a site which sits between the back of a housing estate and industrial development; not between housing areas and immediately in front of dwellings where it significantly affects their outlook and amenity. The fencing will also be alongside two areas of public open space that have yet to be laid out, and where I consider that it will detract from their quality and amenity. The East Hall site is far less well supervised by existing and proposed housing and more vulnerable. I do not see the situations as so similar that the fencing there provides any justification for the fencing at St. Nicholas Road.

## **7. CONCLUSION**

7.1 On the basis of the above, I consider the boundary fence and entrance gates would amount to an obtrusive structure which would give rise to significant harm to the visual and neighbouring amenities of the area, which the need for does not outweigh. As such I recommend planning permission is refused.

**8. RECOMMENDATION** – Refuse for the following reason;

### **REASON**

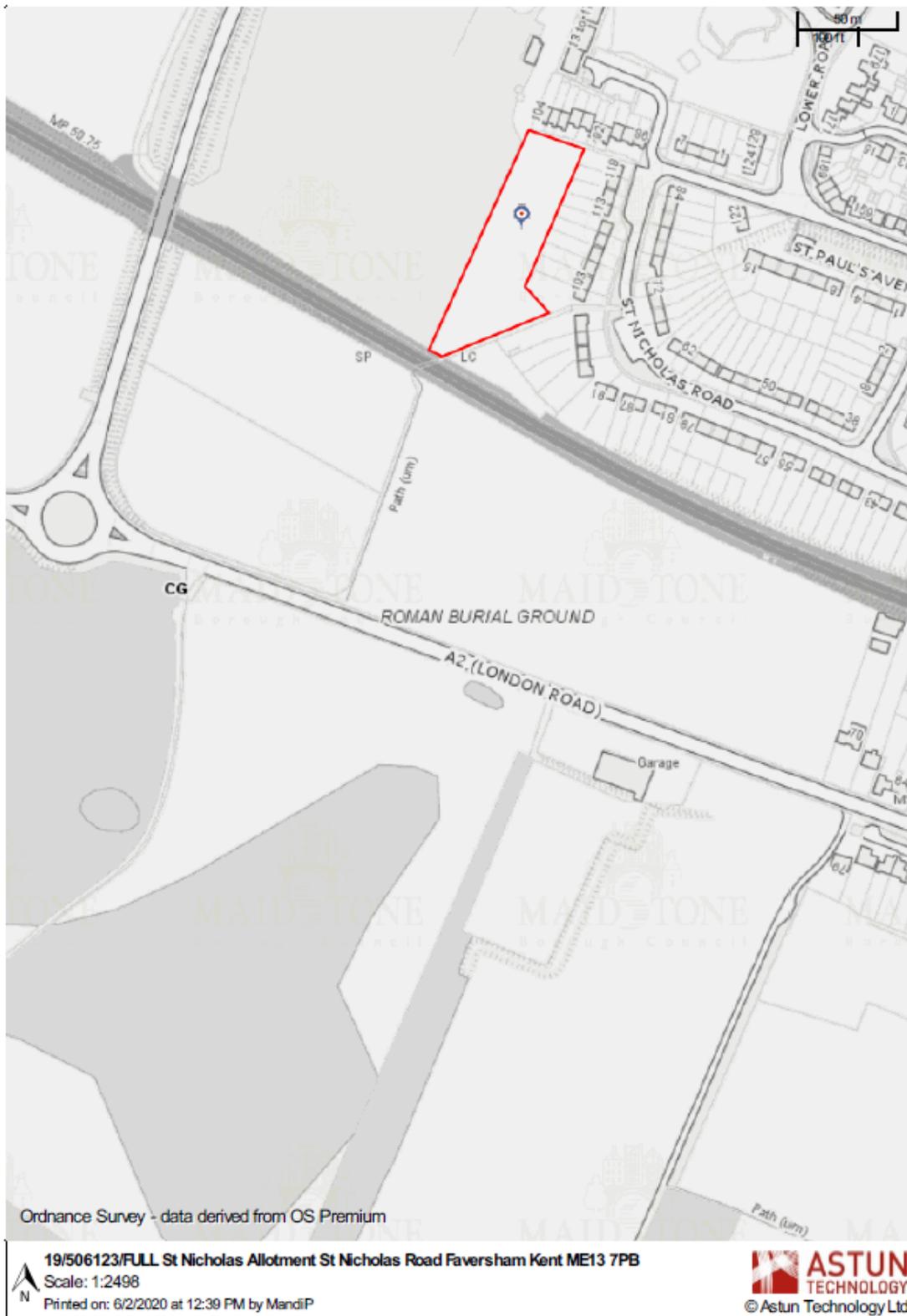
(1) The proposed fence would, by virtue of its siting, height and design, result in a prominent and intrusive form of enclosure which causes demonstrable harm to the character and appearance of the area and visual amenities of the area, which in the Council's opinion the need for does not outweigh the harm that it causes. It would therefore be unacceptable development contrary to policies DM14 and CP4 of the Council's 2017 adopted Local Plan Bearing Fruits 2031.

### **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.



|  |                                      |  |                                     |
|--|--------------------------------------|--|-------------------------------------|
| <b>3.2 REFERENCE NO - 19/505886/FULL</b>   |                                      |  |                                     |
| <b>APPLICATION PROPOSAL</b><br>Replacement of ground floor front door and 2no. first floor French doors (Part Retrospective) |                                      |  |                                     |
| <b>ADDRESS</b> 2 Millers Cottages Belvedere Road Faversham Kent ME13 7LN   |                                      |  |                                     |
| <b>RECOMMENDATION</b> - Refuse   |                                      |  |                                     |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Town Council in support   |                                      |  |                                     |
| <b>WARD</b> Abbey  | <b>PARISH/TOWN</b><br>Faversham Town | <b>COUNCIL</b>                           | <b>APPLICANT</b> Mr Raymond Lindley |
| <b>DECISION DUE DATE</b><br>28/04/20   |                                      | <b>PUBLICITY EXPIRY DATE</b><br>03/04/20 |                                     |

**Relevant planning history**

SW/01/0898

Demolition of silos and weigh bridge and the erection of a terrace of six 3 storey town houses, each with two bedrooms and an integral garage

Approved Decision Date 23.07.2002

**1. DESCRIPTION OF SITE**

- 1.1 2 Millers Cottage is a modern three storey mid-terraced property located within the Faversham conservation area, built on former industrial land. The terrace was granted planning permission in 2002 after substantial design negotiations, as part of the largely residential based redevelopment of Faversham Creekside. Here, the overall design approach was intended to reflect the industrial heritage of the Creekside. To that end the agreed approach employed large industrial scale buildings (subdivided into houses and flats) rather than individual domestic scale structures that would have looked far more like a typical housing estate, and which would have eroded the heritage value of the area.
- 1.2 The aesthetic chosen for Millers Cottages is that of a converted warehouse, or reminiscent of a weaver's workshop, with the top floor windows embedded in vertical timber panelling spanning the entire width of the block. The unity of the design is key to minimising the domesticity of the architecture; and all properties in the block were built with natural slate roofs, timber cladding and timber doors and windows. Until now, they have all retained that unity. Condition (19) of the original planning permission SW/01/0898 prohibits further alterations to the houses as a means of protecting the original design intentions of cohesion and retaining the original aesthetic.
- 1.3 The terrace is also subject to the Council's Article 4(2) Direction dated May 2007 which was issued in order to prevent piecemeal degradation of the town via incremental Permitted Development changes and, ideally, to raise the standard of appearance of properties when changes are being made.

## 2. PROPOSAL

- 2.1 This application seeks planning permission for a replacement ground floor front door and two first floor French doors. The front door (already installed) is a GRP composite door with woodgrain finish, again in white but with a larger window in the upper part. The first floor glazed doors would be replaced in aluminium. The applicant has sent photographs of the door and of doors found on various recent developments nearby – some wood, some metal, and has set out on the application for the reasoning behind the proposals as follows:

*'Replacement of ground floor front door and first-floor French doors (x2) with replacements. The existing ground floor entrance door and the 1st floor French doors, installed as part of the new build of the property in 2004, are past their workable life with the locks failing, the softwood timber degrading and varnish peeling. The softwood doors and frames provide very poor insulation and the design of the doors, particularly the ground floor entrance door gives very poor security. Light and draughts can be seen and felt around each of the doors due to the degrading of the wood which significantly compromises the thermal efficiency and environmental credentials of the property.*

*'For the ground floor door: the existing window in the door limits the amount of natural light that enters in the north-west facing door meaning that an electric light needs to be constantly switched on in the hallway. We wish to increase the size of the front door window to allow in further natural light adding considerably to the environmental credentials of the replacement.*

*'The Ground floor entrance door would be constructed with industry-leading GRP (Glass Reinforced Polyester) noted for its suitability for the marine environment. The composite door in Anglian's Cottage range is designed to create a country feel replicating the natural grain of wood and continuing the modern cottage style architectural design theme of the 2005 build date of the house and to match the existing creme paintwork.*

*'The 1st-floor French doors would be replaced with Aluminium doors to replicate the existing style and design again suitable for the marine environment of the creek to match the existing grey paintwork.*

*'All doors frames and cills/thresholds would be professionally installed by the leading installer Anglian windows. The doors are installed with kitemarked 3-star Ultion cylinder locks. The lock system is built with unparalleled inner strength to protect our property from the different forms of attack used by burglars, leaving our door safely 'locked. Our replacement doors would consist of:*

- Steel keeper plates and robust hinges for high-performance security*
- Energy-efficiency, keeping the cold out and the warmth in*
- Low maintenance for the marine environment of the creek*
- Anti-drill: Specialised anti-drill pins in the barrel provide resistance.*

- *Anti-pick: The pin stack is designed to make it impossible to pick the lock.*
- *Anti-snap: Special cuts allow a small section of the cylinder to be sacrificed under attack, leaving the remainder intact.*
- *Anti-plug extraction: Special sections snap when attacked, leaving the rest of the plug whole. The anti-snap cuts provide additional resistance.*
- *Anti-bump: The pin stack design prevents even the most advanced bump keys from working.'*

and

*'The existing timber doors, frames and sill/threshold's installed as part of the new build of the property in 2005 had passed a workable life with the locks failing, the softwood timber degrading and the paintwork peeling and the cills subject to wear and tear. The existing badly fitted softwood doors on the ground floor and first floor give very poor insulation significantly impacting our energy bills and presenting very poor security. Light and draughts can be seen and felt around each of the doors due to the degrading of the wood which has rotten in places, significantly compromising the thermal efficiency and environmental credentials of the property. Thus, the timber frames, doors and sill/threshold's would thus need to be removed to allow installation of full replacements.'*

### **3. PLANNING CONSTRAINTS**

Swale Article 4 directive

Conservation Area Faversham

### **4. POLICY AND CONSIDERATIONS**

#### **4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies**

CP4 (Requiring good design)

CP8 (Conserving and enhancing the historic environment)

DM14 (General Development)

DM16 (Alterations and extensions)

DM33 (Development affecting a conservation area)

#### **4.2 Supplementary Planning Guidance (SPG) 'Designing and Extension' and 'Conservation Areas'. The former contains the following guidance which I consider is also relevant to alterations to houses:**

*"4.0 On any house, an extension should be well designed to reflect its existing character. The use of matching bricks, other facing materials, and roof tiles with appropriate doors and windows is essential if an extension is not to upset the appearance of the house or the area as a whole."*

- 4.3 The Council's SPG advice for conservation areas contains the following statement:

*"C Alterations*

*6.9 The quality and interest of a conservation area is made up from the sum of all its parts. Modest buildings such as terraced house and cottages can contribute to the character of the area. It follows that alterations to these buildings can therefore have a considerable impact upon the appearance and quality of the conservation area. Repairs carried out in like materials using traditional methods will have little or no effect but quite small changes such as replacement of timber sash windows with plastic or metal framed windows, can not only downgrade the appearance of the building and the conservation area, but can also devalue the property itself. The Council, therefore, asks property owners within conservation areas to think carefully before altering their buildings or undertaking repairs...Doing things the right way will be vital to help maintain the attractiveness of an area. It can then continue to be appreciated by residents and visitors alike."*

**5. LOCAL REPRESENTATIONS**

- 5.1 None

**6. CONSULTATIONS**

- 6.1 Faversham Town Council is in support of the application, saying that *"There is already a range of different front doors in the area"*.

**7. BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers for application 19/505886/FULL

**8. APPRAISAL**

- 8.1 The main issue to consider on this application is the affect of the new GRP composite front door and proposed metal French windows on the character and unity of the overall building and, in turn, the effect on the surrounding Faversham conservation area.

- 8.2 I am mindful of the SPG advice set out above, and that adopted Local Plan policy DM33 states that;

*'development (including change of use and the demolition of unlisted buildings 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 or appearance'.*

- 8.3 This property lies within the Faversham conservation area and it is one of a number of former industrial sites on the east bank of Faversham Creek. It lies to the east of Belvedere Road and hence its eastern (rear) boundary is also the rear boundary of properties on the western side of Abbey Street, a street of historic properties mainly in residential use.

- 8.4 The application relates to a short terrace of modern properties with a carefully designed and tightly controlled, unified, and consistent appearance. With regard to the proposed

front door which has already been installed without permission, it is clear to me that with its GRP imitation woodgrain appearance does not match the character of the original timber doors on the rest of the terrace of properties. The proposed door is not in keeping and would be detrimental to the character and appearance of the host property, the adjoining properties and that of the surrounding conservation area.

- 8.5 I also find that the proposal to install aluminium French doors would be at odds with the features, forms, materials and treatments of Millers Cottages, which collectively are an important part of the character of the area. Here, the entire terrace of properties is read as one building, with domesticity limited by common standards, and the terrace needs to retain its homogeneous and in-keeping appearance. Any variation which detracts from the homogeneity and is not likely to be acceptable.
- 8.6 In my view the architecture of the entire block relies on a consistency of detailing to appear appropriate to the area. This is not a typical row of houses where individuality can be enjoyed, but a particularly sensitive style of block where the overall impression is greater than a sum of its parts, and where each part has a role to play in maintaining that character. To start tinkering with the inherent unity of the block risks it losing its character altogether.
- 8.7 I note the applicant's referral to other nearby doors, but even though the Town Council echo that comment, those doors are not on this particular block and are each appropriate to their own situation. I do not believe that reference to doors elsewhere is any justification for harming the character of this particular block. Nor do I find the applicant's arguments about energy efficiency convincing. There is no reason why timber joinery is incompatible with high standards of energy efficiency and the proposal here appears to be an inconsiderate and unsustainable way of targeting one objective at the expense of another, rather than a rounded and well thought through solution.
- 8.8 I would wish to see the original door re-instated, (or an updated one to the same external design) and it is important to remember that the Council has a statutory duty to consider the preservation or enhancement of a conservation area, even for smaller proposals. For all development proposals it must clearly be shown that the proposal will preserve or enhance the character and appearance of the conservation area and I am of the opinion that the newly fitted door and the proposed metal French doors will detract from the traditional character of the entire block, and would be contrary to policy DM33.

## **9. CONCLUSION**

- 9.1 In my view the proposals would fail to preserve or enhance the character and appearance of the conservation area and would be contrary to policy DM33. I therefore recommend that the application be refused.

## **10. RECOMMENDATION** - Refuse for the following reason:

### **REASON**

- (1) The replacement front door, together with the replacement of French doors on this individual; property which site within a well designed and well preserved single homogeneously designed block, would detract from the character of the property

itself, from the block as a whole, and would fail to preserve or enhance the special character and appearance of the conservation area. The proposal is therefore contrary to saved policies CP4, CP8, DM14, DM16 and DM33 Bearing Fruits 2031: The Swale Borough Local Plan 2017, and contrary to the Council's Supplementary Planning Guidance relating to householder extensions and conservation areas.

### **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.

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.



This page is intentionally left blank

**PLANNING COMMITTEE – 30 APRIL 2020**

**PART 5**

Report of the Head of Planning

**PART 5**

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

---

- **Item 5.1 – 3 Broadway Sheerness**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

Full support for the Council's decision to refuse this scheme which would have harmed this listed building.

- **Item 5.2 – Bellever, Marshlands Farm Lower Road Minster**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

Full support for the refusal of this proposal, which would have seen a mobile home replaced with a substantial bungalow.

- **Item 5.3 – Former Brewers Yard, St Michaels Road Sittingbourne**

**APPEAL ALLOWED**

**COMMITTEE REFUSAL**

**Observations**

The Inspector considered that the surfacing of the site could be dealt with by way of a condition, which was suggested to Members prior to the vote to refuse. Also of note is that the Inspector has granted permanent permission for this use, where I was recommending the grant of temporary permission.

