

AGENDA

EXTRAORDINARY PLANNING COMMITTEE MEETING

Date: Tuesday, 17 December 2019

Time: 7.00 pm

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

Membership:

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

Quorum = 6

RECORDING NOTICE

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Pages

1. Emergency Evacuation Procedure

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

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

The Chairman will inform the meeting that:

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

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

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

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

2. Apologies for Absence and Confirmation of Substitutes

3. 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. Planning Working Group

To consider application 19/501921/FULL, Land at Belgrave Road, Halfway ME12 3EE.

The report considered by Planning Committee on 7 November 2019 and the Minutes of the Planning Working Group agreed by Planning Committee on 5 December 2019 are attached for information.

5. Report of the Head of Planning Services

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Monday 16 December 2019.

Issued on Friday, 6 December 2019

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

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

17 December 2019

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

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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**Land at Brotherhood Wood Yard
Gate Hill**

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CONYER

Murre Conyer Quay

2.7 REFERENCE NO - 19/501921/FULL		
APPLICATION PROPOSAL Full planning application for the erection of 153 No. dwellings, including open space together with associated access, parking, infrastructure, landscaping and earthworks.		
ADDRESS Land At Belgrave Road Halfway Kent ME12 3EE		
RECOMMENDATION Grant subject to the conditions and the signing of a suitably worded Section 106 Agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION The application is allocated in the adopted Local Plan for residential use and the proposal is considered to respond well to the context of the site. The scheme would not give rise to any unacceptable impacts upon highway, visual or residential amenities and there are no objections from technical consultees.		
REASON FOR REFERRAL TO COMMITTEE Town Council and Parish Council objection.		
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL	APPLICANT Keepmoat Homes Ltd AGENT Miss Rosie Cavalier
DECISION DUE DATE 30/07/19	PUBLICITY EXPIRY DATE 07/06/19	

Planning History

None

1. DESCRIPTION OF SITE

- 1.1 The application site measures 5.3 hectares in size and is currently in agricultural use. There are no buildings on the site. The site lies adjacent to existing residential development to the north-east and north-west (Belgrave Road, Ashley Close and Rosemary Avenue), together with an area of existing open space to the north east at Rosemary Avenue. The site adjoins the southern end of Belgrave Road which provides access to the existing highway network. The south-east, southern and south-west boundaries of the site adjoin open fields.
- 1.2 The site rises gently from north to south where it meets the base of Furze Hill, which in turn masks the site from wider views. The site is approximately 10m AOD on the northern boundary and 19m AOD on the southern boundary. The site is bounded by intermittent lines of hedgerow and trees, with a line of Poplars extending along the north of the site which is subject to a Tree Preservation Order. An existing drainage ditch runs along the northern part of the site.
- 1.3 The surrounding built form is mixed in nature and is comprised of single storey, two storey and 2.5 storey dwellings in a range of styles. The closest bus stops are situated

to the north of the site on Queenborough Road. Queenborough Railway Station is located 1.2km to the west with Sheerness-on-Sea Railway Station 2.8km to the north.

2. PROPOSAL

2.1 This application seeks full planning permission for 153 dwellings. These will be split as follows:

- 44 x 2 bed;
- 83 x 3 bed;
- 26 x 4 bed.

2.2 The dwellings will be a mix of 2 storey and 2.5 storey (eight units in total) in height and arranged as terraced, semi detached and detached. The style of the properties is contemporary with pitched roofs, gables and projecting elements. Feature brickwork and the use of render and weatherboarding are also proposed.

2.3 The vehicular access will be taken from Belgrave Road which will be extended into the site. The residential areas of the site will be laid out in a series of perimeter blocks. As a result the dwellings will face out onto the highway. It is proposed to provide the dwellings in three 'character area', which the supporting information labels as 'Green Corridor'; 'Streets and Mews' and 'Furze Hill View'. Parking will be provided in a mixture of on plot and to the front of the dwellings. A pedestrian access route will be provided from the site, through the Rosemary Avenue playing field to connect with the highway in Rosemary Avenue.

2.4 The dwellings will be situated on approximately 3.7 hectares with the remainder of the site being comprised of open space and maintenance corridors. An attenuation pond is proposed in the north-eastern part of the site. Further to this, 'formal' areas of open space are proposed in the western and eastern part of the site and in addition the perimeter of the site will remain undeveloped. Existing hedgerows and trees are proposed to be retained around the perimeter of the site and this will be supplemented by additional planting and street trees along the proposed highways.

2.5 The Design and Access Statement explains that the open space will be managed by a Management Company, unless otherwise agreed with the Council.

3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance
- 3.2 Tree Preservation Order

4. POLICY AND CONSIDERATIONS

4.1 The National Planning Policy Framework (NPPF): Paras 7, 8, 11 (sustainable development); 34 (developer contributions); 67 (identifying land for homes); 73 (maintaining a supply of housing sites); 102 (transport); 127 (achieving well designed places); 165 (sustainable drainage systems); 170 (local and natural environment); 175 (biodiversity).

4.2 National Planning Practice Guidance (NPPG): Air Quality; Design; Determining a planning application; Flood risk and coastal change; Natural Environment; Open space, sports and recreation facilities, public rights of way and local green space; Planning obligations; Travel Plans, Transport Assessments and Statements; Tree Preservation Orders and trees in conservation areas; Use of planning conditions.

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

ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014 – 2031); ST3 (The Swale settlement strategy); ST 4 (Meeting the Local Plan development targets); ST6 (The Isle of Sheppey area strategy); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); CP6 (Community facilities and services to meet local needs); A13 (Land at Belgrave Road, Halfway); DM7 (Vehicle parking); DM8 (Affordable housing); DM14 (General development criteria); DM17 (Open space, sports and recreation provision); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage); DM24 (Conserving and enhancing valued landscapes); DM28 (Biodiversity and geological conservation); DM29 (Woodlands, trees and hedges); DM31 (Agricultural land).

4.4 Policy A13 reads as follows:

Planning permission will be granted for a minimum of 140 dwellings, together with open space and landscaping on land at Belgrave Road, Halfway, as shown on the Proposals Map. Development proposals will:

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

enhanced hedgerow and woodland planting on the southern and western boundaries to form a new, attractive urban edge; and

a. enhanced hedgerow and woodland planting on the southern and western boundaries to form a new, attractive urban edge; and

b. green corridors with footpath and cycle path routes through the site.

2. Be of a high quality of design and of predominantly two storeys in height, demonstrating any higher development will not breach the skyline of Furze Hill in views from the south. The southern edge of the development should face outwards onto the countryside;

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

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

5. Provide appropriate vehicle access, including a separate emergency access point off Rosemary Avenue, if required, subject to demonstrating that the playing field is either no longer required, or provision of suitable alternative as part of the application and safeguarded by a legal agreement;

6. Provide a Transport Assessment which shall examine the capacity and need for improvements to the local network; and

7. Provide the infrastructure needs arising from the development, including those identified by the Local Plan Implementation and Delivery Schedule, particularly education and health provision.

4.5 Supplementary Planning Documents: Developer Contributions (2009) and the Swale Landscape Character and Biodiversity Appraisal (2011).

5. LOCAL REPRESENTATIONS

5.1 Letters of objection have been received from 31 separate addresses (although one of the letters has also been signed by the occupants of a separate dwelling) and raise the following summarised concerns:

- The proposed properties will overlook existing properties;
- The proposed development will spoil views;
- Belgrave Road is very congested with parked cars and is in a poor state of repair, therefore using this road as the access into the development is not practical;
- HGVs / construction vehicles will struggle to access the site from Belgrave Road;
- The surrounding road network is unable to cope with any more traffic and is required to be improved ahead of any further development;
- Halfway is unable to cope with any more traffic and other developments have been required to mitigate the impacts in this location;
- The junction of Belgrave Road / Queenborough Road is already extremely dangerous and difficult to navigate. An increase in traffic will exacerbate this problem;
- Highways England have stated that no new homes can be built in the A249 corridor until the upgrading of Stockbury roundabout has been completed;
- Access for existing residents to their homes would be obstructed;
- The emergency access checks on Belgrave Road were carried out during the day when the road was less intensively used;
- More traffic, loss of greenbelt and loss of agricultural land will threaten the tourist industry and local people's livelihood;
- The Local Plan should be reconsidered and Government housing targets for Swale opposed;
- Brownfield sites should be developed in the first instance;
- Utilities which run under Belgrave Road are already struggling to cope and require regular repairs to be carried out;
- Previous applications on this site for housing were refused due to poor access, drainage and land stability issues, nothing has changed in the intervening period;
- Evidence given at a public inquiry in 1985 led to the site being excluded from the Local Plan at that time due to agricultural and highways constraints;
- The proposal will give rise to noise, smells and disturbance from the increased use of Belgrave Road;
- The layout is cramped with small gardens and a lack of privacy;
- There is no safe crossing point for pedestrians to access the bus stop;

- If the application is approved Rosemary Avenue play area should be upgraded;
- The design of the dwellings will not be in keeping with the surrounding properties;
- Traffic counts were not carried out during peak periods;
- Further pressure on local healthcare and education providers which are already over capacity;
- The proposal will give rise to a loss of visual amenity;
- There is no affordable housing proposed;
- As new housing developments have to provide social housing there will be increased crime rates;
- There are a lack of local jobs for new residents;
- Public transport options are limited;
- The proposal is not beneficial to the community, Sheppey, or the Borough of Swale;
- The proposed plots sizes are extremely small;
- Parking provision within the development is inadequate which will increase pressure upon neighbouring streets;
- The Isle of Sheppey has not been subject to Air Quality monitoring and allowing more houses into already congested areas is damaging to health;
- The application site is not sustainable and provides an important gap which should not be built upon;
- Due to climate change it would be more sensible to plant 153 trees or wind turbines;
- Additional housing is not required;
- Surrounding dwellings already experience low water pressure;
- There would be future problems with drainage;
- The proposal would lower property prices of surrounding dwellings;
- A number of species of birds nest on the application site which will need to be looked after;
- There are alternative sites at Queenborough / Blue Town which would be more appropriately placed for existing retail units and the road network;
- Will there be strict rules on the number of cars that each new household will own?
- The Government requires there to be a net gain in biodiversity.

One of the letters of objection has ticked all of the matters that are included on public consultation letters as being material planning considerations that are taken into account (namely – Overshadowing; Overlooking another property and loss of privacy; Visual Appearance; Parking provision; Traffic the proposal would generate and effects on highway safety; Noise, smells and disturbance resulting from the use; Loss of trees or other important landscape features; Design, appearance and materials proposed to be used; Effect on listed buildings and on the character of a conservation area; Layout and density of proposed buildings; Flooding). The letter has also added 'Mosquito Infestation' to this list.

In addition, the letter includes correspondence that has been sent to the Agent and the Police. I consider that the material planning considerations included in the letters are covered by the summarised points set out above.

Due to the off site highway works proposed (Belgrave Road widening; Belgrave Road / Queenborough Road junction works; and Halfway House junction works), I have re-consulted with neighbours. I have received a further 10 objections (2 from the same address) making the following summarised points, to avoid repetition I have not included comments which have already been raised by neighbours above:

- KCC Highways would not agree to works when an individual request was made previously to improve visibility for exiting a property on Queenborough Road;
- The Belgrave Road / Queenborough Road junction works will make it more difficult for existing residents to exit their driveway;
- The Belgrave Road / Queenborough Road junctions works are not sufficient to improve highway safety;
- Reducing the speed limit will not work as drivers will ignore it;
- There is not sufficient width to widen Belgrave Road due to parked cars on the pavement and verges;
- Closing access from the Crescent to Halfway traffic lights will cause highway congestion elsewhere;
- Access should be made from the old A249;
- There is a lack of police serving the Isle of Sheppey;
- Negative impact upon natural habitats and species;
- The proposal will give rise to harmful landscape impacts;
- The widening of Belgrave Road will bring traffic closer to existing dwellings creating pollution, noise and vibration;
- Both Queenborough Town Council and Minster Parish Council are objecting;
- Construction traffic should not be allowed to access the site via Belgrave Road and should use the farm track across Crown Estates land.
- Southern Water require the network reinforcement otherwise there will be an increased risk of flooding.

6. CONSULTATIONS

6.1 **Queenborough Town Council** (for clarity the site does not fall within the boundary of Queenborough Town Council) have stated the following:

“The surrounding highways’ do not have the infrastructure to accommodate such a vehicle increase from the newly proposed development.

The A250 Queenborough Road is gridlocked daily from its junction with the B2008 Minster Road and A250 Halfway Road and regularly traffic backs up to the junction with the A250, B2007 and A249, along the entire length of Queenborough Road, causing congestion in the surrounding area of Main Road, Queenborough. Extra vehicles from 153 new homes, joining these highways, will only add to congested areas.

Concerns of obscured vision for drivers from Belgrave Road at its junction with the A250 Queenborough Road, extra vehicles from 153 proposed homes in this area will strongly add to these concerns.”

6.2 **Minster-on-Sea Parish Council** – *“Although the proposal is not situated within the*

parish of Minster-on-Sea, the Parish Council is duty bound to respond due to the significant impact it will have on Minster residents.

The Parish Council strongly objects to the proposal on the following grounds:-

1. Impact on the highway network: The traffic generated will have a detrimental impact on the local highway network particularly on Queenborough Road and the Halfway traffic lights through to Minster Road where the infrastructure is seriously lacking and unable to support existing development let alone additional development. Here, it must be noted that the Halfway Junction is currently gridlocked on a regular basis. Halfway Road is also gridlocked to the extent that access to and from the site where there is only one entrance and [the same] exit is affected by stationary vehicles. In addition, there are concerns whether the site lines at the entrance to Belgrave Road are sufficient. Imposing a development in this area will have a detrimental impact not only on the new inhabitants and their neighbours but on the amenities they might reasonably be expected to enjoy. Without easy movement on and off the site, everyone's quality of life will be seriously affected.

2. Impact on infrastructure and local services : This proposal will not function well because of the lack of existing infrastructure to support current demands. It will also impact on local services. Should it go ahead the effect on the existing population will be devastating. It will result in more traffic on our already congested roads with many areas becoming impassable. It will also impact badly on our schools, medical facilities and public services all of whom will be unable to meet demand. Here, it must be noted that the borough of Swale where the proposal is sited has the highest number of patients per GP in the country. This is an unacceptable problem. This prompts the question, if our GP's cannot cope with the existing population's needs, how can they be expected to cope with more?

3. Environmental Impact: The impact on the environment will be significant. 153 houses suggests 300 extra cars will join the local road network. This will exacerbate the existing problem of congestion and air pollution.

4. Drainage: The impact on drainage will be considerable in an area that suffers from existing flood problems. To address this, the Parish Council's would like a mandatory condition included should planning permission be granted, for well managed high degree mitigation measures to be in place to prevent any additional flooding in the area.

5. Parking: The proposed 'tandem' parking arrangements are not adequate and will result in on street parking.

6. The lack of affordable housing is another serious concern.

In concluding, for all these reasons and more, the proposal is considered premature. Before any further development goes through, Minster's Elected Members would want to see significant improvements put in place to improve the traffic flow particularly in respect of the junctions described under 1 above. To this end, Minster-on-Sea Parish Council strongly advises the applicant to revisit the scheme to address all of the issues it has highlighted above."

A further response was sent from Minster-on-sea Parish Council reiterating the above points.

- 6.3 **Highways England (HE)** initially responded stating that the trip rates are acceptable but require confirmation from KCC as to whether the distribution has been agreed. It is requested that various Strategic Road Network (SRN) junction models are provided in order to aid our review. If the development is relying on the scheme at M2 Junction 5, then any occupations on the site will be restricted until the scheme is complete and open to traffic.

HE comment that they are keen to work with applicant's transport consultants to develop a robust transport evidence base which should consider the cumulative impacts of all phases of the proposed development on the SRN with an identified package of mitigation if necessary. Due to the request for further information HE request that the application is not positively determined until additional information has been received from the applicant and reviewed accordingly.

The applicant's have provided further information and following discussions with HE there is some capacity to occupy a proportion of the development prior to the improvement works to M2 Junction 5 being completed and opened to traffic. As a result of this, no objection is raised subject to a condition requiring no more than 100 units being occupied prior to the opening of the junction following these works.

- 6.4 **Swale Footpaths Group** state that the legal status and responsibility for upkeep of open spaces will need to be established.
- 6.5 **Swale Clinical Commissioning Group (NHS)** request that a financial contribution of £132,192 towards expanding existing facilities within the vicinity of the development. On this basis it is considered that the funding should be earmarked for Dr S Patel Practice.
- 6.6 **KCC Public Rights of Way (PROW)** comment that although there are no PROWs within the boundary of the application, public footpath ZS11 lies to the south of site. The Landscape Masterplan shows a link through to open space in the southern part of the development, however, there is no publicly accessible open space in this area. Policy A 13 of the Local Plan requests that the applicant investigates the possibility of establishing a new footpath link between the site and public footpath ZS11. Overall it is considered that the drawings incorrectly portray links to open space and have missed the opportunity to create a link to the Public Footpath. Having said this, no objection is raised to the proposal.
- 6.7 **Kent Police** have raised concerns with the application. This relates to the need for pedestrian and cycle routes to benefit from natural surveillance. There is a lack of clarity over whether the maintenance access is to be secured in any way and vehicle mitigation will be required to the maintenance areas and open space to minimise unauthorised use. Boundary treatments should be sufficiently high to aid security and parking spaces should be sufficiently overlooked. Visitor parking spaces should be marked as such to avoid future conflict. Planting should be used as a mechanism to protect ground floor windows. It is requested that a condition is imposed to cover these points.

The applicant has provided a response to these comments and I re-consulted with Kent Police. They have commented that they consider matters of permeability,

boundary treatments, parking allocation and vehicle access to open spaces have been dealt with appropriately. In relation to the remaining points, it is recommended that a condition is imposed.

6.8 KCC Highways & Transportation initially commented as follows:

“It is noted that the application site is an allocation for 140 dwellings under Policy A13 within the adopted Swale Local Plan, so there is an expectation that housing will be brought forward at this location. The policy does describe vehicular access being derived from Belgrave Road, as per the submitted proposals, although it does also provide the option to consider an alternative access route from Rosemary Avenue to increase connectivity and permeability, and to provide an alternative emergency vehicle access route. However, with regard to the emergency vehicle access, Appendix F of the submitted Transport Assessment does provide confirmation from Kent Fire and Rescue Service that they do not consider this to be necessary in these circumstances.

With respect to Belgrave Road serving as the sole means of vehicular access to the application site, it is acknowledged that the width of this route at between a 4.8m and 5m wide carriageway is considered to be within the Kent Design Guide parameters of a Major Access Road that is suitable to serve around 300 dwellings. Please note that historically, national design guidance describes 4.8m as being sufficient road width for a car and an HGV to pass one another. It is appreciated that on-street parking does occur along Belgrave Road, as indeed it generally would on any street without parking restrictions, and the Kent Design Guide standards would not expect these roads to be free from parked vehicles. It therefore accepts that traffic is unlikely to operate in free flow conditions, and a degree of shuttle working to pass parked vehicles is inevitable. Obviously, were Rosemary Avenue also proposed to serve as an additional route, this would spread the trip generation associated with the development across two different means of access, if the Local Planning Authority were minded to lessen the impact on Belgrave Road.

In consideration of the Transport Assessment, I am satisfied that the trip rates derived from the TRICS database are appropriate, and the correct selection filters have been applied to most accurately reflect the application site’s location. The trip rates used are what the Local Highway Authority would have expected, and the distribution used to assign the traffic onto the local highway network is also accepted. This has been informed by the latest Census data that provides the journey to work statistics for the local area, to assign modal split and route choices.

The applicant has undertaken junction capacity modelling using the industry recognise software packages (ARCADY, PICADY and LINSIG) to assess the likely impact that the development will have on the highway network, in accordance with the junctions identified during pre-application discussions that took place between Kent County Council, Highways England and the Applicant. Of the junctions modelled, the most relevant to Kent County Council as the Local Highway Authority are Belgrave Road/Queenborough Road, and the Halfway traffic signals. This modelling has been undertaken for the future year scenario of 2023, with background traffic flows growthed using the appropriate growth factor from the national statistics

derived TEMPro database, and further allowances made for any committed development that would also influence the growth. As the other junctions modelled fall under the responsibility of Highways England, I shall limit my comments to the former two junctions mentioned.

The PICADY results for the Belgrave Road/Queenborough Road junction demonstrate that there will be no material impact on the operation of the junction, as the Ratio to Flow Capacity (RFC) on any arm of the junction would only reach a maximum value of 0.27. This is well below the accepted maximum practical capacity of 0.85, so it is considered that the junction would continue to function satisfactorily with plenty of reserve capacity available.

Halfway traffic signals have been modelled using LINSIG, and while this demonstrates that the junction will exceed capacity in the 2023 scenario with this development proposal, it does also confirm that this is also the current situation at present with the 2018 base model without the development. However, the Transport Assessment concludes that as the Degree of Saturation between the 2023 scenario with and without the development only rises by around 3% on the most affected arm of the junction, the impact is not considered materially significant. The figures equate to an increase in queue lengths of 5 vehicles on both the half way Road and Queenborough Road arms during the PM peak period, but I do not agree that the suggested inclusion of a Travel Plan to promote sustainable transport choices will mitigate this impact. Instead, I will require the applicant to investigate what improvements can be undertaken at the junction as mitigation.

Provided the above issue regarding the proposed development's impact on the Halfway signalised junction can be satisfactorily addressed, I would consider that the impact on the remainder of the local highway network that falls under the jurisdiction of Kent County Council would be acceptable.

Turning to the layout of the proposed development, I would make the following comments:

1. Notwithstanding the comments above regarding the alternative access to the development from Rosemary Avenue, I would consider that it is appropriate to provide a permanent hard surfaced pedestrian/cycle connection through to link the development more conveniently to the core amenities east of the site. I should therefore like to see a minimum 3m wide shared footway/cycleway linking the development to Rosemary Avenue. This would also have the benefit that it could double as an emergency access after all.

2. Whilst I note the quantum of visitor parking appears to conform with the amount specified within the adopted parking standards, I do think that it is not entirely practical for its intended use. At a provision of 0.2 spaces per dwelling (or the equivalent of 1 space per five houses), this should generally be spread evenly to be well related to each group of 5 houses. However, there are certain lengths of roads where they are lacking visitor parking, and with some of the visitor parking actually being concentrated into the limited private areas, it is likely that residents overspill and visitors will park obstructively closer to the properties they are visiting. Additionally, the parking standards do discourage tandem parking arrangements, as

they are less efficiently used compared to independently accessible spaces. Generally, we would seek an additional 0.5 on street parking provision per tandem arrangement to mitigate this. Consequently, it is likely that further demand for on-street parking will be experienced, exacerbating the visitor parking issue already discussed. In particular, I would highlight the following situations:

- i. There is no on-street parking provided along the sections in front of plots 142 to 146, 16 to 20 (93 to 97), 80 to 83, 104 to 108, 146 to 150, 21 to 25, 37 to 44. Certainly in the case of 16 to 20 and 93 to 97, vehicles are likely to park on both sides of the road and straddle the footway.*
 - ii. The 2 visitor spaces within each of the private driveways for plots 3 to 5, 26 to 30 and 132 to 135, and the single spaces for plots 6/7 and 130/131 will be claimed by those dwellings, given they are all 4 bedroom units with tandem parking and remote from the public areas.*
 - iii. The 2 visitor spaces outside plot 153 are likely to be annexed by that dwelling, as they appear remote from the public areas. Similarly, the same applies to the visitor space outside plot 45. Given plot 46, a 3 bed unit, only has 1 parking space, this is likely to be in demand from that plot, and risk conflict with plot 45.*
 - iv. Parking for plot 146 is too remote, and they are likely to park directly outside their front door instead.*
- 3. The road layout at the junction by plots 16, 97 and 117 is unclear, and it is considered that this should be a table junction as per the adjacent junctions.*
 - 4. The transition from road hierarchy between footway/carriageway to shared space must be more clearly defined and obvious. The transition outside plots 97 and 80 is missing, as the footway just ends, but the carriageway remains the same. However, in the case of plot 80, I consider that the number of dwellings being served along this route is too many for a shared surface, and the footway should continue past plot 80 to plot 74, and the transition created at that point instead.*
 - 5. Speed restraint features should be provided at a minimum distance of 60m apart to achieve a 20mph design speed. The lengths of straight vehicular routes exceed this on the north/south routes.*
 - 6. The refuse strategy for collection day should be shown to demonstrate where wheelie bins will be left for the private areas, so they are accessible and won't obstruct access.*
 - 7. Despite the title of Refuse and Cycle Storage for figure 7.5 in the Design and Access Statement, no cycle storage has been indicated.*

Finally, it is appreciated that construction of the development could involve a significant number of HGV movements along Belgrave Road, which will need consideration to how this can be accommodated. Given the width is generally the minimum required to allow a car and an HGV to pass one another, and the current on-street parking, measures may need to be taken to comfortably manage this level of movement. The current condition of the highway is also likely to deteriorate through the construction traffic movements, and we would expect the developer to ensure the highway asset is of a suitable condition to accept the traffic. We will need

to be assured before allowing the development to take place, that damage will be prevented.”