- **Item 5.4 – Land west of Barton Hill Drive Minster**

**APPEAL ALLOWED AND COSTS AWARDED TO THE APPELLANT**

**COMMITTEE REFUSAL**

**Observations**

Members will recall that I had recommended this major housing development for approval. The Inspector reported that the proposal would deliver 700 dwellings on land

mostly allocated within the Local Plan (A12) for development, and that the development parameters would allow for sufficient space to preserve the setting of Parsonage farmhouse, a Grade II listed building to the north of the site.

The Inspector found that the scheme would have some adverse effects on the character and appearance of the area caused by the inclusion of land outside of the A12 policy allocation, and that this would conflict with policies ST3 and A12 of the Local Plan. However, he considered that the impact of this would not be significantly greater than a policy-compliant scheme, and that the scheme would not undermine the purposes of the Important Local Countryside Gap.

In his planning balance, the Inspector acknowledged that the Council could not demonstrate a five year housing supply and applied paragraph 11(d) of the NPPF – which states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Inspector considered the benefits to be the delivery of 700 dwellings (substantial weight), the contribution this would make to addressing the 5 year housing shortfall (moderate weight), delivery of the Rushenden primary school, an on-site local centre and potential on-site medical facility (all moderate weight), further highways improvements, and biodiversity net gain (substantial weight). He concluded that the adverse impacts of the development would not significantly and demonstrably outweigh its benefits, and that the presumption in favour of sustainable development weighed in favour of allowing the proposal.

The Inspector rejected the Council's case that the scheme should include a condition requiring dwellings to be built to reduce carbon emissions by at least 50%, stating that the Council's suggested condition was not supported by any local or national policies. Instead, he imposed a condition that was worded in a more flexible way to take account of relevant Building Regulations and planning policy requirements at the time of construction of each phase of the development.

The Inspector granted a partial award of costs against the Council. The Council withdrew two of its reasons for refusal based on lack of affordable housing and highways impacts prior to the Inquiry. However the Inspector concluded that the Council had failed to produce evidence to substantiate the reason for refusal relating to affordable housing and that the appellant had incurred unnecessary expense in preparing evidence on this.

The Inspector also considered the Council's reason for refusal on highways grounds to be unreasonable and against the expert advice of Kent County Council and its own planning officers. Although mitigation was subsequently agreed that led to the withdrawal of this reason, the Inspector considered that this could have been resolved without the need for the appellant to prepare evidence to contest the reason at the Inquiry, and that the appellant had incurred unnecessary expense in providing this evidence.

Members should note that the Council has submitted papers to the High Court to challenge against the partial award of costs as there are errors in the planning inspectors decision which Counsel have advised are challengeable.

- **Item 5.5 – Caravan and Stables Old Billet Lane Eastchurch**

**APPEAL ALLOWED**

**COMMITTEE REFUSAL**

**Observations**

The Inspector concluded that the development would not harm visual or residential amenity, and that the location of the site and its accessibility were not unacceptable.

- **Item 5.6 – 58 Volante Drive Sittingbourne**

**APPEAL ALLOWED**

**COMMITTEE REFUSAL**

**Observations**

The Inspector found the development to be acceptable, and did not agree that the use would harm visual or residential amenity, nor that it would give rise to significant parking issues.

- **Item 5.7 – Hempstead Farm Hempstead Lane Tonge**

**APPEAL ALLOWED**

**DELEGATED REFUSAL**

**Observations**

A very narrowly based decision which almost completely ignores the matter of the unnecessary detrimental impact on air quality of extra HGVs bringing in fruit from anywhere on the planet, and travelling through a number of designated AQMAs to do so, that were raised in the refusal and in the officer's report.

This page is intentionally left blank



The Planning Inspectorate

## Appeal Decisions

Site visit made on 4 February 2020

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

### Appeal A: APP/V2255/W/19/3239875

#### 3 Broadway, Sheerness, Kent ME12 1AB

- 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 D Lynch, Sheerness Travel Agency Ltd against the decision of Swale Borough Council.
- The application Ref 19/500661/FULL, dated 1 April 2019, was refused by the Council by notice dated 19 June 2019.
- The development proposed is alteration to shopfront, including removal of glazed panel to be replaced with external access door to existing flat above. Removal of existing internal flat door and new hallway formed within shop area.

### Appeal B: APP/V2255/Y/19/3239878

#### 3 Broadway, Sheerness, Kent ME12 1AB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr D Lynch, Sheerness Travel Agency Ltd against the decision of Swale Borough Council.
- The application Ref 19/502391/LBC, dated 1 April 2019, was refused by the Council by notice dated 19 June 2019.
- The works proposed are alteration to shopfront, including removal of glazed panel to be replaced with external access door to existing flat above. Removal of existing internal flat door and new hallway formed within shop area.

### Decisions

1. I dismiss both appeals.

### Main Issue

2. This is the effect of the proposal on the architectural and historic interest of the Grade II Listed Building and the character and appearance of the Sheerness: Mile Town Conservation Area.

### Reasons

3. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area

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

Appeal Decisions APP/V2255/W/19/3239875 & APP/V2255/Y/19/3239878

---

4. Paragraph 193 of the 2019 National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. Policy CP4 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 requires good design including the need to retain and enhance features which contribute to local character and distinctiveness while Policy CP8 seeks the conservation and enhancement of the historic environment. General development criteria are contained in Policy DM14, and development involving shopfronts will be required to be of a design which responds positively to the character of the building and its locality as stated in Policy DM15. Policies DM32 and DM33 concern development involving listed buildings and conservation areas respectively.
6. The Council have published guidance as follows; '*Conservation Areas*', '*Listed Buildings, A Guide for Owners and Occupiers*' and '*The Design of Shopfronts, Signs & Advertisements*'. The '*Mile Town, Sheerness Conservation Area Character Appraisal*' refers to the terrace on the Broadway as being originally built as houses but with the ground floors having been converted to shops, continuing that; '*the original fenestration and brickwork of the upper floors is still largely intact but piecemeal conversions to shops and other uses have caused the ground floor elevations to lose much of their visual continuity.*' The appeal premises along with others in the terrace were listed for their group value in 1978 at which time the ground floors were described as '*mainly modern shopfronts*' with the exception of numbers 17 and 19 to the east.
7. The application and appeal were made in the name of Sheerness Travel Agency Ltd, but the supporting document made clear the intention to cease trading and to seek a new occupier for the shop and office. There being no independent access to the separate residential tenancy above was seen as a potential problem, and it is the case that many shopfronts on the street incorporate a separate door to one side of the retail space and frontage. The layout of the stairs at number 3 indicates that originally the house door would have been on the right-hand side, as now again proposed, although historically there would have been no shopfront.
8. The provision of a separate doorway in the historically correct position would be acceptable, provided it was either incorporated as an integral feature of the shopfront or reinstated as a segmented arch in brick surrounds, separate from the shopfront; both solutions being in place successfully on the terrace.
9. The present shopfront is modern and the fascia signage inappropriately large and strident, although it is unclear what action the Council has taken previously, it being stated that the fascia did not have the benefit of either a listed building or advertisement control consent. The signage in place at the time of the site inspection was for an estate agency and is clearly new.
10. The document '*The Design of Shopfronts, Signs & Advertisements*' states that in appropriate locations, such as in conservation areas and on listed buildings, the Council will encourage the replacement of modern and inappropriate shopfronts, with the design being required to reflect the character of the building and use appropriate materials. The use of what is described as a '*period style*' which is not accurately based on good historic precedent will be discouraged.

---

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

2

Appeal Decisions APP/V2255/W/19/3239875 & APP/V2255/Y/19/3239878

---

11. The original building was a house, and at the time of listing it was a shop, apparently one of the '*mainly modern shopfronts*' referred to in the listing description. It is for the Council to determine what style of shopfront would be appropriate to that context were an application to be made. However, the present shopfront is of limited design quality and the insertion of the door as proposed would worsen the effect of that design on the street-scene, it being poorly integrated with the glazing arrangements, leaving a thin pane between the door and the recessed shop entry.
12. The proposal would cause harm to the architectural significance of the listed building which remains in place on the front elevation above, and would erode the value of the group, and hence would fail to preserve the character and appearance of the conservation area, causing harm to that designated heritage asset as well.
13. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
14. The reinstatement of the historically correct entry door could be a public benefit to the presentation and understanding of the listed building, although the method proposed here is not appropriate. The provision of a separate entry to a flat would be a public benefit if it allowed the continued occupancy of a residential use in a highly sustainable location, whilst allowing the continued use of a prominent town centre ground floor unit. However, that welcome aim could be achieved in a less harmful way, and the shop has remained in use despite the travel agency closing.
15. To conclude, the opportunity has not been taken to enhance the character and appearance of the conservation area, rather harm would be caused, and that harm is not outweighed by public benefits. The proposal is contrary to the Development Plan policies, local guidance, national policy and the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act 1990. For the reasons given above it is concluded that both appeals should be dismissed.

*S J Papworth*

INSPECTOR

---

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

2

This page is intentionally left blank



---

## Appeal Decision

Site visit made on 29 January 2020

by **H Miles BA(hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

---

**Appeal Ref: W/4000252**

**Marshlands Farm, Bellever, Lower Road, Minster-On-Sea, ME12 3RT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Margaret Farr against the decision of Swale Borough Council.
  - The application Ref 18/506097/FULL, dated 22 November 2018, was refused by notice dated 30 July 2019.
  - The development proposed is replacement of existing mobile home with proposed bungalow and detached garage.
- 

### Decision

1. This appeal is dismissed.

### Preliminary Matters

2. I understand that the application was amended during the application process. For clarity the drawings on which I have based this decision are BA/18/107.01 Rev C, BA/18/107.02 Rev C, BA/18/107.03 Rev C and BA/18/107.04 Rev C that I understand were before the Council at the time they made their decision. For this reason I have also amended the description of development to remove reference to a 'chalet' bungalow as the scheme before me now is a single storey bungalow.

### Main Issue

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

### Reasons

4. The appeal site is outside the built up area boundary and therefore in the rural area for the purposes of the development plan. Policy DM11 of Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (the Local Plan) permits replacement of dwellings in the rural area where particular exceptions are met. Of relevance to this scheme is that the proposed new dwelling is of a similar size and proportion, an appropriate scale, mass and appearance in relation to the original dwelling and location.
5. The appeal site is mainly grassed land and at the time of my visit this was in use for keeping animals, along with some associated small scale structures. There was also a modest mobile home on the site. The hard surfaced access route also forms part of the appeal site. By its nature, the mobile home has a

---

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

Appeal Decision W/4000252

---

- temporary appearance. As such the site has an open, mainly undeveloped countryside character.
6. Nearby, Marshlands Farm includes two large commercial buildings and an associated area of hardstanding. There are also two detached dwellings with large gardens close by, with further residential development located across the roundabout junction with Lower Road and Thistle Hill Way. To the rear of the appeal site, and the wider surrounding area, is undeveloped open countryside land. Whilst there may be built development close by, due to qualities such as its location and appearance the site itself is more closely related to the surrounding open undeveloped countryside character.
  7. The erection of the proposed bungalow and detached garage along with the hardstanding and residential curtilage is domestic and urban in design and nature. The scale of the development would result in a significant amount of built form on the site. This would therefore harm the open mainly undeveloped rural character of the site and surrounding countryside area and would not be of an appropriate scale and appearance in relation to the original dwelling and location.
  8. I have taken into account that the design of the proposed dwelling would include materials and a pitched roof similar to the two nearby houses. Also that the rear building line would be close to, albeit further back from, one of these properties. However, these do not overcome my concerns relating to the erosion of the rural character and appearance of this location.
  9. It is not in dispute between the main parties that a larger mobile home could be placed on this site without the need for planning permission. It is put to me that a mobile home can be 20m in length, 6.8m wide, with an overall internal height (floor to ceiling) of 3.05m. The appellant's statement describes the size of the proposed dwelling as 17.7m x 9.2m (162.84 sqm) an eaves height of 2.8m and a ridge height of 6.1m. Therefore the proposed dwelling would be noticeably larger than the largest mobile home that could be placed on the site. Furthermore the proposed development also includes a substantial double garage. As such this matter does not overcome the harm in relation to the scale of the dwelling and overall built development proposed.
  10. I have considered that it may be possible to implement the appeal scheme and also have a mobile home on the site, which would increase the amount of development on the site and would be additionally harmful for this reason. However, it can be seen above that even without any other mobile home I find harm to the character and appearance of the area as a result of the proposed dwelling, and therefore I have not pursued this matter further in this case.
  11. Consequently the proposed development would have a harmful effect on the character and appearance of the area. As such it would be contrary to policies CP4 (Requiring good design), DM11 (Extensions to, and replacement of, dwellings in the rural area) and DM14 (General development criteria) of the Local Plan.
  12. My attention has been drawn to the advice in 'Designing an Extension A Guide for Householders, Swale Borough Council North Kent Coast'. However the development before me is for a new dwelling, not an extension. Therefore the policies above are more relevant to this main issue.

---

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

2

Appeal Decision W/4000252

---

### **Other Matters**

13. My attention has been drawn to a decision at Breach Farm bungalow<sup>1</sup> and it is put to me that in this case the Council consider permitted development in their assessment of the increase in size of the dwelling. I have taken this into account, and as can be seen above I have considered the position put to me that a larger mobile home could be erected at this site.
14. I have considered that the proposed development may result in an improved standard of amenity for future occupiers due to its location further from the existing industrial buildings. However, the appeal submissions indicate that the existing noise and disturbance is not unacceptable, therefore this does not weigh strongly in favour of the development.
15. Given my conclusions in relation to the harm to the character and appearance of the area from the scale of the development as proposed, it follows that a condition which would remove permitted development rights and prevent any future extensions would not overcome any such harm.

### **Conclusion**

16. For the reasons set out above, this appeal should be dismissed.

*H Miles*

INSPECTOR

---

<sup>1</sup> 18/505139/FULL

This page is intentionally left blank



---

## Appeal Decision

Site visit made on 29 January 2020

by **H Miles BA(hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

---

**Appeal Ref: W/4000299**

**Former Brewers Yard, St Michael's Road, Sittingbourne, Kent, ME10 3DN**

- 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 Mehtab Asghar against the decision of Swale Borough Council.
  - The application Ref 19/504198/FULL, dated 14 August 2019, was refused by notice dated 18 October 2019.
  - The development proposed is use of the land for parking.
- 

### Decision

1. This appeal is allowed, and planning permission is granted for use of the land for parking in accordance with the terms of the application, Ref 19/504198/FULL, dated 14 August 2019, subject to the conditions set out in the schedule at the end of this decision.

### Application for costs

2. An application for costs was made by Mr Mehtab Asghar against Swale Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The fact that development has been carried out is not in dispute. For the avoidance of doubt, the fact that development has occurred has had no bearing on my decision.

### Main Issues

4. The main issues are the effect of the proposed development on:
  - The character and appearance of the area
  - The standard of amenity for nearby residents and users of the church with particular regard to noise, and
  - Highway safety

### Reasons

#### *Character and Appearance*

5. This part of St Michael's Road is characterised by commercial and functional development. In close proximity to the site there is a multi-storey car park, a surface car park, a car show room and a garage and all these uses include the

---

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

Appeal Decision W/4000299

---

presence of parked cars visible in the streetscene. In the main these include neat and modest boundary treatment and hardstanding which does not detract from the orderly and functional character and appearance of the streetscene in this regard or, in the case of the multi-storey car park, attractive screening. The site itself is bordered by the Methodist Church, the rear of properties fronting the High Street many of which have vehicle access and parking to their rear, and the access to the multi-storey car park

6. The proposed use results in cars parking on the site which are visible in public views. As noted above, this is in keeping with the character and appearance of the surrounding area.
7. At the time of my visit the site was laid to hardstanding and enclosed by metal fencing. The existing hardstanding is uneven and mismatched resulting in a poor quality unattractive appearance to the site at present. The existing boundary treatment is irregular and in places imposing with no screening by planting or any other means resulting in its existing appearance being incongruous in this area and harmful for this reason.
8. A condition has been suggested which would require details of hard and soft landscaping to be submitted, which would overcome these concerns. Therefore, such a condition would enable development to proceed where it would otherwise have been necessary to refuse planning permission.
9. It is put to me that to tarmac the land would be financially unviable, and that there is an intention to develop the site in the medium term so the condition would be onerous. However I am provided with limited evidence in these regards. As such these matters do not overcome the public and permanent harm which would occur to the character and appearance of the area if the condition were not attached.
10. Without such a condition this development would be unacceptable. Therefore, this condition is reasonable, and details of hard and soft landscaping are required to be submitted in the interests of the character and appearance of the area.
11. Consequently, the proposed development would not have a harmful effect on the character and appearance of the area. As such, in this regard, it would not be contrary to policies CP4 (Requiring good design) or DM14 (General development criteria) of Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (the Local Plan).