Due to the above, amended drawings / additional information was provided and I re-consulted with KCC Highways & Transportation who made the following comments:

“The revisions that have been made to the proposed scheme in order to address the layout matters raised in my previous consultation response of 19th July 2019 are noted, which includes the provision of additional visitor parking spaces. Whilst this is welcomed in the additional locations that have now been provided, I do still consider that a number of areas are still lacking these facilities. As previously explained, this visitor parking should be evenly spread around the development, generally with a space catering for the nearest group of 5 dwellings, otherwise informal parking is likely to occur closer to those groups of dwellings if the intended spaces are too far away. Consequently, areas in the vicinity of plots 59 to 68, 105 to 107, 142 to 145 and 146 to 150 are remote from convenient visitor parking spaces.

The newly proposed speed restraint features will require further measures to ensure deflection in the path of vehicle movement, as these features are only provided on one side of the road. This would not encourage vehicles passing along the opposite side to travel at slower speeds, as they would still have a straight run past the build-out.

Although the footway has been extended south past plot 80 as far as plot 74, the width of the footway should be maintained past the visitor parking spaces by plots 80 and 74, and safely discharge pedestrians into the shared surface beyond the speed hump.

The footway/cycleway link to Rosemary Avenue has not been completed, and would therefore still require users to cross an unsurfaced field that could potentially be wet and muddy at times. I would ask that a fully surfaced route be provided to ensure suitable access.

With regard to the comments raised previously concerning the impact of the development on the Halfway traffic signals, and the measures required to cater for construction traffic along Belgrave Road, I can confirm that discussions are currently taking place with the Applicant to consider appropriate mitigation to address these issues. It is anticipated, therefore, that further drawings will be submitted in due course to propose off-site highway works as part of the current application.”

Further amended drawing and additional information was submitted to the Council and I re-consulted with KCC Highways & Transportation who have commented as follows:

“The latest amended site layout plan does now provide an acceptable level of dedicated on-street parking spaces, spread reasonably evenly throughout the development, generally addressing the issues that I had highlighted previously over a number of locations that lacked provision. Whilst it is noted that my request for additional provision in front of plots 105 to 107 has not been complied with, the site

constraints associated with the IDB drainage ditch have been discussed, and additional compensatory parking is now proposed nearby as an alternative solution.

I am satisfied that the amended speed restraint features are appropriately located and spaced to comply with the relevant design standards, and the footway provision within the application site is suitable for accommodating the movement of pedestrians through the development and onto the shared surface environments.

However, I do note that the location of the footway link into the existing public open space has been moved from opposite plot 46, to outside plot 47, south of the subterranean attenuation tank open space. I consider this position less intuitive than the previous location, as it is no longer on the alignment of the main spine road, nor linked directly to the internal footway network. Whilst I have no concern with a link in the position shown, I would rather this be an additional link as opposed to an alternative. Similarly, a link into the public open space from outside plot 61/62 would also be desirable, so that residents in that corner of the development have a more direct route to it.

Notwithstanding the above, it is appreciated that the full provision of the previously requested hard surfaced footway through to Rosemary Avenue does fall outside of the application site, and would require the agreement of the Borough Council as landowner to facilitate. I understand that the Borough Council is willing to include a hard surfaced route through the public open space, connecting the development to Rosemary Avenue, and for the perimeter fencing to be removed in order to provide an open aspect from the development. As this is in the gift of the Borough Council to facilitate, I will defer this matter to the Local Planning Authority to secure in however it sees fit to do so.

As previously described, the Highway Authority has been in discussion with the applicant regarding the provision of off-site highway works. These are to address transport matters raised concerning the existing local road network, and a package of measures are now included as part of this submission. These consist of the following works that the Highway Authority has assessed, and considers acceptable:

- Belgrave Road Widening - Belgrave Road will be widened over a significant proportion of its length to 5.5m, which is the typical width of a Major Access Road, in accordance with the Kent Design Guide.

- Improvement of Queenborough Road junction – In addition to the widening of Belgrave Road in this location, the carriageway alignment of Queenborough Road will be amended to improve sightlines at the junction. Included within this scheme, the 30mph speed limit would be extended west of the junction, appropriate for the presence of building frontage on both sides of Queenborough Road.

- Halfway Traffic Signals Improvements – The junction would be altered to remove vehicle entry from The Crescent. This will improve the capacity of the junction by increasing the amount of green time allocated to the remaining arms of the junction, providing betterment over the current performance, even with the additional traffic from the proposed development and background growth. It should be noted that

traffic will still be able to gain access to The Crescent from the junction itself, and that it merely stops traffic entering the junction from that location.

Consequently, I have no objections to the proposals in respect of highway matters subject to the following conditions.” Conditions recommended relate to: off site highway works being carried out; a Construction Traffic Management Plan; provision and permanent retention of parking spaces; cycle parking facilities; provision of pedestrian visibility splays; details of estate roads, lighting etc, works between the dwelling and the highway to be carried out.

6.9 **KCC Ecology** initially commented that a Preliminary Ecological Appraisal, and Preliminary Ground Level Roost Assessment report has been submitted. The potential for protected species to be present and affected by the proposed development is identified in this report and as such, it is advised that the following additional ecological survey information must be sought prior to determination of the planning application:

- Bat transect survey results, along with any necessary mitigation proposals;
- Reptile survey results, along with any necessary mitigation proposals.

Concern was also raised that the proposed link from the site to the open space to the north east of the site falls directly where the tree assessed as having moderate bat roosting potential is located. If the developer can not re-site this link then further survey work will be required. Also made comments in respect of mitigation / compensation habitat, stag beetles and nesting birds.

In relation to the site layout, it is not considered that the layout adequately demonstrates green corridors for biodiversity within the development.

The proposal is also within the zone of influence of the Swale SPA and there is a need for an appropriate assessment to be carried out.

The proposed development provides opportunities to incorporate features into the site and the way to best secure these will be determined once the above additional survey works will be carried out.

Further to the above, a Biodiversity Impact Assessment was provided and KCC Ecology were re-consulted. They have commented that this provides confirmation via a calculation that the development will result in a net gain in biodiversity as a result of habitats retained, enhanced and created. However, this does not address all the concerns and must not be demonstrated as having no ecological impacts. The following is still required prior to the determination of the application:

- Bat transect survey results, along with any necessary mitigation proposals;
- Reptile survey results, along with any necessary mitigation proposals.

No changes have been made to avoid potential impacts to the tree with bat roosting potential and as a result an inspection of the tree for bat roosting potential is required.

With regards to the site layout, there have been no alterations that will materially change the suitability of the central site areas for biodiversity. Although more habitats for wildlife within the site are encouraged, landscaping details that maximise the biodiversity benefits of the site boundary can be secured, ensuring that these features provide corridors for wildlife.

As a result of the above a Reptile Survey Report, Bat Transect Survey Report and Phase 2 Bat Survey Report has been submitted and I have re-consulted with KCC Ecology who have commented as follows:

“The Reptile Survey Report concludes that a ‘medium’ population of slow worms is present on the site. To mitigate the potential impacts to slow worms, it is proposed to retain much of the currently suitable reptile habitat in the proposed development. Some suitable habitat will be lost as a result of the proposed development, but with additional habitat enhancement measures in the landscaping proposals we are satisfied that the proposed mitigation is appropriate. Account must also be taken of the potential presence of nesting birds, stag beetles and hedgehogs. The details can be secured by condition [Biodiversity Method Statement], if planning permission is granted.

A detailed ecological design strategy must also be secured to ensure that the proposed mitigation measures for reptiles, net gains in biodiversity and provision of ecological enhancement features, are delivered within the scheme.

In order to ensure appropriate long-term management of the wildlife habitats, we advise that the submission and implementation of a landscape and ecological management plan is secured by condition, if planning permission is granted.

The bat survey results indicate low levels of bat use of the site, with boundary features along the north and northeast the focus of bat activity. It is our understanding that these features will be retained within the proposed development.

It is confirmed in the Phase 2 Bat Survey Report that no evidence of roosting bats was found in respect of the tree T9. The potential roosting feature remains, but as there is reported to be no direct impact to the tree, no further action is necessary at this time.

As recommended in the bat reports, external lighting must be minimised to avoid impacts to foraging and commuting bats. We advise that a condition securing the submission and implementation of a bat-sensitive lighting strategy is secured within the planning permission, if granted.”

- 6.10 **Natural England** comment that this proposal will give rise to increased recreational disturbance to the coastal Special Protection Area and Ramsar site. However, subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the Council

to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and I have re-consulted with Natural England on this basis. They have confirmed that subject to securing the appropriate mitigation (i.e. payment of the financial contribution) that they raise no objection to the proposal.

- 6.11 **Southern Water** have requested a number of conditions, firstly, requiring that the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required. Secondly, that construction of the development shall not commence until details of the proposed means of surface water run off disposal in accordance with Building Regulations as well as acceptable discharge points, rates and volumes have been agreed by the LLFA in consultation with Southern Water. Thirdly, that the construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been agreed.
- 6.12 **Lead Local Flood Authority (KCC)** comment that in principle they are satisfied with the drainage design and have no objection subject to formal consent from the Upper Medway IDB for the connection into the northern ditch. At detailed design stage drawings regarding the attenuation basin, including side slopes and available freeboard will be required. Conditions are recommended relating to a sustainable surface water drainage scheme and a Verification Report.
- 6.13 **Upper Medway Internal Drainage Board** have commented that they are reviewing the surface water design in relation to the land drainage consent and as such have commented that this falls outside of the planning process. Also stated that they are happy with the application in principle and note the Lead Local Flood Authority's comments which requires acceptable details to be provided prior to the commencement of the development. They have suggested a condition relating to the development not commencing until land drainage consent has been received and that the development will not impact on the IDB maintenance of the stream to the north of the site or have a negative impact on the drainage of the surrounding area.
- 6.14 **KCC Archaeological Officer** has commented that due to the results of the archaeological report that no further archaeological measures are necessary.
- 6.15 **SBC Environmental Protection Team** recommended conditions relating to contamination, construction hours, suppression of dust details, noise monitoring details, and emissions mitigation.
- 6.16 **SBC Greenspaces Manager** has commented that the quantity of open space provided within the development is adequate. The existing adjacent piece of open space provides the more active space for recreation. There are no details provided of play facilities within the development. This should be toddler equipment due to the size of the open space and the need for a buffer between the facility and the dwellings. An off-site contribution for formal sports (at King George's playing field, Queenborough) of £593 per dwelling is requested. The strengthening of boundary planting and use of native species is welcomed. Would wish to see either removal or

replacement of the boundary fence around the existing open space due to the change in circumstances. Would also have no objection to a footpath running through the open space (connecting the site with Rosemary Avenue) although would need to ensure that this does not completely dissect the existing open space making it less usable.

7. BACKGROUND PAPERS AND PLANS

- 7.1 The application is supported by site layout drawings; elevations; floorplans; Flood Risk Assessment; Ground Investigation Report; Planning Statement; Design and Access Statement; Residential Travel Plan; Transport Assessment; Landscape and Visual Assessment; Ecological Appraisal.

8. APPRAISAL

Principle of Development

- 8.1 Policy A 13 of the adopted Local Plan allocates this site for a minimum of 140 dwellings. As a result, the application which seeks planning permission for 153 dwellings (9% more than the minimum figure in Policy A13) is in accordance with this adopted policy. Furthermore, Members will be aware that the Council is unable to demonstrate a 5 year housing land supply. As a result of this, I am of the view that the benefits of addressing this shortfall, upon a site allocated for this specific type of development should be given very substantial weight. As such, I am of the very firm view that the principle of residential development is accepted.

Density and Mix of Dwellings

- 8.2 The application proposes 153 dwellings on a site 5.3 hectares in size, equating to a density of approximately 29 dwellings per hectare. The supporting text to policy CP 3 of the Local Plan sets out that the density of the site will be informed by local characteristics and the context of the site. I also have regard to the requirements of the policy in terms of the quantum of development expected from this site. The surrounding area is mixed and predominately includes detached and semi detached dwellings with a mixture of garden sizes. Based upon the requirements of the policy and the pattern of development in the surrounding area I am of the view that the density proposed is appropriate.
- 8.3 The mix of dwellings proposed is 43 x 2 bed units; 83 x 3 bed units; and 27 x 4 bed units. Policy CP 3 of the Local Plan identifies the 'Main Issues, purpose and objectives of housing proposals' in specific local housing market areas. In terms of the ME12 postcode upon the Isle of Sheppey, where this site is located, the following is stated: *"Demand is greatest for family housing. Future development of quality family housing that reflects the character of the area should be encouraged. If opportunities arise, improve design and/or levels of sustainability especially in the pockets of deprivation found in this market area."* I believe that the proposal sits comfortably within the objectives in this specific housing market area by providing for family housing. As such I believe the proposal is acceptable in this regard.