#### *Amenity*

12. Windows to what I understand to be residential properties fronting the High Street face towards the car park. They are set back from the boundary of the site behind the rear service areas for the High Street properties, some of which appear to be used for car parking and deliveries. There are also windows to the Methodist church which are in relatively close proximity to the boundary of the appeal site.
13. The car parking may generate engine noise and noise from car doors opening/closing. However, I have considered the distance of the residential and church windows from the car park, and the existing likely background noise in this location including the parking/servicing for the High Street properties and the noise from St Michael's Road. I am also aware that the use of the car park

---

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

2

Appeal Decision W/4000299

---

could take place late at night or early in the morning and on Sundays. Taking these factors into account I am not satisfied that the proposed development would be harmful to the amenity of nearby occupiers and church users.

14. Consequently, the proposed development would not result in an unacceptable standard of amenity for nearby residents and users of the church with particular regard to noise. Therefore, in this respect, the proposed development would not be contrary to Policy DM14 (General development criteria) of the Local Plan.

#### *Highway Safety*

15. The car park is accessed from St Michael's Road via an access which, in parts, is not wide enough for cars to pass. This route also appears to provide access to the rear of properties fronting the High Street. The use of part of the site for car parking would increase the number of vehicles using this access.
16. I am not provided with evidence that satisfies me that the existing arrangement is harmful to highway safety. Furthermore, whilst the proposed development would be likely to result in an increased number of vehicles turning right across oncoming traffic to enter the site, I am not satisfied that the intensification to the levels proposed would result in unacceptable harm in this regard.
17. Consequently, the proposed development would not be unacceptably harmful to highway safety. As such, in this respect, it would not be contrary to policy DM14 (General development criteria) of the Local Plan.

#### **Other Matters**

18. It is put to me that the occupiers of 38A High Street have legal rights to open their rear door and park on the land, and that access to the rear of 34, 36 and 38 High Street should be maintained. However, these would be private legal matters and not material planning considerations to which I can attribute any degree of weight. Nor is it my role as a S78 Inspector to conclude on matters of lawfulness relating to the existing use of the site.
19. The application was not refused on the grounds that it would result in the increased use of the private car and I have not been provided with detailed evidence which would prompt me to disagree with the Council's conclusions on these matters. I am not presented with substantive evidence that the site is at risk from crime or anti-social behaviour and as such I am not satisfied that security lighting and CCTV would be necessary.
20. My attention has been drawn to a previous application at this site which I understand grants permission for a drive through restaurant<sup>1</sup>. It is put to me that the proposed access arrangements were different. As such, based on the evidence before me, the appeal scheme is notably different to that previously approved and I afford limited weight to those specific circumstances.
21. I note that the Council did not refuse the application on the grounds that it would have a harmful effect on the setting of a listed building or Conservation Area and I am not presented with any substantive evidence which would lead me to conclude otherwise.

---

<sup>1</sup> SW/01/0110

Appeal Decision W/4000299

---

### Conditions and Conclusion

22. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.
23. Conditions are attached regarding hard and soft landscaping, the reasons for which are set out above. I do not find that marked bays make a particular contribution to the character and appearance of the area, and therefore I have omitted this requirement suggested by the Council. I note that the appellant has requested a longer period for submission of details due to the time required to draw up plans. However, I am not provided with substantive evidence that satisfies me that a period of 3 months to submission would be unreasonable. The timetable for implementation is to be agreed between the appellant and the Council. I have also included clauses to cover the situation where a scheme cannot be agreed with the local authority.
24. I have altered the wording of the conditions because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.
25. The Council have requested a condition limiting the permission to 5 years in order that the site could be redeveloped to contribute to the ongoing regeneration of the town. I am not provided with substantive evidence, such as plans or policies, to satisfy me that there is a likelihood that redevelopment of this site would take place. As such it would not be reasonable to set a time limit.
26. For the reasons above, and subject to the conditions listed, this appeal should be allowed.

*H Miles*

INSPECTOR

Appeal Decision W/4000299

---

### Schedule of Conditions

- 1) The use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 1 month of the date of failure to meet any one of the requirements set out in i-iv below:
  - i) Within 3 months of the date of this decision a hard and soft landscaping scheme shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

The hard and soft landscaping scheme 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, means of enclosure, hard surfacing materials and a timetable for its implementation.

Upon implementation of the approved landscaping specified in this condition, the landscaping shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) 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 the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, damage, destruction or death of the original trees or shrubs unless the local planning authority gives its written consent to any variation.

This page is intentionally left blank



---

## Appeal Decision

Inquiry held on 4 February 2020

Site visit made on 5 February 2020

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> March 2020

---

**Appeal Ref: APP/V2255/W/19/3238171**

**Land west of Barton Hill Drive, Minster-on-sea, Kent ME12 3LZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by SW Attwood & Partners against the decision of Swale Borough Council.
  - The application Ref 18/503135/OUT, dated 11 June 2018, was refused by notice dated 8 August 2019.
  - The development proposed is the development of up to 700 dwellings and all necessary supporting infrastructure including land for the provision of a convenience store / community facility, internal access roads, footpaths, cycleways and parking, open space, play areas and landscaping, drainage, utilities and service infrastructure works.
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for the development of up to 700 dwellings and all necessary supporting infrastructure including land for the provision of a convenience store / community facility, internal access roads, footpaths, cycleways and parking, open space, play areas and landscaping, drainage, utilities and service infrastructure works on land west of Barton Hill Drive, Minster-on-sea, Kent ME12 3LZ in accordance with the terms of the application Ref 18/503135/OUT, dated 11 June 2018, subject to the conditions in the attached schedule.

### Procedural and Preliminary Matters

2. I opened the Inquiry on 4 February, and it sat for 4 days, closing on 7 February. I conducted an unaccompanied visit of the area surrounding the site on 3 February between about 1500 hours and 1700 hours prior to opening the Inquiry and an accompanied site visit on 5 February between about 1445 hours and 1615 hours during an adjournment to the Inquiry.
3. The application was submitted in outline form with all matters of detail except access to Lower Road and to Barton Hill Drive reserved for subsequent determination. Prior to its determination by the Council, the description was changed from that of the application to the one given above. I have determined the appeal on this basis.
4. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

---

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

Appeal Decision APP/V2255/W/19/3238171

---

### **Main Issues**

5. Prior to opening the Inquiry, the Council advised that it would not be defending its reasons for refusal 3, regarding affordable housing, or 4, regarding its impact on highways, and that its Planning Committee has resolved to withdraw these reasons for refusal. Consequently, the main issues are the effect of the proposal on the character and appearance of the surrounding area; and its effect on the setting of the Grade II listed Parsonage Farmhouse.

### **Reasons**

6. The appeal site includes a large part of the site that Swale Borough Local Plan-Bearing Fruits 2031 (SBLP) Policy A12 allocates for residential development for a minimum of 620 dwellings, landscape, open space and transport improvements. Three areas of the appeal site fall outside of the site allocation. These areas are located beyond the resulting settlement boundary and in the surrounding open countryside. Two of the areas are within an Important Local Countryside Gap (ILCG) between Minster, Halfway and Queenborough, which is identified in SBLP Policy DM25.

### ***Character and appearance***

7. The appeal site generally has a rural character and appearance, lying to the south west of the settlement of Minster. It is bounded to the north and east by built development. The A2500 Lower Road passes through the south part of the site, and includes a recently completed roundabout and associated works, together with a cycleway / footway. The part of the site on the south side of Lower Road has an agricultural use and lies to the north of open marshlands, separated from them by arable fields. The appeal site and surrounding area consist mainly of open rolling countryside, with some mature hedges and tree planting along the field boundaries, rising to a high point at the north west corner of the site. The site is not within a designated landscape, as defined under SBLP Policy DM24, but its character is identified in various studies.
8. The Landscape Assessment of Kent, 2004, locates the site within North Sheppey Local Character Area (LCA) and describes this LCA as having an exposed and open character as a result of the loss of hedgerows and orchards due to arable cultivation, Dutch elm disease and coastal exposure. The LCA is assessed as being in poor condition due to, amongst other things, lack of hedgerows and trees and its exposed open character. Its recommendations include encouraging urban planting within built development, creating urban edges which promote intermittent views of built development beyond, and delineating edges between marshes and higher land by enhancing inherent characteristics.
9. I have taken account of the three studies that have been referred to by the appellants as having been undertaken to assess the landscape impacts of residential development on the appeal site, including the Huskisson Brown Associates Landscape Statement, December 2016, which informed the decision to allocate much of the appeal site in the SBLP. SBLP Policy A12 requires development of the allocated site to provide a strong landscape framework, including substantial woodland planting on the southern and western boundaries to be provided as advance planting. The Policy is accompanied by a Concept plan which gives an indication of the location of development on the allocated site to enable compliance with the Policy.

---

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

2

Appeal Decision APP/V2255/W/19/3238171

---

10. I have considered the impact of including the additional land in the appeal site to that of the allocation site. In this respect, the 'Harris Trust land' occupies part of a small plateau within a generally sloping site, and the appellant has suggested that its inclusion enables a preferable location of public open space within the site from that of the Concept plan. The additional area of land to the west forms a natural depression located within a small plateau area and the appellant has indicated that using this for a Sustainable Urban Drainage System (SUDS) would ensure that the existing surface water regime is mimicked and would respond better to the existing landform than the drainage areas indicated on the Concept plan. The additional area of land to the south of Lower Road includes a drainage basin for the roundabout that has recently been completed. It would be used for SUDS and the appellant has indicated that this would provide a transitional landscape zone and landscape buffer to separate Lower Road and the roundabout from the wider open landscape to the south, including the marshland.
11. The Concept plan shows a wide band of land kept free from built development north of Lower Road. However, the new roundabout and cycleway / footway has extended the area taken by the highway and the associated works on to this land and has given the road a more urban character and appearance, particularly as it includes street lighting and planted beds. Therefore, the importance of keeping this area of land free from built development has been reduced by these highway improvements. The appeal proposal is defined by a Site Parameters Plan, which identifies a 20m wide woodland buffer adjacent to Lower Road. This area of woodland would reflect that along Lower Road to the east of the roundabout between the highway and the 'Thistle Hill' residential development. As such, I find that it would provide sufficient landscaping to ensure compliance with Policy A12 with respect to the provision of a substantial woodland buffer on the southern boundary. It would also be in line with the landscape recommendations for North Sheppey LCA.
12. The proposal for the use of the area of land within the appeal site to the south of Lower Road for SUDS would be consistent with the use of some of this land for the drainage associated with the new roundabout. It would safeguard the land from built development and would enable it to be suitably landscaped in accordance with approved details. I am satisfied that, once established, this landscaping would ensure that the proposed use of the land would not have a significant adverse effect on the surrounding rural landscape. It would also offer the opportunity to enhance inherent characteristics, in line with recommendations for North Sheppey LCA. In addition, it would provide a transitional area of land between the urbanised Lower Road roundabout and the rural landscape to the south, down to the marshland.
13. With regard to the western boundary of the site, a 20m wide woodland buffer is shown on the Site Parameters Plan. Whilst this would not follow the existing mature hedgerow along the east boundary of the Harris Trust land, this hedgerow could still be retained within the site, in accordance with Policy A12 1 c, and the new boundary would be straighter than that shown on the Concept plan, by 'squaring it off'. As such, I consider that this would form a more logical edge of settlement. Even though the Harris Trust land is located on a small plateau, views of the edge of development from the west would not be significantly different from that of a development within the allocation boundary due to the sloping nature of the site. Furthermore, I find that the western SUDS area would not have a noticeable effect in these views due to

---

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

3

Appeal Decision APP/V2255/W/19/3238171

---

the existing hedgerow to the south of it, the level nature of that land and proposed planting and landscaping on it, once established. Therefore, I consider that the proposed additional development to the west would have a limited effect on the landscape character and appearance.

14. The Site Parameters Plan shows built development near to the north western corner of the site, where gradients are at their steepest, whereas the Concept plan identifies this area as open space provision. However, the proposed housing densities in this area are identified as being at their lowest and there would be space to provide landscaping to soften the appearance of the built development.
15. It is inevitable that the development of the site would result in a loss of the existing landscape character, but the allocation of a large part of the site in the SBLP indicates that this loss would be acceptable in accordance with SBLP Policy A12. I accept that there would be aspects of the appeal proposal that would potentially result in greater harm to the landscape, particularly the use of additional areas of arable land and built development on higher ground. However, there would also be benefits due to the proposed layout enabling greater use of landscaping within the site by keeping the SUDS areas separate from the residential development and enabling a well-defined settlement boundary to the west and south of the site. Taking account of the effect of these differences between the appeal proposal and the allocation, I find that the appeal proposal would not have a significantly greater adverse effect on the character and appearance of the area than a scheme that would be Policy A12 compliant.
16. Turning to the effect on the ILCG, SBLP Policy DM25 seeks to ensure that new development does not undermine any of the purposes of the ILCGs, which are given in accompanying paragraph 7.7.34. In terms of these purposes, I am satisfied that the Harris Trust land that would be included in the appeal site would not result in built development extending significantly nearer to Queenborough and Halfway than in the case of the allocated site. Nor would it increase the perception of the gap being closed, due to the proposed woodland buffer providing a well-defined edge of settlement. Also, the area of land to the west that would be used for SUDS would be able to be suitably landscaped to ensure that it would have no worse an impact on the purposes of the ILCG than some of the development that accompanying paragraph 7.7.35 to Policy DM25 suggests as uses that could be conducted in the ILCG.
17. Even though the SUDs would initially require engineering operations, I am satisfied that it would be possible to safeguard the open and undeveloped character of the area. Therefore, I find that the appeal proposals would not have any significant adverse effect on the purposes of the ILCGs, including maintaining the separate identities and character of Minster and Queenborough and preventing them merging, taking account of the effect of the allocated development.
18. I conclude on this main issue that the appeal proposal would have an adverse effect on the character and appearance of the surrounding area, but this would not be materially greater than a development that would comply with SBLP Policy A12. It would fail to accord with SBLP Policy A12, in so far as the site would include land that would be outside that shown on the Proposals Map, and it would fail to accord with SBLP Policy ST3 in that some of the site would be

---

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

4

Appeal Decision APP/V2255/W/19/3238171

---

outside the existing allocation. It would accord with SBLP Policy DM25, as it would not undermine any of the purposes of the ILCGs.

### **Heritage**

19. I have considered the statutory duties under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which are to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The National Planning Policy Framework (Framework) identifies in paragraph 190 that development within the setting of a heritage asset can harm its significance. In the case of this appeal, Parsonage Farmhouse is a Grade II listed building, of which its curtilage abuts the north east corner of the site.
20. The Site Parameters Plan shows dwellings within all three fields at the north east corner of the site, that records indicate previously formed one field, known as the 'Spring Field'. The 'overgrown orchard' to the west of the listed building is not included in the appeal site, whereas it is included as land to be retained and managed under the SBLP Policy A12 allocation.
21. Although Parsonage Farm has ceased to retain the function of a farm and its extensive curtilage to the south has a domestic character, with a tennis court, lawn and planted beds, part of its setting includes the fields to the south, as well as the orchard to the west. The fields are the remaining areas of land that connect it to its former agricultural use. However, their importance to the significance of the listed building is reduced as a result of the separation of the building from them by its curtilage and boundary planting, which limits views between the building and this land.
22. The orchard does not form part of the appeal site, but the Council would be able to control future development on that area of land. Although SBLP Policy A12 does not indicate that the safeguarding and maintenance of this land would be important in preserving the setting of the listed building, the Site Parameters Plan identifies an area of open green space to the south of it, which would act as a further buffer between the listed building and the proposed built development.
23. The Site Parameters Plan shows that the proposed built development would be set back from the southern boundary of Parsonage Farm curtilage, separated from it by an area of open space. Whilst this would not retain the agricultural use of the land, neither would it be retained under the development that is allocated on the fields under SBLP Policy A12. I am satisfied that the retention of an open green space and planting to act as a buffer between the built development and the curtilage of the listed building would ensure that the setting would be preserved.
24. SBLP Policy A12 1 e seeks to ensure that the allocated development conserves the setting of the listed building at Parsonage Farm. The accompanying Concept plan shows this by keeping an area of land to the south of the boundary with the building's curtilage as informal open space provision, which is shown to extend further south than that shown on the Site Parameters Plan. Paragraph 6.5.43 of the SBLP states: '*Adjoining the site is Parsonage Farm, a listed building, the setting of which should be conserved through use of landscaping and open space*'. In my opinion, this confirms that the proposed change of use of the land from agricultural to open space is not considered to

---

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

5

Appeal Decision APP/V2255/W/19/3238171

---

cause any significant harm to the setting of the listed building. I am satisfied that the appeal proposal would provide a sufficiently wide area of open space to the south to achieve a similar function to that shown on the Concept plan of conserving the setting of the listed building.