Layout

- 8.4 Prior to the submission of the application the proposal was submitted for pre application advice and was assessed by the Design Panel. The Panel considered that

the development should make a greater play on the topography of the site (and that of the surrounding area) by introducing a layout of streets with a north / south orientation ending in open views towards Furze Hill to the south. In addition, it was considered that there may be scope for more pedestrian and cycle links (aside from the main access from Belgrave Road) that would help anchor the development to local facilities around Queenborough Road.

- 8.5 The layout which was originally submitted in my opinion had considered the comments of the Design Panel in providing a network of streets, largely with a north / south emphasis. The dwellings are predominately laid out in a series of perimeter blocks which is considered to represent a legible and permeable layout. The existing Rosemary Avenue playing field sits immediately adjacent to the north east of the site and during discussions with the applicant / agent I expressed a view that the closest dwellings should front onto this recreation area. As a result, an amendment to the layout has been provided which shows the closest dwellings framing this piece of land which I consider appropriate. The dwellings in the southern part of the site face towards Furze Hill as required by policy A 13 and therefore I consider this acceptable.
- 8.6 Also of relevance is that due to the existing use of the land there is a fence of utilitarian appearance on the western and southern side of the playing field where it abuts the site. The playing field is in the Council's ownership and I have discussed the issue of removing this fence with the Council's Greenspaces Manager. This will allow for the future occupants of the development to be able to access this facility and will integrate this existing open space with the new development. The Greenspaces Manager considers this appropriate and has estimated that it will cost £4,500 to remove this fence and then to make good the boundary of the site. After discussions with the applicant and agent, the applicant has agreed to make a contribution to cover this cost. On this basis, I believe that the site will assimilate well with this existing recreation area and provide benefits for future residents.
- 8.7 The main vehicular access to the site is to be taken from Belgrave Road. As discussed in more detail below (see highways section) this has been considered acceptable. However, I am of the view that a further pedestrian / cycle access through the Rosemary Avenue playing field should be provided. This would in my opinion aid connectivity with the surrounding area, especially for those future residents in the eastern part of the site who would be able to access services and facilities in Halfway via this more direct route. I am keen to ensure that the link is provided in the southern part of the playing field, so as not to make this facility unusable and have discussed this with the Greenspaces Manager who considers this acceptable. The estimated cost of this is £10,500 and the applicant has agreed to fund this. I am of the view that this will appropriately provide a secondary access point.
- 8.8 The open space upon the application site includes an area close to the vehicular entrance in the western part of the site and a further parcel in the eastern part of the site, adjacent to the Rosemary Avenue playing field. In addition, due to drainage ditches and the maintenance margins, there is open space around the perimeter of the majority of the site. I note the comments of the Council's Greenspaces Manager who is of the view that a toddler play space should be provided within the development on either the parcel of land in the east or the west of the site. Having discussed this with the agent, it has been agreed that as the proposed location is not yet known, these details can be assessed and secured via a condition. I consider this appropriate as

this will ensure that the play equipment can be located in the most suitable location depending on the amount of play equipment necessary. This can also be agreed as part of the condition. As a result I am of the view that this will introduce a further benefit and is acceptable.

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

Visual and Landscape Impact

- 8.10 As set out in paragraph 6.5.49 of the supporting text to policy A 13 and the description of the site above, the site is enclosed to the south by Furze Hill which masks the site from wider views, and by existing residential units to the north. A public footpath (ref ZS 11) crosses Furze Hill providing some elevated views of the application site in the foreground,
- 8.11 A Landscape and Visual Appraisal has been submitted with the application and this concludes that any impacts, due to the surrounding context of the site, would be limited. The appraisal considers that any impact would be restricted to the edge of the existing settlement and in overall terms I agree with that assessment. Furthermore, I am of the view that the site is well contained within the landscape and would not appear unduly prominent from the available vantage points.
- 8.12 Policy A 13 of the Local Plan sets out that the proposal will *“demonstrate and provide a strong landscape framework (shown by a submitted Landscape Strategy and a Landscape and Ecological Management Plan) to include:*
- a. enhanced hedgerow and woodland planting on the southern and western boundaries to form a new, attractive urban edge; and*
 - b. green corridors with footpath and cycle path routes through the site.”*
- 8.13 The Design and Access Statement submitted with the application states the following in respect of landscape features:
- “There are a variety of landscape features that make up the overall landscape strategy and design. These include:*
- The retained hedgerows and hedgerow trees along the northern, eastern and south-eastern Site boundaries;*
 - A newly planted native hedgerow and associated hedgerow trees along the south-western boundary;*
 - Wildflower meadows with mown paths;*
 - An attenuation/balancing pond and associated wetland planting;*
 - A hierarchy of semi-mature and standard tree planting across the development envelope;*
 - Semi-ornamental and ornamental shrub and ground cover planting; and*
 - Amenity turf and lawn areas.”*

- 8.14 A Landscape Masterplan has been provided which indicatively shows the retention of the hedgerows and trees and a newly planted native hedgerow in the locations as set out in the policy above. Further to this I am of the view that the general approach to landscaping within the site is reasonable. Overall the species mix suits the prevailing landscape character of the surrounding area and the proposal includes planting within the newly created streets to assist in creating an attractive development. I believe that the predominately native species indicated are appropriate, although I take the view that adding additional larger tree species such as small and large leaved Lime in the more open areas of the estate would help improve biodiversity. I also believe that the introduction of the attenuation pond and open space within the development will allow for further amenity and biodiversity benefits. Overall I consider that the general approach to landscaping within the site is acceptable as shown on the indicative drawing. However, these details are not precise enough to condition compliance with in their own right, therefore I have recommended relevant landscaping conditions below to ensure that these principles can be developed upon and agreed.
- 8.15 An arboricultural impact assessment has also been submitted with the application. This sets out that the development will only impact upon a number of low quality trees where the access into the site is being created from Belgrave Road. As the access into the site is required in this location and the quality of the trees is low I am of the view that this is acceptable. The existing trees, shrubs and hedges are confined to the boundaries of the site with TPO 2 of 1965 covering a number of Elm trees and saplings along the northern and eastern boundaries. Most of the Elms present when the TPO was made have since died due to Dutch Elm Disease so all that remains along these boundaries are thickets of self re-generating Elm suckers. The arboricultural impact assessment includes tree protection measures which I consider to be appropriate. To ensure this is carried out I have recommended a relevant condition and overall I believe that the development is acceptable within the context of the TPO.
- 8.16 A Landscape Strategy and Landscape and Ecological Management Plan has not been submitted with the application, however, I note the comments of KCC Ecology. They have, amongst other requirements, recommended conditions requiring that these details are submitted. Therefore, on the basis that the principles of the landscaping details have been considered acceptable I am of the view that requiring this strategy and plan by condition is appropriate in this instance.
- 8.17 Policy A 13 explicitly states that the dwellings will be predominately two stories in height. This has been reflected in the submission with 145 of the dwellings being two storey in height. The remaining 8 units are two and a half stories. There is a range of properties in the surrounding area, both of single storey and two storey height. Overall I believe that the proposal complies with the adopted policy in this regard and is acceptable.
- 8.18 The surrounding area is comprised of a mixture of dwelling styles and designs and I do not consider there to be a strong local architectural theme that should be replicated. The design of the proposed properties incorporates traditional building forms with pitched roofs but supplements this with more contemporary features such as square projecting bay windows, projecting brick panels, rendered elevations, casement windows and six panelled doors. The Design Panel suggested a contemporary design and I am of the view that the elevations submitted reflect this appropriately.

- 8.19 The Design and Access Statement submitted with the application sets out that the site has been split into three character areas – Green Corridor; Streets and Mews; and Furze Hill Views. The distinction between the character areas is subtle, and related to variation in materials. I am of the view that this is appropriate on a development of this scale which I do not believe is of sufficient size to support areas of vastly contrasting styles. Although an indicative palette of materials has been suggested and includes bricks, render, weatherboarding and roof tiles, I do not consider that there is enough detail in respect of the materials to consider this acceptable at this point. As a result I have recommended a condition to ensure that an appropriate palette can be agreed.
- 8.20 Due to the use of perimeter blocks there are a number of dwellings located on corner plots with dual frontages. The elevations show that these plots have been carefully considered and provide active frontages in the streetscene. I consider this appropriate and will ensure that these dwellings sit comfortably within the development.
- 8.21 An important factor in terms of the success or otherwise of new developments is the appropriate use of boundary treatment. The application is supported by a drawing showing the proposed use of boundary treatment and sets out that this will be limited to a 1.8m close boarded fence. In the wholly private areas of the development I consider this to be appropriate. However, there are a number of instances where this boundary treatment would be visible in the streetscene. I am of the view that a close boarded fence in these areas (or to the rear of Plots 1 to 8 and the side of Plots 9 and 25) would not be appropriate and as such have recommended a condition to allow alternative details to be provided and assessed.

Residential Amenity

- 8.22 I note comments from local residents in respect of the impact of the development in respect of a loss of privacy for neighbouring occupants. In terms of the separation distances I firstly consider the relationship between the existing and proposed properties as follows.
- 8.23 Existing properties in Ashley Close, to the north, share a boundary with the application site. Due to the proposed layout of the development a limited number of the proposed dwellings would share a rear to rear or flank to rear relationship with existing properties in Ashley Close. Having assessed this, in terms of rear to rear separation distances, the closest relationship is between unit 5 and No.43 Ashley Close which is separated by 26.5m. The Council would usually expect a minimum rear to rear separation distance of 21m and as such I consider this to be acceptable. All other rear to rear separation distances are in excess of this. There are a further two dwellings which have a flank elevation facing the rear of the properties in Ashley Close. However, these are separated by a distance of 20m and 23m respectively. The Council would usually expect a minimum rear to flank distance of 11m and as such I am of the view that this relationship would not give rise to any serious amenity concerns.
- 8.24 In respect of the amenities of future occupants of the development, all rear to rear distances are a minimum of 21m and as such I am of the view that this is acceptable. There are a very limited number of instances where the rear to flank distances of the proposed properties fall below the 11m separation distance. However, this is by a minimal amount and as such I do not believe that this would give rise to any serious harm to the amenities of future occupants. In respect of garden depths, the majority of these are approximately 10m, which is the minimum that the Council would generally

expect. A limited number of the proposed gardens fall below this depth, however, I do not consider that this will be by any significant degree. Furthermore, where the depth does fall below 10m, I am of the view that these gardens are of a sufficient width to be sufficiently usable. As a result I consider this to be acceptable.

- 8.25 Due to the existing residential units adjacent to the site I am of the view that the impact of construction activities upon the amenity of future occupants will need to be carefully considered. In respect of this, I note the comments of the Council's Environmental Protection Team and the request for conditions in respect of construction hours, suppression of dust details and noise monitoring details. I consider these conditions appropriate and as such have recommended that they are imposed. Overall, based upon the assessment above I am of the view that the proposal does not give rise to unacceptable harm to residential amenities.

Highways

- 8.26 The highway considerations of the development are three fold and relate to the impact upon the strategic highway network, the local highway network and matters related to the internal layout of the development including parking numbers and form.
- 8.27 In respect of the impact upon the strategic highway network, Highways England have been consulted and initially required further information to be submitted. Highways England also commented that if the development was to rely on the improvement scheme at junction 5 then any occupation of dwellings would be required to be restricted until the scheme is complete and opened to traffic. Subsequent to this, additional information was provided to Highways England.
- 8.28 In respect of the Highways England comments, of fundamental importance was the refusal by Swale Borough Council of the planning application at 'Land west of Barton Hill Drive' (ref 18/503135/OUT) for, amongst other things, up to 700 dwellings. This is of critical significance as the entirety of the remaining capacity at M2 Junction 5 had been allocated to this site. However, following the refusal of this scheme, the junction capacity has become available. As a result of further discussions between Officers, applicant, agent and Highways England it has been agreed that a proportion of this available capacity should be attributed to this site. To put this into context, there is now, following the Barton Hill Drive decision, capacity for 90 additional movements at M2 Junction 5. The total number of units proposed in this development (153) would result in 19 additional movements. To fairly apportion the available capacity to relevant developments, it has been agreed that 100 dwellings for this scheme will be able to be occupied prior to the M2 Junction 5 works being completed. This would equate to 12.4 of the available movements. Highways England have confirmed that they raise no objection to the scheme on this basis. Therefore I have recommended a Grampian condition on this basis.
- 8.29 It is clear from the comments of neighbours that the impact of this scheme upon the local highway network is of concern. I have consulted with KCC Highways & Transportation and have quoted their comments in the consultation section above. Firstly, it was considered that Belgrave Road is of a sufficient size to serve as the access to this development and Kent Fire and Rescue Service have confirmed that they do not require a secondary access to be provided. Having said this, the width of

the road is the minimum that would be required for a car and a HGV to pass one another. There are also a number of parked cars along this section of highway. As there will be a number of HGV movements along Belgrave Road during the construction period, I note the comments that measures may be required to comfortably manage this level of movement. In addition, KCC Highways & Transportation raised the issue that the current condition of the highway is likely to deteriorate through construction traffic movements. As a result, there will need to be assurances that before allowing development to take place that such damage can be prevented.

8.30 KCC Highways & Transportation are satisfied that the trip rates provided have been derived from the correct methodology. In respect of the impact upon the Belgrave Road / Queenborough Road junction, it is considered that the data demonstrates that there is enough capacity at this junction, even accounting for the development. In respect of the Halfway traffic light signals to the east, the applicant's suggestion of a Travel Plan in order to mitigate the increased level of traffic at this junction is not considered appropriate to lessen the impact. As such, KCC Highways & Transportation required the applicant to investigate what improvements could be made to this junction. However, provided that the issues affecting this junction can be satisfactorily addressed then KCC Highways & Transportation confirmed that they consider the impact upon the remainder of the local highway network to be acceptable.

8.31 On the basis of the above, the applicant has discussed a range of off-site highway works with KCC Highways & Transportation and as a result the following has been proposed as part of this application:

- Belgrave Road Widening - Belgrave Road will be widened over a significant proportion of its length to 5.5m, which is the typical width of a Major Access Road, in accordance with the Kent Design Guide.

- Belgrave Road / Queenborough Road junction – In addition to the widening of Belgrave Road in this location, the carriageway alignment of Queenborough Road will be amended to improve sightlines at the junction. Included within this scheme, the 30mph speed limit would be extended west of the junction, appropriate for the presence of building frontage on both sides of Queenborough Road.

- Halfway Traffic Signals – The junction would be altered to remove vehicle entry from The Crescent. This will improve the capacity of the junction by increasing the amount of green time allocated to the remaining arms of the junction, providing betterment over the current performance, even with the additional traffic from the proposed development and background growth. It should be noted that traffic will still be able to gain access to The Crescent from the junction itself, and that it merely stops traffic entering the junction from that location.

8.32 KCC Highways & Transportation consider that these works are acceptable to mitigate against the impacts of the development. They have requested conditions to ensure that the works are carried out and I have recommended these. As a result I am of the view that the impact upon the local highway network will be acceptable.

8.33 In respect of the internal network of streets within the development, upon receipt of the application, KCC Highways & Transportation made suggestions in terms of additional visitor parking, raised tables to restrict speeds and further provision of footpaths within

the development. Amended drawings were provided and KCC Highways & Transportation have confirmed that the details provided are acceptable. As a result, no objection is raised and a number of conditions have been requested. I have recommended these and as a result believe that the impact upon highway safety and amenity is acceptable.

Ecology

- 8.34 The application site is in agricultural use and a Preliminary Ecological Appraisal and Preliminary Ground Level Roost Assessment report was submitted in support of the scheme. These reports identified the potential for protected species to be present. I consulted with KCC Ecology who required further survey work to be undertaken and also considered that the development did not adequately provide green corridors for biodiversity.
- 8.35 These comments led to a Biodiversity Impact Assessment being submitted. KCC Ecology have commented that this demonstrates a net gain in biodiversity would be achieved due to retained, enhanced and created habitats. However, further information was requested in respect of bat and reptile survey results. In terms of the layout, although this had not been materially amended, KCC Ecology have taken the view that biodiversity benefits on the site boundaries can be secured. In terms of the central areas of the site which includes the planting of street trees, I refer back to the comments regarding landscaping whereby a condition has been recommended. This will allow the species to be considered and agreed on the basis of enhancing biodiversity. As such I am of the view that this provides the opportunity to enhance the central areas of the site appropriately.
- 8.36 The additional survey results were subsequently provided and a population of slow worms found to be present on the site. Much of the slow worm habitat is being retained and the habitat enhancement measures mean that KCC Ecology have concluded the proposed mitigation appropriate. I note that there is the potential presence of nesting birds, stag beetles and hedgehogs and as such a biodiversity method statement is required. I have recommended a relevant condition to this effect. Further to this, in addition to the conditions requiring a landscape strategy and landscape and ecological management plan I have also recommended a condition requiring a bat sensitive lighting strategy as required by KCC Ecology. On this basis I am of the view that the ecological issues have been appropriately dealt with and the remaining elements can be acceptably dealt with via condition.

Drainage

- 8.37 The application has been supported by a flood risk assessment, drainage strategy and drainage construction details. I have consulted with Southern Water, the Lead Local Flood Authority (KCC) and the Medway Internal Drainage Board.
- 8.38 Southern Water have referred to initial studies indicating that there is an increased risk of flooding unless the required network reinforcement is carried out. This will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Due to this, a condition is recommended requiring development to be phased and implemented in alignment with the delivery of any required sewerage network reinforcement.

- 8.39 In order for a condition to be imposed it is required to meet the six tests (necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; reasonable in all other aspects). Having assessed the condition recommended by Southern Water against the six tests I am of the view that the requirement for the development to align with the delivery by Southern Water of any sewerage network reinforcement required would fail to meet the test of being relevant to planning. This would be a matter solely between the developer and Southern Water and dealt with outside of the planning process, for that reason I have not recommended this condition. Further conditions have been recommended which requires details of foul and surface water disposal. As surface water is dealt with via separate conditions I have amended the condition to avoid repetition and have recommended a condition relating to foul water disposal. As such I am of the view that this matter can be adequately dealt with in this manner.
- 8.40 In respect of surface water, I note KCC's comments that they raise no objection subject to formal consent from the Upper Medway Drainage Board for connection into the northern ditch. I have consulted with the Drainage Board who are content with the details required by KCC. The Drainage Board have recommended a condition requiring that the development does not commence until land drainage consent has been received. However, I refer back to the tests that have to be met for conditions to be imposed. One of these is for it to be relevant to planning. Land drainage consent is a separate matter outside of the planning process and therefore a condition on this basis would not meet this test. I do however note that KCC have recommended conditions and I have imposed these. As a result I am of the view that the foul and surface water drainage matters have been adequately addressed. I am also pleased to note that part of the surface water strategy is an attenuation pond. I believe that this provides benefits not only from the point of view of sustainable drainage but will give rise to both visual and biodiversity benefits.

Developer Contributions

- 8.41 Members will note from the consultation responses received above that in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows:

Primary Education - £693,855

Secondary Education - £179,277.75

Community Learning - £9,245.27

Youth Service - £5,750.23

Library - £7,346.42

Social Care - £9,331.47

Swale CCG (NHS) - £132,192

SPA Mitigation (SAMMS) - £37,570.68

Refuse Bins - £15,804.90

Formal Sports - £90,729

Removal of fence around perimeter of Rosemary Avenue playing field - £4,500;

Footpath through Rosemary Avenue open space - £10,500

Administration and Monitoring Fee – £35,883

Total - £1,231,985.80

- 8.42 The applicant has agreed to pay these contributions and I am of the view that they meet the relevant tests for planning obligations. Furthermore, despite local concern regarding a lack of local infrastructure, I have received no objection from the relevant consultees on this basis.
- 8.43 I am also content that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £245.56 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017'.

Affordable Housing

- 8.44 Policy DM 8 of the Local Plan sets out that on the Isle of Sheppey, the affordable housing percentage sought will be 0%.
- 8.45 I do also note paragraph 64 of the NPPF which states the following:
- 8.46 *"Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership²⁹, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*
- a) provides solely for Build to Rent homes;*
 - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
 - c) is proposed to be developed by people who wish to build or commission their own homes; or*
 - d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

²⁹ *As part of the overall affordable housing contribution from the site."*

- 8.47 I give the Local Plan, which is area specific, a significant amount of weight and due to the above considerations do not consider that affordable housing could be insisted upon on this site.
- 8.48 Despite the above, I have during the course of the application discussed the matter of affordable housing with the applicant / agent. As a result of these discussions, the applicant / agent has proposed that 10% of the dwellings are provided as intermediate affordable (typically shared ownership) housing. The agent has requested that this is controlled via a condition rather than included in the Section 106 Agreement. I believe

that this is so grant funding provided by Central Government can be accessed. I have discussed this with the Council's Strategic Housing and Health Manager who has confirmed that as policy DM 8 of the Local Plan would normally seek 0% of affordable housing on the Isle of Sheppey then providing these dwellings outside of the Section 106 Agreement is considered acceptable. In addition, I am of the view that a condition to secure the delivery of these dwellings in this way will meet the necessary tests. Furthermore, I believe that if the proposal had been submitted with 0% provision of affordable housing then due to policy DM 8 I am of the view that this would have been acceptable. As a result, as the scheme proposes 16 units to be provided as intermediate affordable housing I believe that this allow for potential occupants on a range of incomes to achieve home ownership. As such, I believe that this element of the proposal will deliver a further social benefit.

- 8.49 KCC Social Care also initially made a request that as part of the on site affordable housing delivery that two of the units would be provided as wheelchair adaptable. As set out above, the affordable housing requirement, as per the Local Plan is 0%. The application proposes 10% of the units as intermediate affordable housing, which as set out above is provided over and above what would usually be sought in this location. I have discussed this further with KCC and informed them of the requirements of our Local Plan who have confirmed that although they could therefore not insist on two wheelchair adaptable dwellings, they would wish to see some dwellings built to Part M4(2) standard, which are classified as 'Accessible and adaptable dwellings'. This allows dwellings to remain accessible throughout the lifetime of the occupants, is suitable for some wheelchair users and allows for adaptation in future as and when the needs of the occupants change. The applicant has agreed to provide two dwellings to part M4(2) standard and as a result I am of the view that this is acceptable.

The Conservation of Habitats and Species Regulations 2017

- 8.50 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.
- 8.51 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£245.56 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 8.52 However, the recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not

appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

8.53 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (153 dwellings on an allocated site with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff I believe will ensure that these impacts will not be significant or long-term. However, in order to confirm this I have carried out an Appropriate Assessment and re-consulted with Natural England. Natural England have confirmed that subject to the Council securing appropriate mitigation, via the SAMMS payment, then this will prevent harmful effects on the protected sites. As set out, above, the applicant has agreed to pay the tariff and as such I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.

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

9. CONCLUSION

9.1 Overall, I give very significant weight to the allocation of the site within the adopted Local Plan for residential development. In addition, the Council is currently unable to demonstrate a 5-year supply of housing sites and as a result this development would contribute towards addressing this identified under supply on a site allocated for this specific use. Although I note the objections that have been received from the nearby Town and Parish Council and neighbours, on the basis of the details above I have been unable to identify any conflict with either local or national planning policies. Overall, I am of the view that the application has coherently considered the context of the site and proposes a scheme which displays a number of good planning principles in both its design and layout.

9.2 On the basis of the above, I consider that planning permission should be granted for this development subject to the conditions listed below and an appropriately worded Section 106 Agreement to include the contributions as set out in this report.