25. For the reasons given above, I conclude on this main issue that the appeal proposal would preserve the Grade II listed Parsonage Farmhouse and its setting. It would accord with SBLP Policy A12 1 e, as it would conserve the setting of the listed building at Parsonage Farm and a Heritage Assessment, assessing any potential impact on heritage assets, has been undertaken by the appellant; and SBLP Policy DM32, as it would preserve the building's special architectural or historic interest and its setting.

### **Other Matters**

#### *Affordable Housing*

26. The Council has agreed the findings of the latest viability statement prepared by the appellant and has accepted that, taking account of the contributions that would be secured in the engrossed Section 106 Unilateral Undertaking (S106 UU) that the appellant has provided, the inclusion of affordable housing would make the proposed development not economically viable. The proposal would accord with SBLP Policy DM8, as the appellant has demonstrated that the impact of viability of the provision of affordable housing has not changed from the 0% sought under the Policy.

#### *Climate Change*

27. The Council's requirement to take account of the effect of the development on Climate Change is based on its Climate and Ecological Emergency declaration in June 2019. I am satisfied that this is a material consideration and is supported by development plan policies and national policies within the Framework. However, this matter would be addressed by appropriate planning conditions that meet the tests given in the Framework.

#### *Traffic and Transport*

28. A significant number of objections to the proposal have been based on its impact on traffic. However, the proposal would provide measures to encourage use of public transport, cycling or walking, including subsidies, new or improved bus stops and the provision of cycleways and footpaths. This would be a more sustainable solution than improving the highway network to accommodate the increased demand to travel by private car. I acknowledge the concerns expressed about the extent of the new cycleway / footway along Lower Road in that it would not be taken all the way to Neats Court. However, it would be an improvement, particularly when it would provide relatively safe access for bicycles to Queenborough railway station.
29. With regard to the impact of traffic generated by the proposed development on Junction 5 of the M2, Highways England has not objected subject to a planning condition limiting the number of houses to be occupied prior to the opening of a proposed Roads Investment Strategy scheme at that junction.
30. The impacts from the development on two main junctions: Barton Hill Drive / Minster Road mini roundabout and the Halfway Road / Minster Road / The Crescent signal junction, have been considered by the Council and Kent County

---

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

6

Appeal Decision APP/V2255/W/19/3238171

---

Council (KCC), as the local highway authority. They have agreed that, with appropriate mitigation that would be secured by planning obligations and conditions, the proposal would be consistent with all local and national transport policies. KCC did not object to the proposal on highway grounds and the Council has withdrawn its objection on these grounds.

31. Based on the above, I am satisfied that the impact as a result of traffic that would be generated by the proposed development would be made acceptable by the imposition of planning conditions and obligations to secure appropriate mitigation measures.

*Habitat Regulations (HR) Assessment*

32. The proposal would result in a net increase of dwellings within 6km of the Medway Estuary & Marshes Special Protection Area (SPA) and Ramsar Site, Thames Estuary & Marshes SPA and Ramsar Site and The Swale SPA and Ramsar Site. They are classified in accordance with the European Birds Directive as sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically important network for birds on migration. All three sites are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).
33. A permanent likely significant effect on the SPA and Ramsar Sites due to an increase in recreational disturbance, as a result of the proposed development, would be likely to occur. The Council has carried out an Appropriate Assessment and put forward a package of measures in line with the agreed North Kent Strategic Access Management and Monitoring Strategy (SAMMS) and the Bird Wise North Kent Mitigation Strategy to avoid and mitigate any adverse effect on the integrity of the SPA and Ramsar Sites. Natural England (NE) has not objected subject to securing this mitigation to prevent harmful effects on coastal European Sites from increased recreational pressure. These measures would be secured by a planning obligation in the S106 UU.
34. Based on the above, I am satisfied that the measures, which have been agreed with NE and would be secured as a planning obligation, would be sufficient to ensure that there would be no adverse effect on the integrity of the SPA and Ramsar Sites in view of their conservation objectives. Therefore, in this regard, I agree to the proposal under Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

*Omission of the 'Overgrown Orchard' from the appeal site*

35. The Rule 6 Party at the Inquiry did not indicate that they objected to the proposed development, but they did query the omission of the 'overgrown orchard' land from the appeal site, particularly as it has been included in the Policy A12 allocation. However, I am satisfied that its function identified in paragraph 6.5.38 that accompanies Policy A12 of being a 'Biodiversity Action Plan habitat' would not be needed to make the proposed development acceptable. In this respect, the proposal would not be able to ensure that the land would be appropriately managed, but measures would be taken on the adjoining land within the appeal site to mitigate any adverse impact on biodiversity and the proposal has identified that there would be a net gain in this respect. Therefore, I find that the omission of the 'overgrown orchard' land from the appeal site would not result in any significant adverse impact.

---

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

7

Appeal Decision APP/V2255/W/19/3238171

---

#### *Other objections raised*

36. The concerns expressed by local residents about the impact of the proposed development on the local infrastructure, including Doctors, shops and schools, would be addressed by the measures that would be secured by planning conditions and obligations. These measures include making provisions for an on-site medical centre and shops, whereas the appellant indicated at the Inquiry that the 'Thistle Hill' development did not include such provisions. Concerns about the effect of the proposal on outlook from, and privacy at, adjoining residential properties, and in particular those at the end of Parsonage Chase, should be able to be addressed under the detailed design at the time of the submission of reserved matters. The Site Parameters Plan would allow sufficient flexibility in the design to enable any problems in this respect to be addressed.

#### **Planning Obligations**

37. After the close of the Inquiry, the appellant has submitted an engrossed S106 UU, dated 7 February 2020, based on that agreed with the Council and KCC at the Inquiry. I have considered the information given in the Community Infrastructure Levy Regulations 2010 (CIL) compliance statements provided by the Council and KCC in support of the planning obligations.
38. The obligations to secure contributions towards highway improvements at the Halfway Road junction and Darlington Drive / Parsonage Chase would be necessary to mitigate any adverse impacts on the local highway network of additional traffic that would be generated by the development. This money would be used to deliver traffic measures on local roads, including The Crescent and Lowfield Road, Darlington Drive and Parsonage Chase, to discourage rat running that could result from additional queuing due to increased traffic generated by the proposal at the Halfway / Minster Road signal junction and the Barton Hill Drive / Minster Road mini roundabout. The amount that would be provided has been calculated by KCC as being that which would deliver the appropriate traffic management measures.
39. The Queenborough Road contribution, the Wallend Cottages pedestrian and cycle link contribution and contributions towards Travel Plan incentives would be necessary to increase the attractiveness of using sustainable means of transport, including public transport, walking and cycling, and reduce the reliance on the private car by future residents of the development. The money would be targeted towards infrastructure that would be relatively close to the development and therefore likely to be used by its occupants.
40. The obligations to secure contributions towards education facilities would be necessary as KCC has provided details to demonstrate that the existing facilities are insufficient to cater for the additional demand from future occupants of the dwellings. The primary school contributions would go towards the construction of the proposed new Rushenden Primary School, which cumulatively with other contributions would enable its completion. KCC has indicated that the community learning contribution would go towards Sheerness Adult Education Centre, which is local to the appeal site. The secondary education contribution would be used towards expanding Highsted Grammar School for Girls and Borden Grammar School for Boys, which KCC has shown to be currently full. I am satisfied that the contributions sought would be necessary to make the development acceptable in planning terms;

---

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

8

Appeal Decision APP/V2255/W/19/3238171

---

directly relate to the development, as the future occupants would be likely to use the education facilities that would be provided through the contributions; and would be fairly related in scale and kind to the development.

41. The Youth Services contribution would go towards the local facility at Sheerness Youth Centre, which would need to cater for an increased demand as a result of future occupants of the proposed development. The Social Care contribution would be used towards the Changing Place Facility at Sheppey Healthy Living Centre in Swale to enable additional services to be provided to meet the requirements of future occupants of the proposed dwellings. These facilities are within easy reach of the appeal site and the contributions have been calculated based on the likely level of additional demand that would be generated by occupants of the proposed dwellings.
42. The contributions requested by KCC towards libraries would be used towards new stock and shelving at the local Minster-on-Sea Library. KCC has provided evidence to show that this library, which would be relatively near to the appeal site, is already under-provided. As such, there would be a need for additional library provision as a result of the proposed development. This provision would contribute towards the expansion of the facilities to enable the library to continue to provide a similar level of service for all users, including those generated by the development.
43. The obligations to secure on-site provisions towards open space, and a contribution towards new changing facilities at Sheppey Rugby Football Club, which has premises near to the site, would be necessary to mitigate increased demand for recreation and sports facilities that would be generated by the proposed development. The on-site open space provision and contributions towards its maintenance, including the land to be used for SUDS, would be necessary to ensure compliance with SBLP policy CP6, SBLP Policy A12 and SBLP Policy DM17, which all require the provision of open space in new development. It would also be needed to mitigate any ecological impact of the development. The off-site sports provision is necessary, as there would not be sufficient on-site sports pitch provision to meet the requirements of SBLP Policy A12 given in supporting paragraph 6.5.41. The amount is lower than the normal contribution that would be expected by the Council, to take account of the area of open space that would be provided on-site for informal use.
44. The Council has indicated that the NHS Healthcare contribution would be used to expand General Practice facilities at Minster Medical Centre, which is close to the appeal site and accessible by walking. Swale NHS Clinical Commissioning Group (CCG) has provided a formula approach to ensure that the contribution would be fairly and reasonably related to the scale of the development. The need for such facilities is set out in SBLP Policy A12 8, which identifies health provision as one of the infrastructure needs arising from the development of the allocation site.
45. The obligation to secure retail / community facilities is necessary to address the need identified by KCC local highway authority to help reduce the generation of journeys by private car from the development. Land for such facilities has been included in the appeal proposal and these facilities would be directly related to the development, being included in the description. Although they would potentially be used by more people than just future residents, which would help to maintain their financial viability, they would be of a scale

---

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

9

Appeal Decision APP/V2255/W/19/3238171

---

necessary to mitigate the impact of the proposal on the local highway network. A contribution to assist with their delivery would be necessary, given the need to attract suitable businesses to use the premises.

46. In terms of the requested contributions towards waste bins, I am satisfied that they would be necessary to make the development acceptable in planning terms to prevent non-compliance with SBLP Policy CP6. They are based on the standard charges given in the Council's Developer Contributions Supplementary Planning Document. As such, they would be directly and fairly related to the development.
47. The SPA mitigation contribution would go towards mitigation measures to avoid adverse effects on the SPA and Ramsar Sites that have been identified near to the appeal site. Without such measures, which include a contribution towards North Kent SAMMS and the implementation of the Bird Wise North Kent Mitigation Strategy, the proposed development would result in an adverse effect on the integrity of the SPA and Ramsar Sites and would therefore fail to accord with the Conservation of Habitats and Species Regulations 2017. Therefore, this contribution, which I am satisfied would be fairly and reasonably related in scale and kind to the development, would be necessary to secure the mitigation that would make the development acceptable.
48. The contribution towards Great Crested Newt (GCN) mitigation is necessary as the GCN survey submitted by the appellant indicates that receptor areas within the appeal site are likely to be required. The sum that has been calculated would be reasonable to cover a 10-year maintenance period for the areas as part of the wider landscape and ecological mitigation strategy.
49. An obligation to secure a local employment scheme would be necessary to reduce the high levels of out commuting that the Council has suggested is experienced in the Borough and improve the level of local skills. This would accord with SBLP Policy CP1 which seeks, amongst other things, to ensure that new development encourages younger people to retain their skills within Swale, given the relatively large scale of the proposed development.
50. I have examined the evidence provided by the Council, KCC and Swale NHS CCG regarding the need for these contributions and compliance with CIL Regulation 122. Based on this, and for the reasons given above, I am satisfied that all the planning obligations in the UU would be necessary to mitigate the effects of the development and they meet the tests in CIL Regulation 122 and paragraph 56 of the Framework. I have therefore taken them into account in my determination of this appeal.

#### ***Planning Balance***

51. I have considered the following benefits of the proposed development. I agree with the Council and appellant that the provision of up to 700 dwellings carries substantial weight. The proposed development would also be likely to contribute towards the 5-year housing land supply, particularly as I have conditioned it to commence within 2 years of the reserved matters approval. I have given this moderate weight as the number of houses that would be likely to make such a contribution would be limited by the need for approvals, a developer to be engaged, and the need for advanced highway works to be completed.

---

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

10

Appeal Decision APP/V2255/W/19/3238171

---

52. Other benefits include the delivery of the Rushenden Primary School, which the Council has not disputed is needed to help facilitate urban regeneration in a deprived area. Without the funding that would be provided through the S106 obligation, the appellant has claimed that the school would not be able to be delivered, even though contributions have been made from other development. Also, the proposal would provide a local centre, which would offer a benefit to existing nearby residents as it would be accessible to them; and additional health service facilities through the medical centre, which would cater for more patients than would be generated by the proposal, according to the letter from Swale NHS CCG. I have given these benefits moderate weight, as the school is necessary to mitigate the impact of the development and there is no guarantee that the medical centre would be occupied or that the shops would be taken up.
53. Most of the benefits of improvements to the A2500 Lower Road have already been realised by the completion of the roundabout and cycleway / footway. However, the appellant has indicated that the Phase 2 works would be carried out should the development take place and that these would offer further benefits. There would also be benefits from a biodiversity net gain of at least 10%, secured by a planning condition. This biodiversity net gain carries substantial weight.
54. With regard to paragraph 11 d) i of the Framework, I have concluded that the appeal proposal would preserve the setting of the Grade II listed Parsonage Farmhouse. However, even if that were not the case, the harm to the significance of the heritage asset would be less than substantial. In weighing this less than substantial harm against the benefits of the appeal proposal, as required in paragraph 196 of the Framework, I have taken account of the economic and social benefits of providing up to 700 dwellings. Whilst I have attached considerable weight to the desirability of preserving the heritage asset's significance, any harm found would only be small for the reasons that I have previously given. As such, this less than substantial harm would clearly be outweighed by the significant public benefits of the proposal.
55. Although there is a slight difference in the agreed housing land supply figures between the appellant and Council, with the Council indicating 4.1 years and the appellant 4.0 years, the Council has accepted that it cannot demonstrate a 5-year supply of deliverable housing sites, even when it takes account of windfall sites, which it has suggested would take it to 4.6 years. Therefore, relevant policies for the supply of housing should not be considered up-to-date. In such circumstances, paragraph 11 d) ii of the Framework indicates 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. I have considered the proposal in the context of the presumption in favour of sustainable development.
56. I have found that the proposal would have an adverse effect on the character and appearance of the surrounding area and would fail to accord with SBLP Policy A12 and SBLP Policy ST3. However, it would deliver up to 700 dwellings, most of which would be located on land that is included in the Policy A12 allocation. It would also comply with most of Policy A12, the main exception being that it would include land outside the allocation boundaries. In addition, I am satisfied that the proposal would be able to be designed to ensure that it

---

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

11

Appeal Decision APP/V2255/W/19/3238171

---

would conserve the setting of Parsonage Farmhouse listed building and, as such, would comply with the relevant SBLP policies and the Statutory test. Based on this and taking account of the relatively recent date of adoption of the SBLP, I have given very little weight to the conflict with development plan policies.

57. For the above reasons, I find that the adverse impacts of the proposed development would not significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole. This would still be the case even if the proposal resulted in less than substantial harm to the significance of Parsonage Farmhouse listed building, as that harm would not be great. Therefore, the presumption in favour of sustainable development weighs in favour of the proposal.

### ***Planning Conditions***

58. I have considered the suggested conditions should the appeal be allowed that formed the basis of discussions at the Inquiry. It is necessary to impose the conditions regarding the time scale for submission of reserved matters<sup>1</sup> to ensure that development would be carried out expediently. I consider that conditions requiring the standard 2 year period for commencement of development following approval of reserved matters<sup>2</sup> are justified rather than the appellant's proposed 4-year period, to enable the development to be more likely to contribute to the 5-year housing supply, given that the appellant has indicated that there is currently no identifiable barrier to the development commencing. Conditions referring to the Phasing Plan, Site Parameters Plan and Landscape and Open Space Framework Plan<sup>3</sup> are necessary to provide certainty.
59. Conditions requiring the development to be designed to an approved Design Code and an approved site-wide strategy<sup>4</sup> are necessary to ensure a good quality design and in the interests of the character and appearance of the area. A condition to ensure that appropriate measures would be used to address, amongst other things, carbon emissions<sup>5</sup> is necessary to ensure that the development would be designed to ensure that it mitigates climate change impacts, taking account of the Council's Climate and Ecological Emergency Declaration, June 2019. I am satisfied that the condition would be flexible enough to take account of the relevant Building Regulations and planning policy requirements at the time of the construction of each phase of the development. The condition suggested by the Council is not supported by any national or local policies and is less flexible in its approach to the required standards to reduce carbon emissions.
60. A condition to ensure that the non-residential buildings would be constructed to at least BREEAM<sup>6</sup> 'Good' standard<sup>7</sup> is consistent with the current development plan SBLP Policy DM19 and there is no adopted policy support for the Council's requirement of an 'Excellent' standard. I am satisfied that this condition is necessary in the interests of promoting energy efficiency and sustainable

---

<sup>1</sup> Conditions 1 and 2

<sup>2</sup> Conditions 3 and 4

<sup>3</sup> Conditions 5 and 6

<sup>4</sup> Conditions 7 and 8

<sup>5</sup> Condition 9

<sup>6</sup> Building Research Establishment Environmental Assessment Method

<sup>7</sup> Condition 10

Appeal Decision APP/V2255/W/19/3238171

development and would allow design changes to be taken on board as a result of changes in national or local policies at the time of approval of details under reserved matters. A condition to control the water consumption rate of the development<sup>8</sup> is necessary in the interests of water conservation and sustainability.

61. Conditions to control the level and height of the development<sup>9</sup> and the materials to be used for the buildings<sup>10</sup>, to protect existing trees and hedges to be retained<sup>11</sup>, to secure the implementation of appropriate soft landscaping<sup>12</sup> and to safeguard the landscaping<sup>13</sup> are necessary to protect the character and appearance of the area. A condition regarding telecommunication infrastructure<sup>14</sup> is necessary to ensure that the required infrastructure and utility connections would be carried out and to accord with SBLP Policy CP6. A condition to control the use of the convenience store / community facility<sup>15</sup> is necessary to safeguard such a facility in the interests of sustainability and local amenity. A condition regarding noise and to secure the provision of any mitigation found to be necessary<sup>16</sup> is in the interests of residential amenity. I have not included all the detail that the Council has suggested as that is too prescriptive.
62. Conditions to control the level of development occupied until highway measures have been implemented at the M2 Junction 5<sup>17</sup>, Lower Road<sup>18</sup> and Halfway traffic signal junction<sup>19</sup> are necessary to prevent severe cumulative impacts on the road network. A condition to secure the implementation of a Construction Management Plan<sup>20</sup> is in the interests of highway safety and convenience and to protect local amenities. A condition to control the hours of working<sup>21</sup> is necessary to protect residential amenity. Conditions to secure the provision of a footway<sup>22</sup>, the provision of appropriate access to dwellings<sup>23</sup>, the provision of a Puffin Crossing on Barton Hill Drive<sup>24</sup> and the protection of space for parking and loading and unloading vehicles<sup>25</sup> and to ensure that the adopted highways would be constructed to the required standards<sup>26</sup> are necessary in the interests of pedestrian and highway safety.
63. Conditions to secure bicycle parking<sup>27</sup>, improved provision for buses<sup>28</sup> and a Travel Plan<sup>29</sup> are necessary to encourage the use of sustainable means of transport. Conditions to secure the completion of a pedestrian link to Lovell

---

<sup>8</sup> Condition 11  
<sup>9</sup> Condition 12  
<sup>10</sup> Condition 14  
<sup>11</sup> Condition 42  
<sup>12</sup> Condition 43  
<sup>13</sup> Condition 44  
<sup>14</sup> Condition 13  
<sup>15</sup> Condition 15  
<sup>16</sup> Condition 16  
<sup>17</sup> Condition 17  
<sup>18</sup> Condition 18  
<sup>19</sup> Condition 19  
<sup>20</sup> Condition 20  
<sup>21</sup> Condition 21  
<sup>22</sup> Condition 22  
<sup>23</sup> Conditions 23 and 24  
<sup>24</sup> Condition 25  
<sup>25</sup> Condition 26  
<sup>26</sup> Condition 28  
<sup>27</sup> Condition 27  
<sup>28</sup> Condition 31  
<sup>29</sup> Condition 32

Appeal Decision APP/V2255/W/19/3238171

Road and the installation of tactile paving<sup>30</sup> and a pedestrian link to Parsonage Chase<sup>31</sup> are in the interests of highway safety and to encourage walking and cycling to reduce the dependence on the use of the private car. A condition to ensure that electric vehicle charging points would be provided<sup>32</sup> is in the interests of climate change and reducing pollution.

64. Conditions regarding the provision and management of a sustainable surface water drainage system<sup>33</sup> and a foul drainage system<sup>34</sup> are necessary to protect against flooding and water pollution and ensure that the development would be appropriately drained. I have combined some of the suggested conditions. A condition to ensure that contamination is dealt with appropriately<sup>35</sup> is in the interests of health and safety and to prevent water pollution.
65. Conditions regarding ecology, including a site-wide strategy and detailed phased strategies and measures, and setting the target of at least achieving an overall biodiversity net gain of 10%<sup>36</sup>, are necessary to protect habitats and species and promote the government objectives given in the Framework paragraph 174 b) of achieving measurable net gains for biodiversity. I am satisfied that a separate condition to ensure that a biodiversity net gain of 10% is not necessary. However, I find that such a % gain is in line with national requirements and would be achievable for the development overall, given the findings of the appellant's ecological report.
66. A condition to secure the implementation of a Landscape and Ecological Management Plan<sup>37</sup> is necessary in the interests of biodiversity. A condition to ensure that sufficient open space and planting would be provided<sup>38</sup> is to protect the setting of Parsonage Farmhouse listed building. A condition suggested by the Council to provide an information board regarding the listed building is not necessary and is not supported by any policy. A condition to secure an archaeological assessment<sup>39</sup> is necessary to mitigate any adverse impact on archaeological remains. I am satisfied that all the conditions that I have included are reasonable and necessary, satisfy the tests given in the Framework and reflect the advice in the Planning Practice Guidance.

### **Overall Conclusions**

67. Although I have found that the proposal would not accord with the development plan as a whole, the other material considerations that I have given above outweigh this conflict with development plan policy. Therefore, for the reasons given and having regard to all relevant matters raised, I conclude that the appeal should succeed.

*M J Whitehead*

INSPECTOR

<sup>30</sup> Condition 29

<sup>31</sup> Condition 30

<sup>32</sup> Condition 33

<sup>33</sup> Conditions 34, 35 and 36

<sup>34</sup> Condition 37

<sup>35</sup> Condition 38

<sup>36</sup> Conditions 39 and 40

<sup>37</sup> Condition 41

<sup>38</sup> Condition 45

<sup>39</sup> Condition 46

Appeal Decision APP/V2255/W/19/3238171

---

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|   |  |
|---|--|
| William Upton   | QC, instructed by Swale Borough Council        |
| He called   |  |
| Greg Chant-Hall   | Chief Operating Officer, Carbon Free Group CIC |
| BSc(Hons) CEnv MCIQB  |  |
| FIEMA FRSA MCIWM  |  |
| ACIBSE  |  |
| Richard Pestell BSc   | Director, Stantec UK Ltd                       |
| MPhil MRTPI   |  |
| For Round Table Session on Character and Appearance-          |  |
| John-Paul Friend  | Director, LVIA Ltd                             |
| HND(LGD) BA(Hons)   |  |
| DipLA CMLI  |  |
| For Round Table Session on Heritage-                          |  |
| Emma Rouse MCIFA MA   | Consultancy Principal, Wyvern Heritage and     |
| BA(Hons)  | Landscape                                      |
| For Sessions on Planning Obligations and Planning Conditions- |  |
| Andrew Byrne  | Officer, Swale Borough Council                 |

### FOR THE APPELLANT:

|   |  |
|---|--|
| Peter Village   | QC, instructed by JB Planning Associates         |
| He called   |  |
| Mike Axon BSc FCIHT   | Director, Vectos traffic & transport consultants |
| John Boyd, BA (Hons)  | Managing Director, JB Planning Associates        |
| MRTPI   |  |
| For Round Table Session on Character and Appearance-          |  |
| Michelle Bolger CMLI  | Michelle Bolger Expert Landscape Consultancy     |
| DipLA BA PGCE BA  |  |
| For Round Table Session on Heritage-                          |  |
| Dr Chris Miele RTPI   | Senior Partner, Montagu Evans chartered          |
| IHBC  | surveyors  |
| For Sessions on Planning Obligations and Planning Conditions- |  |
| Paul Sharpe   | Paul Sharpe Associates                           |

### FOR THE RULE 6 PARTY:

|                 |  |
|-----------------|--|
| Janice Steadman | Representing H Steadman, J C Read, J H Read and J C Newman |
|-----------------|--|

### INTERESTED PERSONS:

|                          |  |
|--------------------------|--|
| Alan Bengall             | Local Resident                                 |
| Councillor Cameron Beart | Swale Borough Councillor                       |
| Councillor Mike Baldock  | Swale Borough Councillor                       |
| Councillor Tim Valentine | Swale Borough Councillor                       |
| Alan Gilbert             | Development Contributions, Kent County Council |

---

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

15

Appeal Decision APP/V2255/W/19/3238171

---

#### DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Updated Core Documents List, submitted by the appellant on 4 February
- 2 Signed Heritage Statement of Common Ground, submitted by the appellant on 4 February
- 3 Signed overarching Statement of Common Ground, submitted by the appellant on 4 February
- 4 Signed Transport Statement of Agreement and Disagreement between Swale Borough Council and the Appellant, submitted by the appellant on 4 February
- 5 Note and unsigned Statement of Common Ground on Viability, submitted by the appellant on 4 February
- 6 Draft S106 Unilateral Undertaking, submitted by the appellant on 4 February
- 7 Home Quality Mark One Technical Manual, submitted by the Council on 4 February
- 8 Statement of Councillor Cameron Beart, submitted by Councillor Cameron Beart on 4 February
- 9 Opening Submissions on behalf of the appellant, submitted by the appellant on 4 February
- 10 Statement of Alan Bengall, submitted by Alan Bengall on 4 February
- 11 Statement of Councillor Tim Valentine, submitted by Councillor Tim Valentine on 4 February
- 12 E-mail to the Council, dated 20 January, with a letter of objection from Christopher Clarke, submitted by the Council on 4 February
- 13 Statement of Councillor Mike Baldock, submitted by Councillor Mike Baldock on 4 February
- 14 Plan Ref MB Figure 26 showing alternative sites considered, submitted by the appellant on 4 February
- 15 Table of a comparison of sites areas between the allocated site and the appeal site, submitted by the appellant on 4 February
- 16 Appellant's position on draft conditions, submitted by the appellant on 4 February
- 17 Plans showing the location of the Council's area of open space and screening to preserve the setting of the listed Parsonage Farmhouse, submitted by the appellant on 4 February
- 18 Kent County Council CIL Compliance Statement, submitted by the Council on 5 February
- 19 Plans showing the location of open space and screening to preserve the setting of the listed Parsonage Farmhouse, submitted by the Council on 5 February
- 20 Ministerial letter to Swale Borough Council, dated October 2019, regarding climate change, submitted by the Council on 5 February
- 21 Revised draft S106 Unilateral Undertaking, submitted by the appellant on 5 February
- 22 Accompanied Site Visit itinerary, submitted by the Council on 5 February
- 23 Letters, dated 11 July 2018 and 21 June 2019, from Swale Clinical Commissioning Group, submitted by the Council on 6 February
- 24 Letter, dated 28 January 2020, from Swale Borough Council to the appellant regarding transport impacts and viability, submitted by the Council on 6 February
- 25 Signed Statement of Common Ground: Viability, submitted by the Council on 6 February

---

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

16

Appeal Decision APP/V2255/W/19/3238171

---

- 26 Extract from Developer Contributions Supplementary Planning Document, November 2009, submitted by the Council on 6 February
- 27 E-mail from Kent County Council, dated 15 January 2020 agreeing to highway measures, submitted by the Council on 6 February
- 28 Swale Borough Council's allocation site areas, submitted by the Council on 6 February
- 29 Letter, dated 5 February 2020 from Barclays Bank with Form DS3 and plan, submitted by the appellant on 6 February
- 30 Extract from the superseded Planning Policy Statement 3 with a definition of 'Net dwelling density', submitted by the appellant on 6 February
- 31 Closing submissions for the local planning authority, submitted by the Council on 7 February
- 32 Closing Submissions on behalf of the appellant, submitted by the appellant on 7 February
- 33 Final unsigned copy of S106 Unilateral Undertaking, submitted by the appellant on 7 February

#### **DOCUMENTS RECEIVED AFTER THE CLOSE OF THE INQUIRY**

- 34 Final engrossed S106 Unilateral Undertaking, received from the appellant on 11 February
- C1 Costs application on behalf of the appellant, received from the appellant on 11 February
- C2 Response by the local planning authority to the costs application by the appellant, received from the Council on 12 February
- C3 Appellant's response to Council's reply to the appellant's costs application, received from the appellant on 13 February

Appeal Decision APP/V2255/W/19/3238171

---

#### SCHEDULE OF CONDITIONS

- 1) Details of the layout, scale, appearance and landscaping (hereinafter called 'the reserved matters') within a phase of the development hereby permitted, shall be submitted to and approved in writing by the local planning authority before any development within that phase takes place and the development shall be carried out as approved.
- 2) The first application for approval of reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.  
  
The last application for approval of reserved matters shall be made to the local planning authority not later than 10 years from the date of this permission.
- 3) The development approved under the first application for approval of reserved matters shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved under the first application.
- 4) Each subsequent application for approval of reserved matters for any phase of the development shall take place not later than 2 years from the date of the approval of the last of the reserved matters to be approved for that phase.
- 5) The development shall be carried out in accordance with the Phasing Plan drawing No 1456.21 Version 10.
- 6) The reserved matters details shall accord with the Site Parameters Plan drawing No 1456.18 Version 10 and the Landscape and Open Space Framework Plan drawing No 1456.26 Version 02.
- 7) Prior to the submission of a reserved matters application for any phase, a design code for that phase of development shall be submitted to and approved in writing by the local planning authority. The design code shall be based upon the Site Parameters Plan drawing No 1456.18 Version 10, the Landscape and Open Space Framework Plan drawing No 1456.26 Version 02, and the Development Brief and Design and Access Statement, and shall include the following –
  - A design strategy for buildings, to include housing mix, density and massing, architectural treatment, the use of feature buildings in key locations, principles for the use of external materials, boundary treatments, and provision of car parking.
  - In relation to phase 3 (as shown on drawing No 1456.21 Version 10), a design strategy for buildings to the south and west of Parsonage Farm and measures to respond to the setting of this listed building.
  - Principles for establishing character areas.
  - Principles for road hierarchy, pedestrian and cycle connections in each phase, including the alignment, width, lighting and surface materials to be used.
  - A strategy for street tree planting.
  - Principles for the layout to accommodate and respond to existing landscape features within the site.

---

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

18

Appeal Decision APP/V2255/W/19/3238171

---

- Design of the public realm, including principles for the design and layout of public open space, areas for play, lighting, street furniture and sustainable urban drainage.
- A strategy to provide open space, footpath and cycle linkages through each phase.

Subsequent applications for the approval of reserved matters shall be designed to accord with the approved Design Code.

- 8) Prior to the submission of any reserved matters application, a site-wide landform parameter plan shall be submitted to and approved in writing by the local planning authority. The plan shall provide a strategy for utilising the existing landform of the site, measures to minimise cut and fill operations, and measures to minimise or avoid over-engineered operations to deal with levels changes. The reserved matters applications shall accord with the approved site-wide strategy.
- 9) Prior to the construction of any dwelling in any phase details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and measures.
- 10) The non-residential buildings hereby permitted shall be constructed to a minimum of BREEAM new construction 'Good' Standard and prior to the first use of the building the relevant certification shall be submitted to the local planning authority for each individual non-residential building confirming that the required standard has been achieved.
- 11) The proposed residential development hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no residential unit(s) shall be occupied until details of the measures used to achieve the rate for that unit(s) have been submitted to and approved in writing by the local planning authority.
- 12) No development shall take place in any phase until details of the existing site levels, proposed site levels, and proposed finished floor levels for buildings in that phase have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels.
- 13) Before development commences in any phase, details shall be submitted to and approved in writing by the local planning authority for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic connections to multi point destinations and all buildings including residential, commercial and community buildings within that phase. The ducting shall provide sufficient capacity, including duct sizing to cater for all future phases of the development. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.
- 14) No development beyond the construction of foundations shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) in that phase have been submitted to and approved in writing by the local planning authority.

---

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

19

Appeal Decision APP/V2255/W/19/3238171

---

The development shall then be implemented in accordance with the approved details.