10. RECOMMENDATION

GRANT Subject to the following conditions and an appropriately worded Section 106 Agreement:

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

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

- 2) The development hereby approved shall be carried out in accordance with the following drawings: CB_11_135_001 M; CB_11_135_002 J; CB_11_135_003 J; CB_11_135_005 J; CB_11_135_006 J; CB_11_135_007 J; CB_11_135_004; C85883-SK-002 Rev E; P18-1250_05D CB_11_135_FH_CA_E02 A; CB_11_135_FH_CA_P02; CB_11_135_FH_RO_E01; CB_11_135_FH_RO_E02; CB_11_135_FH_RO_P01 A; CB_11_135_FH_RO_P02; CB_11_135_FH_WI_E01; CB_11_135_FH_WI_E02; CB_11_135_FH_WI_P01; CB_11_135_GC_AB_E01 A; CB_11_135_GC_AB_E02 A; CB_11_135_GC_AB_P01; CB_11_135_GC_AB_P02; CB_11_135_GC_BA_E01; CB_11_135_GC_BA_P01; CB_11_135_GC_CA_E01 A; CB_11_135_GC_CA_P01; CB_11_135_GC_KI_P01; CB_11_135_GC_RO_E02; CB_11_135_GC_WI_E01; CB_11_135_GC_WI_E02; CB_11_135_GC_WI_E03 A; CB_11_135_GC_WI_P01; CB_11_135_GC_WI_P02; CB_11_135_SM_AB_E01 A; CB_11_135_SM_AB_E03 A; CB_11_135_SM_AB_P03; CB_11_135_SM_BA_E01; CB_11_135_SM_BA_P01; CB_11_135_SM_KE_E01 A; CB_11_135_SM_KE_P01 A; CB_11_135_SM_LA_E01 A; CB_11_135_SM_LA_P01; CB_11_135_SM_RO_E01; CB_11_135_SM_RO_E02; CB_11_135_SM_RO_P01; CB_11_135_SM_RO_P02; CB_11_135_SM_WI_E01; CB_11_135_SM_WI_E02; CB_11_135_SM_WI_P01; CB_11_135_SM_WO_E01 A; C85883-SK-013E; CB_11_135_SM_WO_P01 B; C85883-SK-031B; C85883-SK-032 B; CB_11_135_GC_KI_E01 A; CB_11_135_GC_KI_E02 A; CB_11_135_SM_RO_E02 A; CB_11_135_FH_CA_E01 B; CB_11_135_FH_CA_P01 A; CB_11_135_FH_SS_01 B; CB_11_135_GAR_01 Rev A; CB_11_135_GC_CA_E02 B; CB_11_135_GC_CA_P02 A; CB_11_135_GC_KE_E01 B; CB_11_135_GC_KE_P01 A; CB_11_135_GC_LA_E01 B; CB_11_135_GC_LA_E02 B; CB_11_135_GC_LA_P01 A; CB_11_135_GC_LA_P02 A; CB_11_135_GC_RO_E01 A; CB_11_135_GC_RO_P01 A; CB_11_135_GC_SS_01 B; CB_11_135_SM_AB_E01 B; CB_11_135_SM_AB_E02 B; CB_11_135_SM_AB_P01 A; CB_11_135_SM_AB_P02 A; CB_11_135_SM_CA_E01 B; CB_11_135_SM_CA_P01 A; CB_11_135_SM_SS_01 B; CB_11_135_FH_CAA_E01; CB_11_135_FH_CAA_E02; CB_11_135_FH_CAA_P01; CB_11_135_FH_CAA_P02; CB_11_135_GC_FA_E01; CB_11_135_GC_FA_P01; CB_11_135_GC_WI_E04; CB_11_135_GG_KE_E02; CB_11_135_SM_CA_E02; CB_11_135_SM_CA_P02; CB_11_135_SM_CAA_E01; CB_11_135_SM_CAA_E02; CB_11_135_SM_CAA_P01; CB_11_135_SM_CAA_P02; CB_11_135_SM_FA_E01; CB_11_135_SM_FA_E02; CB_11_135_SM_FA_P01; CB_11_135_SM_FA_P02.

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

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

Reason: In the interest of visual amenity.

- 4) No development beyond the construction of foundations shall take place until a detailed site layout drawing at a scale of 1:500 showing the boundary treatments to be used across the site, including details of any bricks, have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

- 5) Notwithstanding the details as shown on drawing P18-1250_05D, no development beyond the construction of foundations shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and

biodiversity) plant sizes and numbers where appropriate, details of tree pits where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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

- 8) No development shall take place until the off-site highway works to Belgrave Road shown on drawing C85883-SK-036 Revision A has been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority. Works shall then be implemented in accordance with the approved details.

Reason: In the interests of highway safety and amenity.

- 9) Before the development hereby approved is first occupied, the off-site highway works to the Halfway Road Signalised Junction and the Belgrave Road junction with Queenborough Road as shown on drawings C85883-SK-044 Revision A and C85883-SK-034 Revision D respectively have been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority. Works shall then be implemented in accordance with the approved details.

Reason: In the interests of highway safety and amenity.

- 10) Before the development hereby approved is first occupied an application for a Traffic Regulation Order to extend the existing 30mph speed restriction as shown on drawing C85883-SK-034 Revision D shall be made.

Reason: In the interests of highway safety and amenity.

- 11) No development shall take place, including any works of demolition, until a Construction Traffic and Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. recording the condition of the immediate local highway prior to commencement, and measures to make good any damage attributed to construction traffic
 - iv. routing and timing of construction traffic

- v. wheel washing facilities
- vi. measures to minimise the production of dust on the site.
- vii. measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier.

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

- 12) The area shown on drawing no. CB_11_135_006 J as car parking and turning space shall be provided before any of the dwellings are occupied and shall be retained for the use of the occupiers of, and visitors to the dwellings, and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

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

- 13) Pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access footway level shall be provided at each private vehicular access prior to it being brought into use and shall be subsequently maintained.

Reason: In the interests of highway safety.

- 14) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

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

Reason: In the interests of highway safety.

- 16) No development shall take place (including any ground works, site or vegetation clearance), until a method statement for the protection of reptiles, nesting birds, stag beetles and hedgehogs during construction works has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
- a) Purpose and objectives for the proposed works;
 - b) Working method, including timings, necessary to achieve stated objectives;

- c) Extent and location of proposed works shown on appropriate scale plans;
- d) Persons responsible for implementing works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works.

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

Reason: In the interests of biodiversity.

- 17) No development shall take place until an ecological design strategy (EDS) has been submitted to and approved in writing by the local planning authority addressing:
- 1. Retention and enhancement of reptile habitat (receptor site), in accordance with section 3 of the Reptile Survey Report prepared by Kingfisher Ecology and dated September 2019.
 - 2. Retention and creation of habitats of no less biodiversity value than that shown in the conclusions of the Biodiversity Impact Assessment Report prepared by Kingfisher Ecology and dated July 2019;
 - 3. Provision of ecological enhancement features including reptile hibernacula, integrated bat and bird boxes/bricks and native species planting.

The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In the interests of biodiversity.

- 18) Prior to occupation of the development hereby approved, a landscape and ecological management plan (LEMP) will be submitted to and approved in writing by the local planning authority. The content of the LEMP will include the following:
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions, together with a plan of management compartments;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures.

The LEMP will include details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity.

- 19) Prior to occupation of the development a “lighting design strategy for biodiversity” for the site will be submitted to and approved in writing by the local planning authority.

The lighting strategy will:

- a) Identify those areas/features on site that are particularly important for bats;
- b) Show how and where external lighting will be installed in accordance with ‘Guidance Note 8 Bats and Artificial Lighting’ (Bat Conservation Trust and Institute of Lighting Professionals).

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of biodiversity.

- 20) If, during construction works, evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure potential contamination is adequately dealt with.

- 21) No construction activities shall take place other than between 0730 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 22) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

Monday to Friday 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

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

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

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

Reason: To ensure that foul water is adequately disposed of.

- 25) Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the Local Planning Authority. The detailed drainage scheme shall be based upon the FRA (JNP Group, March 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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

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

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

is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

- 27) No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority setting out and quantifying what measures, or offsetting schemes, are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The details shall include 1 electric vehicle charging point for each dwelling and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

- 28) The development shall include the provision of 10% Intermediate Affordable Housing, where the Affordable Housing shall be provided by a Registered Provider for sale or rent below market levels, which may include Shared Ownership Housing and/or shared equity and/or low cost homes for sale and/or intermediate rent and/or such other forms of intermediate tenure for sale or rent, and the Affordable Housing shall be provided in accordance with the details set out in the Affordable Housing Plan (Drawing No. CB_11_135_004) hereby approved and shall remain as Intermediate Affordable Housing in perpetuity.

Reason: In order potential occupants on a range of incomes to access housing on the site.

- 29) No more than 100 dwellings on the site shall be occupied until the M2 Junction 5 Roads Investment Strategy scheme has been completed and opened to public traffic.

Reason: To avoid adding unacceptably to congestion at the existing A249 Trunk Road and M2 Junction 5, to ensure the effective operation of the Strategic Road Network, and to satisfy the reasonable requirements of road safety.

- 30) No retained tree shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the arboricultural impact assessment by Arbor-Eco Consultancy (report number MB190401-01), without the written approval of the Local Planning Authority. Any pruning approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations or any revisions thereof. The installation of tree protection methods shall be undertaken in accordance with the details contained within drawing MB190301-01-01, Rev A – sheet 1 and 2.

Reason: To protect and enhance the appearance and character of the site and Locality.

- 31) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted in the same location and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

Reason: To protect and enhance the appearance and character of the site and locality.

- 32) Prior to the development hereby approved being occupied details of toddler play equipment, including its specification and location shall be submitted to and agreed in writing by the Local Planning Authority. The equipment shall thereafter be installed

before the first occupation and shall be maintained to a safe and secure condition in perpetuity.

Reason: To enhance the amenities of the area.

- 33) The development hereby approved shall not commence until details have been submitted to and approved in writing by the Local Planning Authority demonstrating how the development will meet the principles of 'Secure by Design'. The development shall then be completed strictly in accordance with the approved details.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

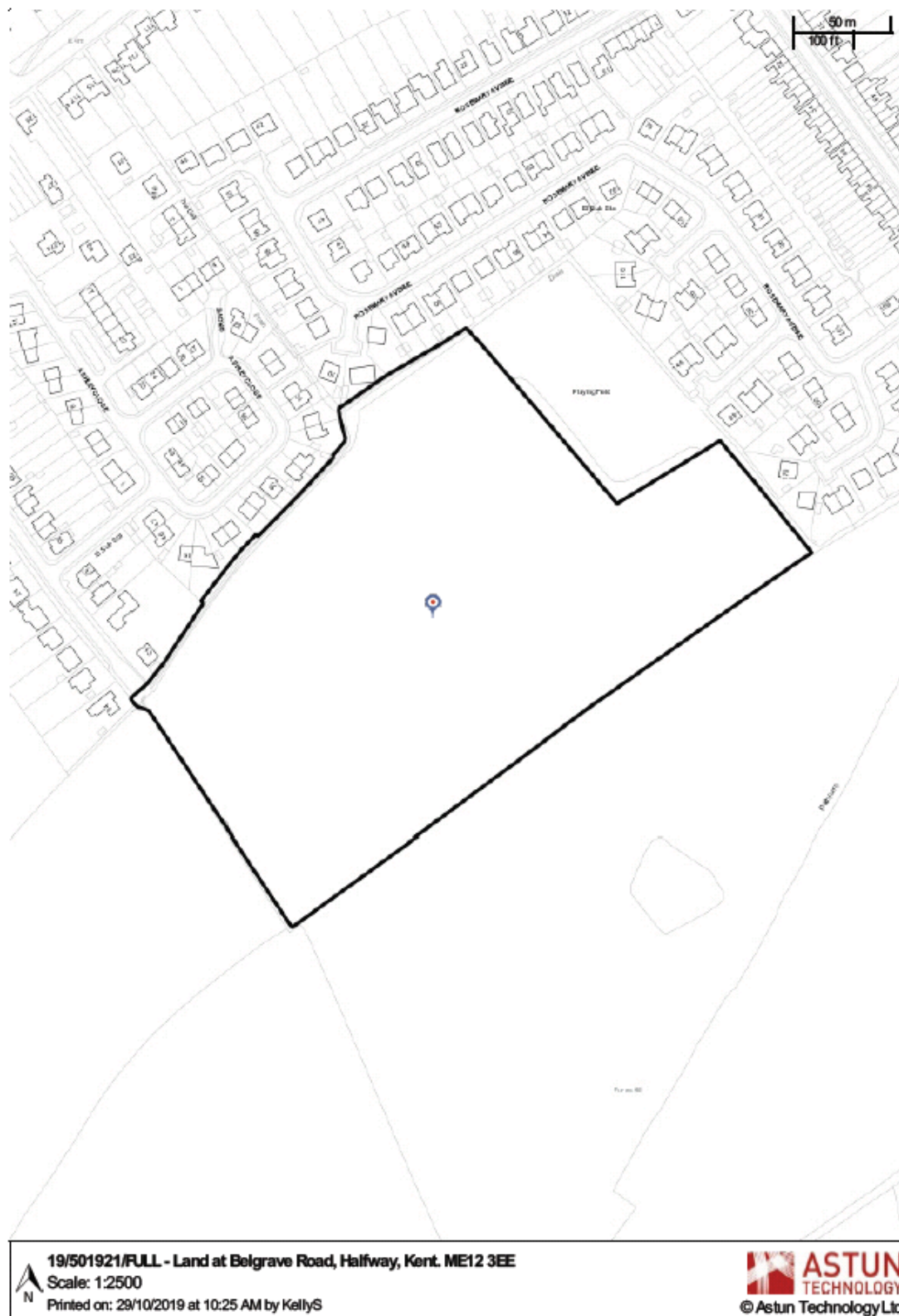
The Council's approach to the application

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

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

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

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



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APPENDIX A



Swale Borough Council Building for Life Checklist

Using this checklist

Please refer to the full Building for Life document

(<http://www.udg.org.uk/sites/default/files/publications/BFL12COMPLETED.pdf>) when assessing development proposals.