- 15) The convenience store / community facility hereby permitted shall be used for purposes under classes A1, D1 and D2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, and for no other purpose, other than any residential units on the upper floors.
- 16) No development beyond the construction of foundations shall take place in phase 1 of the development as shown on drawing No 1456.21 Version 10 until an acoustic assessment has been submitted to and approved in writing by the local planning authority. The acoustic assessment shall set out predicted internal and external noise levels for dwellings in that phase, and if required shall provide a scheme of mitigation measures. The development shall be carried out in accordance with the approved details and mitigation prior to occupation of any dwelling.
- 17) No part of the development hereby permitted shall be occupied prior to the letting of a contract for the M2 Junction 5 Road Investment Strategy Scheme. Thereafter, no more than 100 dwellings shall be occupied until the M2 Junction 5 Road Investment Strategy Scheme has been certified as being practically complete.
- 18) No more than 160 dwellings shall be occupied until the Lower Road Widening Works as shown on drawing Nos 4068-PH2-SK-001 Rev A, 4068-PH2-SK-002 Rev A, 4068-PH2-SK-003 Rev A, 4068-PH2-SK-004 Rev A, 4068-PH2-SK-005 Rev A, and 4068-PH2-SK-006 Rev A have been completed.
- 19) No more than 570 dwellings shall be occupied until a scheme of highway improvements to the Halfway traffic signal junction, as shown on the Vectos drawing No 195003\_GA\_001, has been completed.
- 20) No development shall take place in any phase, including any engineering or levelling works, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details of:
  - (a) the predicted numbers of construction and delivery vehicles and measures to manage routing of construction traffic to / from the site;
  - (b) means of access to the site during the construction process;
  - (c) parking and turning areas for construction and delivery vehicles and site personnel;
  - (d) timing of deliveries;
  - (e) provision of wheel washing facilities;
  - (f) temporary traffic management / signage;
  - (g) areas for the loading / unloading and storage of plant, materials and waste;
  - (h) measures to control the emission of dust and dirt during construction;
  - (i) a scheme for recycling / disposing of waste resulting from demolition and construction works; and

---

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

20

Appeal Decision APP/V2255/W/19/3238171

---

- (j) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate.
- 21) No construction work, including piling, 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.
- 22) The application for approval of reserved matters for phase 1, as shown on drawing No 1456.21 Version 10, shall include the provision of a footway on the development site frontage on the west side of Barton Hill Drive, and this shall be completed prior to the occupation of any dwellings in that phase.
- 23) No dwelling within phase 1, as shown on drawing No 1456.21 Version 10, shall be occupied until access from that dwelling to the roundabout at the junction of Barton Hill Drive and Lower Road has been completed.
- 24) No dwelling other than those within Phase 1, as shown on drawing No 1456.21 Version 10 shall be occupied until the highway works for the Barton Hill Drive access as shown on drawing No T-01 Rev P3 have been completed.
- 25) No more than 25 dwellings shall be occupied until a Puffin Crossing is open and available for public use on Barton Hill Drive at a location and specification that has first been submitted to and approved in writing by the local planning authority.
- 26) The details submitted for the approval of reserved matters shall show land reserved for the parking of cars in accordance with the currently adopted Kent County Council Vehicle Parking Standards where appropriate and for the loading and unloading of commercial vehicles where necessary. Such land shall be kept available for these purposes 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 such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the buildings / land hereby permitted.
- 27) The details submitted for the approval of reserved matters shall include details of covered secure cycle parking facilities for each dwelling and for communal parking at the local centre hereby permitted. The approved cycle parking shall be provided prior to the occupation of that dwelling / non-residential building and retained for that purpose thereafter.
- 28) Prior to the occupation of any dwelling or other building hereby permitted the following works between the dwelling or building and the adopted highway shall be completed in accordance with details that shall have been submitted to and approved in writing by the local planning authority:
- (a) Footways and / or footpaths, with the exception of the wearing course;
  - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).
- 29) No more than 350 dwellings hereby permitted shall be occupied until the completion of the following off-site works, the detail of which shall have been submitted to and approved in writing by the local planning authority. –

---

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

21

Appeal Decision APP/V2255/W/19/3238171

---

- i) The provision of a pedestrian / cycle link between the development site and Lovell Road, as shown by the yellow dashed line on the Site Parameters Plan drawing No 1456.18 Version 10.
  - ii) The installation of tactile paving at the crossing of Lower Road at its junction with Barton Hill Drive.
- 30) No more than 350 dwellings hereby permitted shall be occupied until a pedestrian / cycle link from the site to Parsonage Chase has been completed and opened for public use in accordance with a scheme that has been submitted to and approved in writing by the local planning authority. The scheme shall include details of surfacing for all weather conditions, and details of lighting.
- 31) No dwelling shall be occupied within the development until either:
  - a) Details for the provision of two bus flags and shelters within the layout of the development; or
  - b) A scheme for the provision and improvement of bus stops on Barton Hill Drive frontage to the site;have been submitted to and approved in writing by the local planning authority, together with a timetable for implementation. The development shall be carried out in accordance with the approved details and timetable.
- 32) Prior to the occupation of the development a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be prepared in accordance with the sustainable travel measures proposed as part of the development and the requirements of policy DM6 of the Swale Borough Local Plan. The approved Travel Plan shall be implemented in accordance with the measures set out therein.
- 33) The reserved matters for each phase shall include measures to provide electric vehicle charging and shall include –
  - a) Electric vehicle charging points for all dwellings with parking facilities within their curtilage.
  - b) Electric vehicle charging points to be provided to a minimum of 10% of all other residential parking areas within any phase.
  - c) Electric vehicle charging points to be provided to a minimum of 10% of all non-residential parking spaces within any phase.No dwelling / building hereby permitted shall be occupied until the electric vehicle charging points for that dwelling / building have been installed.
- 34) No development shall commence until a detailed sustainable surface water drainage system and strategy, including a phasing plan, has been submitted to and approved in writing by the local planning authority. The phasing plan shall demonstrate the provision of a drainage network to serve each phase of development prior to occupation of that phase. The development shall be carried out in accordance with the approved drainage scheme.
- 35) No building hereby permitted in any phase shall be occupied until an operation and maintenance manual for the sustainable surface water drainage system approved under Condition 34 has been submitted to and approved in writing by the local planning authority. The approved sustainable surface

Appeal Decision APP/V2255/W/19/3238171

---

water drainage system shall thereafter be operated and maintained in accordance with the approved manual.

- 36) No building on any phase of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system approved under Condition 34, carried out by a suitably qualified professional, has been submitted to and approved in writing by the local planning authority. The Verification Report shall demonstrate the operation of the drainage system such that flood risk is appropriately managed and shall contain information and evidence, including photographs, of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as-built drawings; and a topographical survey of 'as constructed' features.
- 37) No development shall commence until details of foul sewerage for a particular phase have been submitted to and approved in writing by the local planning authority. The approved details shall then be implemented for the relevant phase before any of the dwellings in that phase are occupied.
- 38) No development in any phase shall commence until the following components of a scheme to deal with the risks associated with contamination of the site for that phase have been submitted to and approved in writing by the local planning authority:
- i) A preliminary risk assessment which has identified:
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors; and
    - potentially unacceptable risks arising from contamination at the site.
  - ii) A site investigation, based on (i), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - iii) A Remediation Method Statement (RMS) based on the site investigation results and the detailed risk assessment in (ii). The RMS shall give full details of the remediation measures required and how they are to be undertaken; a verification plan to detail the data to be collected in order to demonstrate that the works set out in the RMS are complete; and identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
  - iv) A Closure Report to be submitted upon completion of the works. The Closure Report shall include full verification details as set out in (iii). This shall include details of any post remediation sampling and analysis, together with documentation certifying quantities and source / destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.
- 39) No development shall commence until a site-wide ecological mitigation strategy has been submitted to and approved in writing by the local planning authority. The strategy shall set out principles for ecological mitigation and measures to be adopted in each phase of development and shall demonstrate

Appeal Decision APP/V2255/W/19/3238171

---

an overall biodiversity net gain of at least 10% above the baseline value of the site. The net gain calculation shall be undertaken using the DEFRA 2.0 Metric or equivalent that has first been submitted to and approved in writing by the local planning authority.

- 40) No development shall take place in any phase, including any ground works, site or vegetation clearance, until a detailed ecological mitigation strategy for that phase has been submitted to and approved in writing by the local planning authority. The strategy shall include measures that shall be based upon the site-wide mitigation strategy approved under Condition 39 and shall include:
- a) an updated Preliminary Ecological Appraisal;
  - b) updated specific species surveys as necessary;
  - c) the purpose and objectives for the proposed works;
  - d) detailed design(s) and / or working method(s) necessary to achieve stated objectives;
  - e) the extent and location of proposed works, including the identification of a suitable receptor site for reptiles and great crested newts, (if required for that phase and consistent with any licence issued by Natural England) shown on appropriate scale maps and plans;
  - f) a timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - g) details of persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
  - h) the use of protective fences, exclusion barriers and warning signs;
  - i) initial aftercare and long-term maintenance (where relevant);
  - j) disposal of any wastes for implementing work; and
  - k) details of temporary management measures to be put in place prior to implementation of the site-wide ecological mitigation strategy.

Development shall be carried out in accordance with the approved detailed ecological mitigation strategy for each phase and shall thereafter be retained. The approved measures for each phase shall be completed prior to the first occupation of any dwelling within that phase or within the next seasonally appropriate period for implementation, whichever is the sooner.

- 41) No development beyond the construction of foundations shall take place in any phase until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall be updated at each phase and upon completion of the last phase shall provide a single LEMP for the entire development. The content of the LEMP shall include:
- a) a description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;
  - d) management options for achieving aims and objectives;

Appeal Decision APP/V2255/W/19/3238171

---

- e) prescriptions for management actions, together with a plan of management compartments;
- f) preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period;
- g) details of the body or organisation responsible for implementation of the plan;
- h) ongoing monitoring and remedial measures; and
- i) a timetable for the management plan review.

The LEMP shall be implemented and managed in accordance with the approved details and all features shall thereafter be retained.

- 42) No development in any phase shall take place until full details of all existing trees and / or hedges in that phase, details of any trees or hedges proposed for removal, and measures to protect any trees or hedges shown to be retained, have been submitted to and approved in writing by the local planning authority. Such details shall include:
- (a) a plan showing the location of, and allocating a reference number to, each existing tree and hedge on the site to be retained and indicating the crown spread of each tree, and extent of any hedge, and identifying those trees and hedges to be removed;
  - (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree and hedge;
  - (c) details of any proposed arboricultural works required to any retained tree or hedge;
  - (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree; and
  - (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree or hedge from damage before or during the course of development.

The development shall be carried out in accordance with the approved details and the approved protection measures shall be installed in full prior to the commencement of any development and retained for the duration of construction works. No works, access, or storage within the protected areas shall take place, unless specifically approved in writing by the local planning authority.

- 43) No development beyond the construction of foundations in phase 1 shall take place until a detailed scheme of advance soft landscaping has been submitted to and approved in writing by the local planning authority. This shall consist of a woodland buffer on the southern and western boundaries of the site as shown on the Site Parameters Plan drawing No 1456.18 Version 10 and shall be a minimum of 20 metres in depth. The scheme shall include proposed trees, shrubs and other features, planting schedules, noting species, plant sizes and numbers where appropriate, measures to prevent tree vandalism, and measures to protect the advance planting from construction on the remainder of the site for the duration of such works. No more than 50

Appeal Decision APP/V2255/W/19/3238171

---

dwellings shall be occupied prior to the completion of the advance soft landscaping in accordance with the approved details.

- 44) Upon completion of the advance landscaping works, any trees or shrubs that are removed, die, become severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as approved in writing by the local planning authority, and within the next planting season.
- 45) The layout and landscaping of the reserved matters for phase 3 of the development, as shown on drawing No 1456.21 Version 10, shall be designed to maintain an area of open space and landscaping to the south and south west of the site boundary with Parsonage Farmhouse, such area to be no less in size than that shown on the Site Parameters Plan drawing No 1456.18 Version 10.
- 46) No development shall take place until the following has been secured:
  - i. archaeological field evaluation works in accordance with a specification and written timetable that has been submitted to and approved in writing by the local planning authority; and
  - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and / or further archaeological investigation and recording in accordance with a specification and timetable that has been submitted to and approved in writing by the local planning authority.



---

## Costs Decision

Inquiry held on 4 February 2020

Site visit made on 5 February 2020

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> March 2020

---

### **Costs application in relation to Appeal Ref: APP/V2255/W/19/3238171 Land west of Barton Hill Drive, Minster-on-sea, Kent ME12 3LZ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by SW Attwood & Partners for a full award of costs against Swale Borough Council.
  - The Inquiry was in connection with an appeal against the refusal of outline planning permission for the development of up to 700 dwellings and all necessary supporting infrastructure including land for the provision of a convenience store / community facility, internal access roads, footpaths, cycleways and parking, open space, play areas and landscaping, drainage, utilities and service infrastructure works.
- 

### **Decision**

1. The application for an award of costs is allowed in part in the terms set out below.

### **Preamble**

2. The application is made based on the guidance given in the national Planning Practice Guidance (PPG).

### **Summary of the written submissions for SW Attwood & Partners<sup>1</sup>**

3. In support of the claim for a full award of costs, the appellant cited both procedural and substantive unreasonable behaviour by the Council. The Council acted unreasonably in imposing the reason for refusal based on the development not providing any affordable housing on a number of the grounds identified in the PPG, including a *'failure to provide evidence to substantiate each reason for refusal'* and *'not reviewing their case promptly following the lodging of an appeal against refusal of planning permission'*. Furthermore, it had no answer to the fact that policy required 0% affordable housing in this location.
4. The highways reason for refusal was withdrawn following a meeting on 27 January 2020. The basis for the withdrawal was that the appellant agreed to condition 19 and agreed to make a further contribution of £20,000 by way of traffic calming on Darlington Drive / Parsonage Chase. This behaviour was unreasonable by refusing planning permission on a planning ground capable of being dealt with by conditions or planning obligation.

---

<sup>1</sup> Documents C1: Application for costs, and C3: Reply to the Council's response, listed in the appeal decision letter

Costs Decision APP/V2255/W/19/3238171

---

5. The issue of climate change was never raised as a reason for refusal, but it was raised through the Council's Statement of Case. Despite the Climate Change Emergency (CCE) declaration in June 2019, the Committee at the meeting on 23 July 2019 failed to identify climate change as a reason for refusal; nor was it added to the Decision Notice when that was issued in August 2019. It was unreasonable for the Council to seek to impose conditions which had no policy basis, either within the National Planning Policy Framework (Framework), PPG or, most importantly, the development plan.
6. The appellant incurred costs by reason of the unreasonable failure of the Council to adhere to timescales within the PINS guidance in relation to the provision of Statements of Common Ground (SoCGs) and to produce a full Statement of Case. The appellant was left substantially in the dark as to its case on each of the reasons for refusal, and incurred costs in seeking to second guess what lay behind the reasons for refusal. This conduct was unreasonable.
7. In terms of substantive unreasonable behaviour, two officers' reports recommended the grant of planning permission. The Council failed to take the balancing exercise in the Framework properly and its evidence of Ms Rouse and Mr Friend, on heritage and landscape, was based on vague and generalised assertions of harm. The Council failed to substantiate its case on the appeal. Mr Pestell failed to undertake the correct balancing exercise and his judgment on the planning balancing exercise was flawed. No expert witness could have professionally concluded that the harm significantly and demonstrably outweighed the benefits, even if he mistakenly believed the benefit was limited to an extra 80 additional market houses. The appeal scheme should never have been refused planning permission.
8. The unreasonable behaviour of the Council has caused the appellant to incur expense unnecessarily. The Council should therefore pay all the appellant's costs of the appeal.

#### **Summary of the written response for Swale Borough Council<sup>2</sup>**

9. The Council does not accept that it has behaved unreasonably and has submitted evidence to substantiate the reasons for refusal. Even if the Inspector should decide that permission should be granted on appeal, the Council considers that it has been reasonable for it to advance the case that it has and in the way that it has.
10. The reason for refusal on affordable housing was not pursued at the Inquiry. The appellant raised the issue of viability in its proof of evidence. At the Case Management Conference (CMC) the Council proposed to deal with affordable housing under the planning topic. The matter that the appeal scheme cannot make any contribution towards affordable housing was already agreed before the Council signed the topic specific SoCG on the third day of the Inquiry. No time was spent on this topic at the Inquiry and no time was wasted on it. It was not unreasonable behaviour, and considerable time was saved at the Inquiry in any event.
11. The Council provided expert evidence in support of the highways reason for refusal and justified why the Section 106 contribution and Grampian condition were required. Mitigation was identified, and the necessary contribution was

---

<sup>2</sup> Document C2: Response to the application for costs, listed in the appeal decision letter

Costs Decision APP/V2255/W/19/3238171

---

agreed by the appellant, the local highway authority (Kent County Council) and the local planning authority (the Council). The appellant has not argued that it is not required. There was a substantial highways issue to resolve, which was the subject of detailed and substantial evidence. There has been no unreasonable behaviour, and no costs have been wasted.

12. It was agreed that climate change was a material planning consideration. The CCE indicates that development plan policies should be applied differently. At the Inquiry there was a reasonable disagreement over what conditions would be necessary and reasonable to address this matter. There has been no unreasonable behaviour.
13. The SoCGs on the different topics have proved useful and have saved considerable time at the Inquiry. If they were 'late' they have not caused unnecessary costs and expense. The Council's Statement of Case was supplemented following the CMC both on the climate change issue and more generally so that the appellant did know the case it had to meet by 13 December at the latest. The reasons for refusal are fairly fulsome and identify the relevant points, and the relevant policies, on landscape, highways and listed building matters.
14. In terms of substantive unreasonable behaviour, the planning witnesses have identified the correct planning tests about the tilted balance, and the normal balance for the heritage issues. The area of disagreement has been consistently set out in the draft and final versions of the SoCG. The opinions of both the Council's landscape and heritage witnesses were reasonable and soundly based and explained. These are matters of professional opinion. The Council has provided evidence to substantiate the remaining reasons for refusal, and why the appeal scheme should be refused.

#### Reasons

15. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
16. The Council refused planning permission for 4 reasons. The third reason for refusal on grounds of affordable housing contribution was withdrawn, with the Council suggesting that it informed the appellant on 18 December. However, this does not appear to me to have been conclusive as the Council pursued this matter with regard to the Section 106 planning obligation contributions. In this respect the appellant's evidence on viability that it provided for the Inquiry could have been avoided, even though the Council has claimed that it was related to the level of secondary education contributions. Therefore, I find that the Council acted unreasonably in refusing planning permission for this reason, which clearly was not supported by the evidence or development plan policies, and failing to produce evidence to substantiate this reason for refusal. As a result, the appellant incurred unnecessary expense in its preparation of evidence on affordable housing and viability for the Inquiry.
17. In terms of the fourth reason for refusal on highway grounds, the Council only withdrew it following a meeting on 27 January 2020. This was based on agreement to a planning condition and a planning obligation to secure mitigation. Kent County Council as the local highway authority had not supported the reason for refusal and, although it agreed to the mitigation

---

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

3

Costs Decision APP/V2255/W/19/3238171

---

measures, it did not object to the proposal on highway grounds. As such, the Council had gone against the expert advice of the local highway authority and its own planning officers, who recommended the grant of planning permission. Although it provided expert evidence to support this reason for refusal, this evidence was not examined at the Inquiry. In my opinion, this ground for refusal could have been resolved without the need for the appellant to provide evidence to contest it at the Inquiry and therefore the appellant has incurred unnecessary expense in providing this evidence.

18. With regard to climate change, although it was not given as a reason for refusal, the Council did raise it as a matter of concern in its Statement of Case and at the CMC. It did not pursue this matter as a reason for refusal but did call an expert witness at the Inquiry to support its proposed conditions to address this matter. Although the appellant has produced evidence for the Inquiry in this regard, it did not call an expert witness and I do not consider that the Council acted unreasonably in raising this matter, given the government's stance and development plan policies that deal with it. Whilst I have not agreed with the detailing of the suggested planning condition, I do not consider that the appellant has wasted any expense in dealing with this matter at the Inquiry, as it was necessary to address it by an appropriate condition.
19. The reasons for refusal on character and appearance and heritage are complete, precise, specific and relevant to the application. The Council's expert evidence on landscape, heritage and planning matters provided more than a vague and generalised assertion about the proposal's impact and were supported by objective analysis. I am satisfied that the Council has provided sufficient evidence at the Inquiry to demonstrate that it has applied the correct planning balance in determining the application.
20. Whilst I have not agreed with the weight that the Council has attached to the harm in the overall planning balance or the arguments to support the degree of harm that it has claimed that the development would cause to the landscape and listed building, I have found that the proposal would have an adverse effect on the character and appearance of the area and would fail to accord with development plan policy. As such, I do not consider it to be unreasonable to refuse outline planning permission on these grounds. Therefore, I find that the Council has not acted unreasonably in this respect.
21. The Council did not agree the SoCG or provide sufficient evidence in its Statement of Case in a timely manner. Whilst it did submit supplementary Statements of Case and agree topic based SoCGs, which were found to be useful at the Inquiry, these had not been agreed at the dates given in the timetable. However, the failure to agree the topic based SoCGs within the agreed timetable set at the CMC has not been shown to have been due entirely to the Council. Whilst I accept that the costs regime can be used to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case, I have insufficient evidence to demonstrate that the appellant incurred additional expense directly as a result of the Council failing to agree the overall SoCG or provide a sufficiently detailed Statement of Case on time.

Costs Decision APP/V2255/W/19/3238171

---

22. For the reasons given above, I find that the Council has not prevented or delayed development which should clearly be permitted. However, I consider that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated in respect of the reasons for refusal 3 and 4 on affordable housing and highways. I therefore conclude that a partial award of costs is justified in this respect.

#### **Costs Order**

23. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to SW Attwood & Partners, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the appeal on the grounds of reasons for refusal 3, regarding affordable housing and viability, and 4, regarding highway and traffic impacts; such costs to be assessed in the Senior Courts Costs Office if not agreed.

24. The applicant is now invited to submit to Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*M J Whitehead*

INSPECTOR

This page is intentionally left blank



---

## Appeal Decision

Hearing Held on 25 February 2020

Site visit made on 25 February 2020

by **Tim Wood BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

---

**Appeal Ref: APP/V2255/W/19/3219586**

**Caravan and stables, Old Billet Lane, Eastchurch, Kent ME12 4JJ**

- 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 and Mrs V and C Brown against the decision of Swale Borough Council.
  - The application Ref 18/503259/FULL, dated 18 June 2018, was refused by notice dated 14 December 2018.
  - The development proposed is the change of use of land for stationing of caravans for residential occupation with associated development (hard-standing, utility building and cess pit).
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of land for stationing of caravans for residential occupation with associated development (hard-standing, utility building and cess pit) at Caravan and stables, Old Billet Lane, Eastchurch, Kent ME12 4JJ in accordance with the terms of the application, Ref 18/503259/FULL, dated 18 June 2018, subject to the conditions set out in Schedule 1 of this Decision.

### Main Issues

2. The main issues in this appeal are;
  - Whether the proposal represents over-development of the site
  - Whether future residents would have acceptable access to services
  - The effects of the proposal on the character of the area
  - The effects of the proposal in relation to overlooking.

### Reasons

#### ***Whether the proposal represents over-development of the site***

3. The appeal site is an area of land which has previously been used as a detached garden area for one of the nearby residential properties. It is clear that such a use has ceased and it was confirmed at the Hearing that it has been in separate ownership for some time. The adjacent garden area to the south is used by one of the nearby cottages. These residential properties have private garden areas around the buildings. The appeal site currently accommodates a stable building and a garage which have the appearance of

---

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

Appeal Decision APP/V2255/W/19/3219586

---

being unused. The appeal site is accessed from Plough Road by the roughly surfaced Old Billet Lane. The site is said to measure approximately 35m by 12m.

4. The proposal would relocate the existing stables building to the rear of the site and use it for storage. A static caravan would occupy the middle of the site and a utility building, parking spaces and a space for a touring caravan would sit to the front. Apart from the broad allegation of 'over-development' the Council refer to a lack of amenity space. There would be space around and between the buildings and caravans which could be used for some recreational purposes by the occupiers of the site. Whilst the Council does not employ standards for amenity space for such forms of development, they allege that the proposal would not provide sufficient space for its occupiers. The appellant confirmed that the limited space would be sufficient for their use and would be more convenient for maintenance than a larger plot. In my judgement, whilst the space could not be said to be generous, I consider that it would provide sufficient space for sitting out, clothes drying and other domestic uses. Therefore, in this respect I consider the proposal would provide a suitable environment for its future occupiers and would not amount to over-development.

***Whether future residents would have acceptable access to services***

5. The appeal site is within the countryside, outside any defined settlement. It is said to be around 2km from the village of Eastchurch and its variety of services. I accept that the nature of the road and the distance would mean that journeys from the site to these services would be unlikely to be undertaken on foot and would be most likely to involve use of a private car. However, most journeys would not be long and would be consistent with the general nature of the rural area, including those undertaken by nearby residents. In addition, the PPTS recognises that rural locations may be acceptable for such uses and the NPPF states that opportunities to maximise sustainable transport will vary between urban and rural areas. In this context, I consider that the future residents of the site would have an acceptable level of access to services and that journeys would not be unusually or unacceptably long.

***The effects of the proposal on the character of the area***

6. The site itself is not included within any specific landscape designation. The site is modest in size and would accommodate low and small-scale structures/development. I have noted the sites immediately adjacent to the appeal site and the fact that some of these accommodate garages, caravans and vehicles, as well as other structures and features. Within the wider area, caravans are numerous and it could not be argued that they and such ancillary features as are proposed would be alien to the area.
7. The site is not prominent within the wider landscape and I do not judge that the alterations to it would represent a significant change within the wider area. I accept that it can be seen from Plough Road, over the flat intervening land (although temporarily blocked when I saw the site) but it would be of a form and scale compatible with the surrounding development. As stated above, the PPTS accepts such sites within the countryside, subject to certain other considerations. Within this context, I envisage no harmful effect on the character of the locality.

---

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

2

Appeal Decision APP/V2255/W/19/3219586

---

### ***The effects of the proposal in relation to overlooking***

8. The appeal site sits adjacent to other 'detached' residential gardens, as set out above. I have noted the concerns of the Council and others in relation to the effects of the proposal on privacy when the adjacent garden is in use. Taking account of the height of the proposed development and its residential use, I consider that a suitable means of enclosure by fencing and/or landscaping would be sufficient to prevent any harmful effects in this respect. The appellant considers that fencing would be a normal feature adjacent to residential gardens and would be sufficient to prevent any effects on privacy. I agree that it would not appear unusual and would be in keeping with the largely domestic appearance of this enclave.

### **Other Matters**

9. There was discussion in the evidence and also at the Hearing in relation to the need for and supply of such sites within the Borough. I have concluded that the proposal is acceptable on its own merits and would not rely on any additional weight from an argument of unmet demand. Therefore, it has not been necessary for me to examine these matters as they could only have added weight in favour of the proposal.

### **Conditions**

10. I have taken account of the advice in the Planning Practice Guidance in relation to the imposition of conditions. The Council submitted a schedule of conditions which formed the basis for discussions at the Hearing. So that there is certainty over the scope and nature of the permission, I shall impose a condition which requires consistency with the approved plans. In order to limit the occupation of the site to gypsy and travellers only a suitable condition to that effect is included.
11. I have included conditions which limit the number of mobile homes, touring caravans and size of vehicles on the site so that the effects on the locality are limited to a satisfactory level. For the same reason I have imposed a condition which prevents commercial activities on the site and a condition to approve any outdoor lighting.
12. So that there is sufficient space to park vehicles and allow them to manoeuvre, I have included a condition which requires the implementation of an area for vehicles to park and turn. I have also included a condition relating to landscaping, which would help to ensure that the proposal would have an acceptable effect on the locality and ensure the privacy of neighbours. The landscaping condition includes erecting a means of enclosure around the site and I note that some fencing has been erected at the sides of the site and some form of gates at the front. Whilst I do not seek to pre-determine the judgement of the Council in relation to any submissions in this respect, it seems to me that some alterations to the frontage in particular would be required so that the effects on the locality are acceptable.

Appeal Decision APP/V2255/W/19/3219586

---

### **Conclusions**

13. For the reasons set out above, I find no conflict with then Council's Policies ST1, ST3, CP2, DM6, DM10 and DM14 of the Swale Borough Local plan 2017 and the advice in the NPPF and PPTS. As a consequence, the appeal is allowed.

*ST Wood*

INSPECTOR

Appeal Decision APP/V2255/W/19/3219586

---

### **APPEARANCES**

FOR THE APPELLANT:

A Heine, Planning Consultant

V Brown, Appellant

C Brown, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

R Bailey, Area Planning Officer

G Thomas, Area Planning Officer

Appeal Decision APP/V2255/W/19/3219586

---

#### **SCHEDULE 1 CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan numbers 1, 2, 3 and 4.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 4) There shall be no more than 1 static caravan and 1 touring caravan stationed at the site at any one time.
- 5) No vehicle over 3.5 tonnes in weight shall be kept on the site and only one vehicle shall be kept at the site at any one time.
- 6) No commercial activities shall take place on the site, including the storage of materials.
- 7) No external lighting shall be installed at the site unless details have first been submitted to and approved in writing by the local planning authority. Any external lighting shall be installed in compliance with the approved details.
- 8) Prior to the occupation of the site, the area shown for vehicle parking and manoeuvring shall be provided and surfaced in a manner to be first agreed in writing by the local planning authority. The area shall be kept free from buildings structures or obstruction and shall be retained for the approved use only.
- 9) No development shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of means of enclosure, hard surfacing and 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. All hard landscaping including any such means of enclosure shall be provided prior to occupation of the site in accordance with the approved details.
- 10) 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.

This page is intentionally left blank



---

## Appeal Decision

Site visit made on 10 March 2020

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

---

**Appeal Ref: APP/V2255/W/19/3241318**  
**58 Volante Drive, Sittingbourne ME10 2JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr A Faseha against the decision of Swale Borough Council.
  - The application Ref 19/503080/FULL, dated 14 June 2019, was refused by notice dated 13 September 2019.
  - The development proposed is change of use from C3 to C4 use and garage conversion inc bedroom and ensuite.
- 

### Decision

1. The appeal is allowed and planning permission is granted for change of use from Class C3 (dwelling) to C2 (residential care home for elderly people) and conversion of garage to a habitable space, at 58 Volante Drive, Sittingbourne ME10 2JJ, in accordance with the terms of the application Ref 19/503080/FULL, dated 14 June 2019, subject to the conditions set out in the Schedule at the end of this decision.

### Procedural Matters

2. The submissions indicate that the current lawful use of 58 Volante Drive has been subject of some disagreement between the parties. I note that the appellant has indicated that the current use of No 58 is as a house in multiple occupation, but also that it is used as a home for persons with learning disabilities, who thus presumably receive some care. The appellant's appeal statement nonetheless confirms acceptance of the Council's view that the current use of No 58 falls within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended), and is thus a dwelling house. I have therefore considered the appeal on this basis.
3. As originally described on the planning application form, the proposed change was to Class C4. Further correspondence between the parties included within the submissions however indicates agreement between the parties that the proposed change was in fact to Class C2, and more particularly a care home for elderly people. Therefore, in the interests of precision, I have used the Council's description of development in both the banner heading and in my decision above.

### Main Issues

4. The main issues are the effects of the development on:

---

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

Appeal Decision APP/V2255/W/19/3241318

---

- the safe and convenient use of the highway with particular regard to parking;
- the living conditions of occupants of neighbouring dwellings with specific regard to noise and disturbance; and
- the character and appearance of the area.

### Reasons

#### Highways

5. The Kent Vehicle Parking Standards Supplementary Planning Guidance 2006 (the SPG) sets out specific maximum parking standards applicable to Class C2 uses. These require one space per 2 members of staff, one space per 6 residents, and a minimum of one space for an ambulance/delivery vehicle. As shown on plan submitted with the application, the provision of 3 off-road parking spaces was proposed, which was an addition of one to the existing 2 off-road spaces. This was considered to be compliant with the SPG by the Highways Authority, and I see no reason to reach a different view.
6. Officers however recommended approval of the scheme subject to a reduction in the proposed level of off-road parking from 3 to 2 spaces, or no change. Though the resulting conflict with the SPG was considered acceptable by officers, it nonetheless contributed to the reasons for refusal of planning permission by the Council's Committee.
7. In this regard, aside from the provision of a parking space for an ambulance/delivery vehicle, the standard set out in the SPG is a maximum rather than a minimum. Some flexibility is therefore possible. It is clear that very little alternative scope for on-street parking exists along the narrow branch of Volante Drive within which the site is located. It is however equally clear that a greater amount of space exists on-street a short distance beyond this. Use is unrestricted. There is therefore scope for overspill. In this context the Council has provided no explanation of how a vehicle ordinarily parked on-street would cause any harm to the safe or convenient use of the highway, and I can see no reason why it should.
8. In any event, it remains the case that an SPG-compliant 3 off-road spaces could be achieved on site, as is demonstrated by the original plan. Here I acknowledge that officers considered that the arrangement proposed would not be workable, and it is clearly true that if all 3 spaces were occupied by vehicles at the same time, the 2 vehicles parked parallel would be boxed in. However, as one space would only occasionally be required for use by an ambulance/delivery vehicle, in practice the 2 other spaces would be accessible most of the time, and/or scope would exist to shuffle vehicles around in the area available. In my opinion therefore, the SPG-compliant provision of 3 off-road spaces would be workable, limiting the need for or occurrence of any on-street parking.
9. Further reference within the decision notice to 'loading' and 'unloading' is not clearly explained, but presumably relates to ambulances and delivery vehicles. As noted above however, parking for an ambulance/delivery vehicle would be accounted for by one of the spaces provided on-site. Thus there is no reason why loading or unloading should cause any harm to the safe and convenient use of the highway.