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

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

SITE ADDRESS: Land at Belgrave Road, Halfway

APPLICATION NO.: 19/501921/FULL

1. CONNECTIONS

ITEM	COMMENT	(SBC use)✓/✗
1a Where should vehicles come in and out of the development?	The vehicle access to the site is via Belgrave Road for which there are proposals to widen, KCC Highways & Transportation raise no objection to this.	✓
1b Should there be pedestrian and cycle only routes into and through the development?	The proposal includes a contribution for a footpath to pass through the open space to provide pedestrian / cycle only access.	✓
1c Where should new streets be placed, could they be used to cross the development site and help create linkages across the scheme and into the existing neighbourhood and surrounding places?	The site is located upon the edge of existing built form. The streets are laid out in perimeter blocks and there are linkages in both the eastern and western parts of the site.	✓
1d How should the new development relate to existing development?	The site is adjacent to existing development.	✓

2. Facilities and services

ITEM	COMMENT	(SBC use)✓/✗
2a Are there enough facilities and services in the local area to support the development? If not, what is needed?	The site has been allocated in the Local Plan and apart from the open space within the development residents would likely use the services and facilities in the surrounding area to meet their day to day needs.	✓
Where new facilities are proposed: 2b Are these facilities what the area needs?	The open space required is considered to be required for future occupants.	✓
2c Are these new facilities located in the right place? If not, where should they go?	The open space is conveniently located on the site.	✓
2d Does the layout encourage walking, cycling or using public transport to reach them?	As above, the open space is within walking distance of the dwellings proposed.	✓

3. Public transport

ITEM	COMMENT	(SBC use)✓/✗
3a What can the development do to encourage more people (both existing and new residents) to use public transport more often?	The development provides legible routes to the main bus routes along Queenborough Road.	✓
3b Where should new public transport stops be located?	N/A	N/A

4. Meeting local housing requirements

ITEM	COMMENT	(SBC use)✓/✗
4a What types of homes, tenure and price range are needed in the area (for example, starter homes, family homes or homes for those downsizing)?	The application provides a range of dwellings and tenure types of which there is clear identified need.	✓
4b Is there a need for different types of home ownership (such as part buy and part rent) or rented properties to help people on lower incomes?	Although the Local Plan requires 0% affordable housing on the Isle of Sheppey, the applicant has proposed 10% of the units as intermediate affordable units. This will very likely mean that people on a range of incomes will be able to access housing on the development.	✓
4c Are the different types and tenures	The different tenure types are located throughout the	✓

spatially integrated to create a cohesive community?	site, although there are some higher concentrations in certain areas.	
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5. Character

ITEM	COMMENT	(SBC use) ✓/✗
5a How can the development be designed to have a local or distinctive identity?	The dwellings in the surrounding area are mixed, I consider the proposed dwellings to be distinctive in their own right.	✓
5b Are there any distinctive characteristics within the area, such as building shapes, styles, colours and materials or the character of streets and spaces that the development should draw inspiration from?	There is a mixture of building styles and designs in the local area and not one specific characteristic which I believe could be said to be distinctive.	N/A

6. Working with the site and its context

ITEM	COMMENT	(SBC use) ✓/✗
6a Are there any views into or from the site that need to be carefully considered?	The site is hidden in view from the south by Furze Hill and enclosed by residential development to the north. There are views available from the public footpath on Furze Hill although I believe that the development and landscaping will lead to a scheme which responds well to the site context.	✓
6b Are there any existing trees, hedgerows or other features, such as streams that need to be carefully designed into the development?	There is existing planting and drainage ditches around the margins of the site which is proposed to be retained and enhanced.	✓
6c Should the development keep any existing building(s) on the site? If so, how could they be used?	N/A	N/A

7. Creating well defined streets and spaces

ITEM	COMMENT	(SBC use) ✓/✗
7a Are buildings and landscaping schemes used to create enclosed streets and spaces?	The proposal includes a number of perimeter blocks.	✓
7b Do buildings turn corners well?	Yes, buildings upon corner plots have dual aspects.	✓
7c Do all fronts of buildings, including front doors and habitable rooms, face the street?	Where possible.	✓

8. Easy to find your way around

ITEM	COMMENT	(SBC use) ✓/✗
8a Will the development be easy to find your way around? If not, what could be done to make it easier to find your way around?	The perimeter blocks will allow for easy access around the development.	✓
8b Are there any obvious landmarks?	The surrounding landscape which includes the existing open space to the north east of the development and Furze Hill to the south are the most obvious landmarks.	✓
8c Are the routes between places clear and direct?	Yes, due to the response to 8a as above.	✓

9. Streets for all

ITEM	COMMENT	(SBC use) ✓/✗
9a Are streets pedestrian friendly and are they designed to encourage cars to	I am of the view that the design of the streets will encourage low vehicle speeds.	✓

drive slower and more carefully?		
9b Are streets designed in a way that they can be used as social spaces, such as places for children to play safely or for neighbours to converse?	The development provides a range of streets and spaces. In general I believe that this opportunity exists.	✓

10. Car parking

ITEM	COMMENT	(SBC use) ✓/✗
10a Is there enough parking for residents and visitors?	Yes.	✓/✗
10b Is parking positioned close to people's homes?	Yes.	✓
10c Are any parking courtyards small in size (generally no more than five properties should use a parking courtyard) and are they well overlooked by neighbouring properties?	N/A	N/A
10d Are garages well positioned so that they do not dominate the street scene?	The limited number of garages have been set back from the street.	✓

11. Private and public spaces

ITEM	COMMENT	(SBC use) ✓/✗
11a What types of open space should be provided within this development?	There are areas of landscaped open space within the development and close to the residential properties.	✓
11b Is there a need for play facilities for children and teenagers? If so, is this the right place or should the developer contribute towards an existing facility in the area that could be made better?	A need for toddler play equipment has been identified and a condition imposed to for details to be agreed as to the precise location within the development.	✓
11c How will they be looked after?	Management Company.	✓

12. External storage and amenity areas

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

PLANNING WORKING GROUP

MINUTES of the Meeting held at the site listed below on Monday, 25 November 2019 from 10.00am - 10.53am.

PRESENT: Councillors Cameron Beart, Mike Dendor (Substitute for Councillor Roger Clark), Tim Gibson (Chairman), James Hall, James Hunt, Elliott Jayes, Peter Marchington, Paul Stephen, Eddie Thomas and Tony Winckless.

OFFICERS PRESENT: Philippa Davies, Alun Millard and Jim Wilson.

APOLOGIES: Councillors Roger Clark, Simon Clark, David Simmons and Tim Valentine.

372 **DECLARATIONS OF INTEREST**

No interests were declared.

373 **LAND AT BELGRAVE ROAD, HALFWAY ME12 3EE**

The Chairman welcomed Members, officers, the agent, applicants and members of the public to the meeting.

The Major Projects Officer introduced the application which was for the erection of 153 dwellings, including open space, together with associated access, parking, infrastructure, landscaping and earthworks. He explained that the site measured 5.3 hectares, and the majority of the dwellings would be two storey, with eight being 2.5 storey, and they would be a mix of 2, 3 and 4 bedroom housing. The Major Projects Officer explained that the site was allocated for housing in the 2017 Local Plan, and Policy A13 in the Local Plan required a minimum of 140 dwellings on the site, emphasising that 140 was the minimum number of dwellings likely to be acceptable. He reported that none of the technical consultees had raised objection to the application, subject to appropriate planning conditions and developer contributions to mitigate the impact of the development. Queenborough Town Council and Minster Parish Council objected to the application, along with 31 local residents, and the comments were noted in the 7 November 2019 Planning Committee report. The Major Projects Officer reported that the scheme was considered to be appropriate, with a good mix of housing types and density. It was not considered to have unacceptable impacts and was in accordance with the adopted Local Plan.

The Agent added that the development would provide much needed housing and he outlined the developer contributions.

Although the proposed development was not situated within Minster Parish it was suggested that it could have an impact on Minster residents, and a representative of Minster Parish Council spoke against the application and raised concern with the impact on the infrastructure as a result of the development.

Local residents raised objections which included the following:

- Where did the demand for 'much needed housing' come from?;
- the ground near the site was unstable;
- the local sewers were not fit for purpose and already could not cope, without the addition of 153 houses;
- the development would be detrimental to existing local housing, particularly nearby bungalows and there would be overlooking and overshadowing;
- the highway mitigation measures did not resolve the highway issues;
- there would be additional vehicles as a result of the development which would cause congestion issues;
- the corner of Belgrave Road/Queenborough Road was dangerous;
- there were already issues with traffic in the area, this would get worse;
- traffic lights at Halfway would worsen traffic issues;
- if the development was going to go ahead, better access was needed onto the A249;
- insurance would go up and there would be increased flood risk;
- impact on other roads, such as The Rise;
- there would be a lot of noise during construction of the development;
- a lot of residents moved to the area because of the peace and quiet and this would be lost;
- the roads could not cope with increased traffic;
- there was a lack of services, such as medical and educational;
- there was not enough open space provision for families;
- mix of elderly and children could raise safety issues;
- the road needed to be improved;
- infrastructure on the Isle of Sheppey as a whole needed to be improved;
- there were already flooding issues on the site, and this would get worse;
- the development should be built somewhere else;
- the tallest dwellings were being built next to the existing bungalows; and
- the ground was unstable and waterlogged.

In response, the Agent explained that open space was provided on the site and this included the provision of toddler play equipment, with a link to the existing local open space to encourage use of that facility. In terms of the mix of housing, he considered there to be a good mix of units, and 10% of the dwellings would be affordable housing units, with shared ownership. The Agent added that demand for housing came from the Local Plan process, and the resulting housing target for the Borough. He considered that suitable access could be delivered by using Belgrave Road, and explained that Kent County Council (KCC) Highways and Transportation and Highways England had not objected to the application.

The Applicant's Transport Planner explained that they had worked closely with KCC Highways and Transportation and had looked at the accessibility of the local roads which had complied with national standards.

It was confirmed by the applicant that construction traffic would not use Belgrave Road, but would access the application site via a farm track. Southern Water would

be reinforcing the sewer so that it was fit for purpose. Work would also be carried out underground with a network of pipes, and water would be stored underground.

The Major Projects Officer concluded by stating that the Planning Committee report (7 November 2019) gave full details of the application and provided a thorough explanation of the issues and the mitigation measures. He added that there was a need for additional housing in the Borough, as advised by the Council's Housing officers, and this was the right type of housing for the site with a good mix of unit sizes.

The Senior Development Planner (KCC Highways, Transportation and Waste) responded to questions from Members and confirmed that the grass verges along Belgrave Road would generally remain, following widening of the road, but they would be narrower than at present. He also confirmed that the highway improvements proposed were considered to be an appropriate level of mitigation, and that the reconfigured Halfway traffic signals would have more capacity than at present.

The Major Projects Officer agreed to seek clarification on the access route for construction traffic in time for the Planning Committee meeting on 5 December 2019.

Chairman

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All Minutes are draft until agreed at the next meeting of the Committee/Panel

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PLANNING COMMITTEE – 17 DECEMBER 2019**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 19/505039/FULL		
APPLICATION PROPOSAL Conversion of the garage to a habitable space and addition of pitched roof to existing single storey front extension. Extension to the front hard standing and extend the existing dropped kerb.		
ADDRESS 86 Adelaide Drive Sittingbourne Kent ME10 1XU		
RECOMMENDATION - Approve		
REASON FOR REFERRAL TO COMMITTEE Applicant is a Councillor		
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Mr & Mrs Whelan AGENT Nigel Sands & Associates
DECISION DUE DATE 03/12/19	PUBLICITY EXPIRY DATE 13/11/19	

Planning History

SW/92/1109

First floor front & rear extensions and conservatory

Approved Decision Date: 15.02.1993

SW/74/0045

Extension to provide lounge and kitchen

Approved Decision Date: 02.08.1974

1. DESCRIPTION OF SITE

- 1.1 86 Adelaide Drive is a two storey semi-detached property located within the built up area boundary of Sittingbourne. There is an integral garage at the property, and a driveway to the front of this which provides parking for two vehicles. The garage projects forward of the main house and has a w.c. alongside it; both under a flat roof. To the rear is private amenity space. There is an existing magnolia tree which is located at the front of the property.
- 1.2 The surrounding area is characterised by semi-detached properties of a similar scale and design.

2. PROPOSAL

- 2.1 This application seeks planning permission for the conversion of the garage to a habitable room and the addition of a pitched roof to the existing garage/w.c. at the front of the house. The pitched roof will increase the height of the extension by 0.8m to 3.3m in maximum height, and will be constructed using materials that match the existing dwelling. The garage conversion will create a study at the property.
- 2.2 The existing hardstanding will be enlarged and the dropped kerb will also be extended to the full width of the driveway.