---

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

2

Appeal Decision APP/V2255/W/19/3241318

---

10. Concerns have been expressed by interested parties that parked vehicles would block the road or adjacent driveways. Whilst it is unclear why drivers would behave in such a way, in view of my reasons above, there appears to be no particular reason why parking of this type should occur.
11. Additional concerns have been expressed in relation to the adjacent school, a pedestrian entrance to which exists in the adjacent part of Volante Drive. However, whilst I understand that there may be brief fluctuations in on-street parking demand related to dropping-off and picking-up, I see no grounds to consider that simple parking on-street, or traffic movements related to the development should give rise to any harm or risk to the safety of school children or their parents.
12. For the reasons set out above I conclude that the development would not cause harm the safe or convenient use of the highway, and that subject to the provision of 3 off-road parking spaces, the development would comply with Policies DM7 and DM14 of The Swale Borough Local Plan, 2017 (the Local Plan) which each require parking in accordance with standards set out in the SPG; and the SPG itself.

*Living conditions*

13. The decision notice states that harm that would be caused due to noise and disturbance related to both parking, and loading and unloading of vehicles, particularly at night. However, no detailed evidence has been provided in support of this reason for refusal.
14. Whether 2 off-road parking spaces were provided, or an SPG-complaint 3, the number of parking spaces at the property would be no greater than is currently seen outside many other nearby dwellings. If only 2 spaces were provided however there would inevitably be an overspill of at least one vehicle on-street, as considered above. It is therefore apparent that the effects of the development would again be best contained and limited if an SPG-complaint 3 off-road spaces was provided on-site.
15. As outlined above, one of the spaces would be used by an ambulance/delivery vehicle. Whilst deliveries do not generally occur at night, ambulances would be unlikely to call at such times unless in an emergency. Visits of this type might equally be required in relation to occupants of adjacent dwellings, and cannot be considered unacceptable.
16. The proposed use is for a residential care home as opposed to a nursing home. Given the differing care needs implied, it is unlikely that daytime visits by ambulances would be frequent.
17. An increased frequency of deliveries might occur due to the number of unrelated adult occupants that would be accommodated at No 58. However, I have no information regarding the background frequency of visits by delivery vehicles to other properties in Volante Drive, and in any case it is unlikely that such deliveries would be of a volume sufficient to cause significant noise or disturbance.
18. Group trips by occupants might involve a large vehicle, but even in the unlikely event that such trips occurred daily, this would not generate a significant number of vehicle movements. Any noise associated with entering or exiting the transportation would also be brief and cause little harm.

---

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

3

Appeal Decision APP/V2255/W/19/3241318

---

19. One of the 2 remaining spaces would be for use by staff, and thus likely to see use at the beginning and at the end of a shift. The level of such use would therefore be little or no greater than that of any other space in the area used to park a vehicle driven to and from a place of work. The only difference would be that the appeal site itself would be the place of work.
20. It is possible that a change over of staff might take place at night. If this indeed occurred, it might generate some noise with the potential to cause disturbance. However, residents of other dwellings in the immediate area might equally be shift workers or go out in the evening for social purposes. In this regard I have no information regarding the work or travel patterns of local residents or how these might change over time. As such I see little reason to believe that the potential parking of a vehicle by a member of staff outside the appeal property at night would cause any unacceptable harm due to noise and disturbance.
21. The last space would be for use by occupants. Thus it would presumably accommodate a vehicle either owned by an occupant, or a vehicle driven by a visitor. For reasons similar to those outlined above, it is no more likely that a vehicle would be parked by either type of user at night, than would a vehicle outside any other property within the immediate area. The frequency with which the space was used might vary depending on who its user was, or its users were, however I have been given no reason to consider that the level of associated vehicle use and movements would give rise to unacceptable harm.
22. Interested parties have implied that noise and disturbance would cause interference with the qualified right set out in Article 1 of the First Protocol to the European Convention on Human Rights, as incorporated in the Human Rights Act 1998. This states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. With regard to my reasons above however, I am satisfied that there would be no such interference, as any noise or disturbance generated by the development would be likely to fall within the normal range expected in a residential area.
23. For the reasons outlined above I conclude that the development would not have an unacceptable effect on the living conditions of neighbouring residents due to noise and disturbance. The development would therefore comply with Policy DM14 of the Local Plan, which amongst other things states that development should cause no significant harm to amenity and other sensitive uses or areas.

#### *Character and appearance*

24. The effect of the development on the character and appearance of the area was not a reason for refusal of planning permission. However, it was the reason why officers requested a reduction in the level of parking provision from 3 to 2 off-road spaces. In light of my findings that 3 off-road parking spaces would be both workable and desirable in relation to the above matters, my consideration of the effect that this would have on the character and appearance of the area is now required.
25. Many of the dwellings located adjacent have paved frontages which provide scope for parking by 2-3 vehicles. It appears likely that in some cases parking spaces have been expanded through the paving of front gardens. Green open

Appeal Decision APP/V2255/W/19/3241318

---

- space within the street scene is therefore sporadic and fragmented, but where present it plays a notable visual role in relieving dominant presence of parking.
26. The appeal property currently has a hard-surfaced parking space to the front sufficient for 2 vehicles, with a small lawn alongside. This lawn provides a modest positive contribution to the visual character of the streetscene.
27. I agree with the Council that the loss of open green space within the broader streetscene to allow parking has had a cumulatively negative visual impact. However, the Council has provided no indication that any restriction currently exists to prevent this. I am therefore mindful of the fact that, as matters stand, parking provision could presumably be expanded at the appeal property in much the same way as elsewhere. Furthermore, in the absence of any indication that the Council intends to restrict the paving of front gardens in the future, expansion of frontage parking space could continue to occur at other properties in the area regardless of whether or not this was prevented at the appeal site.
28. The originally proposed grasscrete surfacing system would otherwise provide a more visually sensitive appearance within the streetscene than the hard surfacing generally employed outside other properties. This would allow a semblance of the green surface of the existing lawn to be retained. This could be secured by condition. Therefore, whilst openness of the frontage would clearly be reduced when the parking spaces were in use, in view of the above points, any harm that this would cause would not be unacceptable when viewed and considered in context.
29. For the reasons outlined above I conclude that the provision of 3-off road parking spaces would not cause unacceptable harm to the character and appearance of the area. It would therefore comply with Policy DM14 of the Local Plan, which amongst other things requires development to be of a design sympathetic to the location.

#### **Other Matters**

30. Interested parties have raised a number of additional points including loss of view, whether there is a need for care homes, the internal size of the accommodation provided, works already carried out at the property, and concern that the site would not be accessible for emergency vehicles at busy times. The Council does not share these concerns, and I see no reason to reach a different view.

#### **Conditions**

31. I have imposed standard conditions setting out the time period for commencement of development and identifying the approved plan for sake of certainty. I have referenced the plan originally submitted with the application given that this shows 3 off-road parking spaces.
32. I have also imposed a condition requiring use of matching materials in the interests of maintaining a satisfactory appearance within the streetscene, and a further condition requiring provision of the proposed parking spaces in accordance with the approved details. This is necessary in order to ensure that the development can cater for the basic demand for parking that it will generate, and that it will do so in a way which is visually sensitive.

---

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

5

Appeal Decision APP/V2255/W/19/3241318

---

33. I have lastly imposed a condition limiting the scope of the Class C2 use permitted. This is because I have considered that the appeal scheme is acceptable on the basis of the proposed use being as a residential care home for 5 persons, as opposed to any other purpose which might be permitted within Class C2, or any more intensive use in this context. The Council's proposed condition does not seek to further limit occupancy on the basis of age, but I note that this was suggested at the Council's Committee meeting. No updated list of conditions has subsequently been provided. I have therefore considered the possibility. In this regard I note that the parking standard in the SPG does not differentiate between age groups in relation to the parking standard set for care homes, and I have no clear evidence in relation to the difference that this would make in terms of vehicle movements. Equally however I note that the proposal has been presented, and all parties have assessed it on the basis of the Class C2 use being for elderly persons. The appellant further notes that other models of care might be could unsuitable within the residential setting in question. A restriction would therefore be appropriate. In the absence of any definition of an 'elderly person' however, I have made reference within the condition to persons of 'state pensionable age', as this is a bracket into which potential occupants can be expected to fall.
34. The Council has also requested a restriction of changes of use permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, the area of concern is not specifically identified. Very limited scope for this in fact exists, and even insofar as I note that Class T of Part 3 of Schedule 2 of the GPDO allows for a change from Class C2 to state-funded school or registered nursery, this would be subject to the Council's prior approval. The restriction is not therefore necessary.

#### **Conclusion**

35. For the reasons set out above I conclude that the appeal should be allowed.

*Benjamin Webb*

INSPECTOR

#### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: VIB/GC/V1.
- 3) The materials used to infill the outer face of the garage door in relation to the development hereby permitted shall match those on the existing building in terms of their type, colour and texture.
- 4) Occupation of 58 Volante Drive in relation to the Class C2 use hereby permitted shall not commence until the parking spaces shown on approved plan VIB/GC/V1 have been provided and made available for parking. The parking spaces shall be surfaced in accordance with the details annotated on the approved plan, and shall thereafter be retained and kept available for parking at all times.

---

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

6

Appeal Decision APP/V2255/W/19/3241318

---

- 5) The Class C2 use of 58 Volante Drive hereby permitted shall be limited to that of a residential care home providing accommodation for no more than 5 persons of state pensionable age, and no other use (including any other use in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

This page is intentionally left blank



---

## Appeal Decision

Site visit made on 24 February 2020

by **J E Jolly BA (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

---

**Appeal Ref: APP/V2255/W/19/3239767**

**Hempstead Farm, Hempstead Lane, Tonge, ME9 9BH**

- 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 G H Dean and Co Ltd against the decision of Swale Borough Council.
  - The application Ref 18/506635/FULL, dated 18 December 2018, was refused by notice, dated 13 August 2019.
  - The application is described as planning permission for the consolidation of existing farm office functions and the relocation of a fruit packing area (all existing at Hempstead Farm) into a single building together with associated hard-standings for parking, loading, unloading and circulation (amended proposal) (planning permission 14/506433/FULL refers) without complying with a condition attached to planning permission Ref 16/50017/FULL, dated 8 March 2016.
  - The condition in dispute is No 8 which states that: 'Only fruit grown on farms within the County of Kent shall be stored, packed or tested in the hereby approved building.'
  - The reasons given for the condition is: 'In the interest of amenity.'
- 

### Decision

1. The appeal is allowed and the planning permission Ref 16/50017/FULL for the consolidation of existing farm office functions and the relocation of a fruit packing area (all existing at Hempstead Farm) into a single building together with associated hard-standings for parking, loading, unloading and circulation (amended proposal) (planning permission 14/506433/FULL refers) at Hempstead Farm, Hempstead Lane, Tonge, ME9 9BH, granted on 8 March 2016 by Swale Borough Council, is varied by deleting condition 8, and substituting it with the conditions set out in Annex A.

### Procedural Matters

2. The main parties agree that the description of development given in application Ref 18/506635/FULL has been changed to 'Variation of condition 8 of planning permission 16/50017/FULL (Only fruit grown on farms within the County of Kent shall be stored, packed or tested)'. I have proceeded accordingly.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring residents.

---

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

Appeal Decision APP/V2255/W/19/3239767

---

### Reasons

4. Hempstead Farm is a farm facility associated with the picking, sorting and distribution of fruits, and the storage and distribution of grain. The appeal site is located adjacent to what appear to be fields of fruit trees and other agricultural land. To the front of the farm facility there are two semi-detached dwellings associated with the business facing onto Hempstead Lane. There are also private dwellings along the other side of Hempstead Lane which have front setbacks with some off-street parking and gardens to the rear.
5. Planning permission under Ref 16/50017/FULL was granted as set out above, subject to conditions, on 8 March 2016. The disputed condition was imposed to limit the storage, packing and testing of cherries to those picked in Kent. However, the appellant has stated that the condition restricts this activity to the summer months of June, July and August when Kent grown cherries are available. The appeal proposal seeks to allow cherries from other countries and regions to be processed throughout the year. In practice this would result in approximately 2 additional deliveries and 5 HGV departures per day associated with the processing of cherries. However, the variation was refused by the Council which stated that the proposal would 'constitute a serious erosion of residential amenity for local people'.
6. I acknowledge that there has been a number of complaints and representations from interested parties related to HGV movements associated with both the existing business and the appeal proposal. However, I am satisfied having considered the comments from the Kent County Council Highways and Transportation department, and the findings of the extensive vehicle movements report provided by the appellant, that the arrivals and departures generated by this proposal, including the impact on air quality, would not be significant in comparison to other activity carried out on the farm. Indeed, during my site visit I noted that there is a range of activities associated with the business. These include, but are not limited to, the picking and distribution of apples and pears, and the storage and distribution of grain. These activities are such that they are carried out across the full extent of the year and generate vehicular movements that would not be unexpected in relation to a farm of this size, type or location, including the transportation of cherries.
7. I note the Council's preference for the seasonal and regional restriction of the cherry related business activity. However, in the absence of any convincing evidence to the contrary, I consider that the limited number of deliveries that would be generated by this relatively modest facility would not cause an unacceptable impact on the living conditions of the occupiers of nearby residential properties. This is particularly the case given the generous setbacks to the front of the dwellings, and back-gardens located away from the roadside. Furthermore, as shown on the submitted drawings, and as noted at my site visit, the appeal site is spacious enough to accommodate the loading/off-loading, parking and turning of vehicles away from the main highway and the neighbouring dwellings. As such, the limited disturbance created by an extended 'cherry season' would be comparable to activities already permitted on the site throughout the year. I therefore conclude, that removal of condition 8 is acceptable.

Appeal Decision APP/V2255/W/19/3239767

---

8. Consequently, the proposal accords with Policies DM3 and DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017, which say amongst other things, that planning permission will be granted to enable the diversification of a farm, and when it does not cause significant harm to amenity.
9. For similar reasons, the proposal meets the aims of Paragraph 83 of the National Planning Policy Framework, which requires that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas.

#### **Other Matters**

10. I acknowledge an appeal referred to by the Council related to a cherry business at Owens Court Farm<sup>1</sup>. However, I do not have the details of that appeal before me, and in any case, I have considered the proposal on the basis of its own planning merits.

#### **Conditions**

11. I have considered the suggested conditions provided by the Council. A condition is imposed to ensure that there is adequate accommodation for the loading, off-loading, parking and turning of vehicles associated with the proposal. In order to ensure that the building shall only be used for the storage, packing or testing of cherries it is clear that a revised condition is necessary, and I am satisfied that such conditions would comply with the requirements of Paragraph 55 of the National Planning Policy Framework, and the associated National Planning Practice Guidance.
12. I have also considered whether it is necessary to impose any of the other conditions from permission 16/50017/FULL. Given that the development has already been carried out it is not necessary to include conditions relating to the approved plans and matters related to the construction of the building. Therefore, conditions 1-7, 9-12 and 14 are removed. The essence of condition 13 is preserved within a new condition to ensure landscaping associated with the development is retained.

#### **Conclusion**

13. For the reasons given above, I allow the appeal and vary condition 8 of planning permission Ref 16/50017/FULL.

*J E JOLLY*

INSPECTOR

---

<sup>1</sup> APP/V2255/W/16/316481

Appeal Decision APP/V2255/W/19/3239767

---

**Annex A – Conditions**

- 1) The area shown on drawing GHDean-31 (Site Location Plan) for vehicle loading, off-loading, parking and turning shall be retained for the use of the occupiers of, and visitors to the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), shall be carried out on that area of land or in such a position as to preclude its use.
- 2) The building hereby permitted shall only be used for the storage, packing or testing of cherries.
- 3) Any trees or shrubs associated with permission 16/50017/FULL that are removed, die, become severely damaged or 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.

\*\*\*\*\*End of Conditions\*\*\*\*\*