3. PLANNING CONSTRAINTS

- 3.1 Potential Archaeological Importance

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 – policies CP4, DM14 and DM16
- 4.3 Supplementary Planning Guidance (SPG): ‘Designing an Extension: A Guide for Householders’

5. LOCAL REPRESENTATIONS

- 5.1 None

6. CONSULTATIONS

- 6.1 The County Archaeological Officer has said;

“Thank you for consulting on the above application. Although this is close to a recorded Roman burial site, given the very limited groundworks involved in the proposed conversion and hard standing extension I am satisfied that no archaeological measures are necessary.”

- 6.2 I have informally discussed the application was discussed with the Council’s Tree Consultant who considers the construction of the proposed paving is likely to cause damage to the roots of the tree due to the close proximity of the tree. He recommends a condition is imposed ensuring a native replacement tree is planted should the existing tree be damaged during the construction phase.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Plans and documents submitted as part of 19/505039/FULL.

8. APPRAISAL

Principle of Development

- 8.1 This site is located within the built up area boundary of Sittingbourne where the principle of development is accepted. The main considerations in this case involve the

impact of the development upon visual and residential amenity and the loss of the garage as a parking space.

Visual Impact

- 8.2 The existing flat roof above the garage and porch will be replaced with a mono-pitch roof. I believe this will improve the appearance of the front elevation, and represent a better design than the existing flat roof. The garage door will be replaced with a window which will serve the study. It is of a similar scale to the existing windows on the front elevation of the dwelling, and therefore I believe it will sit comfortably on the property. All aspects of the development will use materials that match those on the existing dwelling. Overall, I take the view the proposal will not cause harm to the character and appearance of the dwelling, or wider area.

Residential Amenity

- 8.3 The main properties that could be affected by the proposal are those either side of the site. The addition of the pitched roof to the front extension will increase the height of the structure by 0.8m. It will lie 2.5m from No. 84 and 2m from No. 88. Taking into account the limited height increase and the distance to the neighbouring properties, I do not believe this element of the proposal will cause unacceptable harm to residential amenities at these neighbouring properties. The addition of a window in the front elevation of the garage will provide views similar to the existing windows in the front elevation, and therefore I take the view any overlooking impact will be acceptable.

Parking

- 8.4 The loss of the garage as a parking space needs to be considered. In accordance with Kent Parking Standards, a property of this scale in this location should provide two off-street parking spaces. The driveway at the property (which is to be reconfigured) can provide these spaces side by side. I therefore consider the parking provision is adequate, and consider the loss of the garage is acceptable.
- 8.5 I note that the majority of the front garden is already laid with hardstanding, and therefore I do not consider the proposal will cause unacceptable harm to the character and appearance of the streetscene.

Impact on tree

- 8.6 There is an existing magnolia tree to the front of the property, and the extension to the hard standing will be located in close proximity to this tree. The application form indicates that this tree is to be retained, and I have discussed the proposal with the Council's Tree Consultant who considers the construction of the paving is likely to damage the roots of the tree. I therefore include a condition below to ensure the tree is replaced should it become damaged by the construction of the development.

9. CONCLUSION

- 9.1 On the basis of the above, I do not consider the proposal will have adverse impacts on visual or residential amenities, and will provide an adequate parking provision. I therefore recommend planning permission be approved.

10. RECOMMENDATION – Approve subject to the following conditions:

- (1) The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

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

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

Reason: In the interests of visual amenity.

- (3) The tree shown on the plan hereby approved shall be retained and maintained. If this tree is removed, dies, is severely damaged or becomes seriously diseased within five years of the date of this permission it shall be replaced with a tree of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity.

The Council's approach to the application

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

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

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

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



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2.2 REFERENCE NO - 19/505077/FULL		
APPLICATION PROPOSAL Erection of a two storey side extension and single storey rear extension.		
ADDRESS 80 Norwood Walk West Sittingbourne Kent ME10 1QF		
RECOMMENDATION - Approve subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Bobbing	APPLICANT Mr P Farrell AGENT CJS Design Services
DECISION DUE DATE 09/12/19	PUBLICITY EXPIRY DATE 06/11/19	

Planning History

SW/06/1363

Two storey side extension to create a new kitchen & dining room at ground floor level and bedroom & extended bathroom at first floor level and conservatory to rear.

Approved Decision Date: 23.01.2007 (Not implemented)

SW/05/1144

Retrospective application for rear garden retaining wall

Approved Decision Date: 14.12.2005

SW/78/1075

Reposition fence

Approved Decision Date: 27.11.1978

1. DESCRIPTION OF SITE

1.1 80 Norwood Walk West is a modern two storey end of terrace property located within the built up area boundary of Sittingbourne. There is a small garden to the front of the property, and private amenity space to the side and rear. Norwood Walk West sits perpendicular to Hilton Drive so that the side wall of number 80 faces Hilton Drive, and the dwellings along the walk sit on lower ground than Hilton Road.

1.2 The surrounding area is characterised by terraced dwellings of a similar scale and design.

2. PROPOSAL

2.1 This application seeks planning permission for a two storey side extension and single storey rear conservatory extension. The side extension will project 3.7m from the side wall of the property, and will have a length of 6.4m. It will be set back 0.6m from the front elevation of the building, and has a roof that follows the same pitch and eaves height as the main roof on the property, although the ridge height will be set slightly

lower on the extension. This side extension will form a kitchen and dining room on the ground floor and an additional bedroom on the first floor.

- 2.2 The proposed conservatory will measure 2.4m x 5.1m and will have a mono-pitch roof with an eaves height of 2.3m and a ridge height of 3.1m.
- 2.3 I note this proposal is almost identical to the side and rear extensions proposed under SW/06/1363, which was approved but never implemented at the site. The only difference between the applications is the loss of a first floor window in the rear elevation of the two storey side extension.

3. PLANNING CONSTRAINTS

- 3.1 None

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 - policies CP4, DM14 and DM16
- 4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension: A Guide for Householders'

5. LOCAL REPRESENTATIONS

- 5.1 Six objections have been received from neighbouring properties. Their contents are summarised below:
- The proposal is a very large extension, at the side and the rear of the property which will effectively this will double the size of the property – it would represent overdevelopment of the site. It will look imposing and look out of keeping of the rest of the houses in close proximity.
 - All of the houses have a green space between the path and the end of the terraces.
 - It will lead to the loss of existing views from neighbouring properties.
 - It will encroach on the privacy and overshadow the properties that are neighbouring the proposed extension.
 - The rear extension is proposed to abut our boundary – in order to dig the foundations, our party wall will be exposed and undermined. We request that if this extension is allowed to be built it is built at least 1m from the party boundary and fence.
 - The rear single extension will cut off the natural light to the kitchen of our property and overshadow the rear of our house.
 - There is no parking on site – parking is in the road on a very busy estate road. To extend a 2 bedroomed house into a 3 bedroomed house will potentially increase the parking problems.

- Parking on Hilton Drive is already an issue and is especially unsafe for the large number of school children passing through this neighbourhood.
- I appreciate the property opposite has a small single side extension - this is much more acceptable as it is barely noticeable.
- There are already flooding and drainage problems in Norwood Walk – the sewer pipes are not fit for purpose now, let alone having another bathroom connected.
- I would like to signpost to the recent planning application by 7 Wellington Road which is very close to this property. This application was refused based on the bulk and scale, and I would urge you to consider the refusal report for that property when considering this application too.
- Precedent has been set by the refusal of planning permission at No. 17 Norwood Walk for a two storey side extension and replacement of 3m high hedge with 2m high wall (ref. SW/08/0684).
- The loss of a 2 bedroom house, popular with first time buyers is a great loss.

6. CONSULTATIONS

6.1 Bobbing Parish Council object to the application, proving the following comments:

“Bobbing Parish Council objects to this application on the grounds that the proposed development, its size and bulk, will be out of character with the existing street scene.

The proposed development would not be served by adequate car parking spaces and would possibly give rise to vehicles parking on the highway (the property itself is not located adjacent to the highway but on a pedestrian walk through). The Parish Council requests that a site visit be undertaken to understand the full implications of this application. See SW/08/0684 - 17 Norwood Walk, which was refused on similar grounds.”

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents relating to 19/505077/FULL and SW/06/1363.

8. APPRAISAL

Principle of Development

8.1 The site lies within the built up area boundary of Sittingbourne where the principle of development is accepted. The main considerations in this case involve the impact of the proposal upon visual and residential amenities.

Visual Impact

8.2 Due to the location of the property the side extension will be prominent in the streetscene and will be highly visible from Hilton Drive. There is currently a substantial gap between the existing property and the side boundary of the site with Hilton Drive. The side extension will reduce this gap to between 2m - 3.5m, and will be set back from

the front elevation and set down from the roofline slightly. There will remain an area of soft landscaping to the side of the extension. Whilst the extension will increase the scale of the property, due to the size of the plot and the distance to the side boundary, I believe the side extension will not cause adverse harm to the character and appearance of the property or wider area. The rear extension is of a limited scale, and will have a mono-pitch roof. I believe it will sit comfortably on the property and therefore have no concerns from this regard. Matching materials will be used on all elements of the build which will ensure the extensions blend in with the existing property.

- 8.3 I acknowledge the objectors' concern regarding the scale of the side extension and subsequent impact of the proposal on the wider area, but as summarised above, I do not believe it will cause unacceptable harm to the character of the area.

Residential Amenity

- 8.4 The side extension will not project rearwards or forwards of the existing dwelling, and therefore I consider the impact upon attached dwelling No. 78 will be limited. The extension will lie roughly 19m from the nearest residential dwelling to the west, and taking into account this distance, I believe any impact to dwellings along Hilton Drive will be minimal. No windows are proposed in the side elevations of the extension, and the windows proposed in the front and rear elevations will not lead to any unacceptable overlooking in my view as they will provide views similar to the existing windows in the property.
- 8.5 The single storey rear extension projects 2.4m to the rear. This is in line with the Council's SPG, which recommends rear extensions close to the common boundary have a maximum projection of 3m. The height of the extension is limited, and whilst it may have some impact on attached property No. 78, I do not consider it will cause unacceptable harm to residential amenities at this neighbouring property. I note the objectors' concern with regard to an overshadowing impact, however due to the limited projection of the extension, I do not consider it will cause substantial overshadowing. With regard to the extension being situated along the common boundary and the potential impact this will have during the construction phase, this would be a private matter and cannot be taken into account here.

Highways

- 8.6 The extension will result in the property having three bedrooms. Due to the location of the site fronting a walk, residents of Norwood Walk are required to park in Hilton Drive, the road perpendicular to the walk or other surrounding estate roads. I note there are no parking restrictions on the roads surrounding the site and, whilst the property has no off-street parking I do not consider the additional bedroom will cause sufficient harm to the parking provision in the surrounding roads to warrant a reason for refusal.

Other Matters

- 8.7 An objector has referred to an application that was recently refused at 7 Wellington Road, close to the site (application ref. 19/504488/FULL). This application was for a hip to gable roof conversion and the erection of a flat roof dormer window. These works are

materially different to the side and rear extensions proposed here and therefore I do not consider this application is relevant.

- 8.8 The Parish Council and an objector have also referred to a refused application at 17 Norwood Walk (ref. SW/08/0684) which is an end of terrace property located in close proximity to the site. This application sought permission for a two storey side extension and 2m boundary wall, and was refused due to the unacceptable size and bulk of the extension and wall and the lack of adequate parking for the extended dwelling. However I consider the scheme proposed here is different to this refused application. Number 17 is situated on a plot which changes in width, which results in the front of the extension being located roughly 1m from the boundary of the site. In combination with the 2m boundary wall proposed along the side boundary with Hilton Drive, the proposal was deemed unacceptable from a visual amenity perspective. The development proposed here leaves an adequate gap to the boundary, and would sit comfortably on the property. With regards to the parking issue, as outlined at paragraph 8.6 above,
- 8.9 It is important to give weight to the fact that both extensions have already gained consent under planning permission SW/06/1363. Although this was a number of years ago, Local Plan Policies in respect of domestic extensions remain the same. The Council's SPG was also a material consideration at the time of the previous application.
- 8.10 One objector has raised concern regarding the loss of views from neighbouring properties. This is not a material planning consideration and therefore cannot be considered here.

9. CONCLUSION

- 9.1 This application will not cause adverse harm to either visual or residential amenities in my view and the addition of another bedroom at the property will not have significant impacts on the parking provision of nearby roads. I therefore recommend this application be approved.

10. RECOMMENDATION - GRANT Subject to the following conditions:

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

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

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

Reason: In the interests of visual amenity.

The Council's approach to the application

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

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

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

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

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



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2.3 REFERENCE NO - 19/504192/FULL		
APPLICATION PROPOSAL		
Conversion of existing rear extension to form one residential dwelling including raising of the roof height. Creation of new access and parking area for the existing and proposed dwelling.		
ADDRESS 29 Upper Brents Faversham Kent ME13 7DP		
RECOMMENDATION - Approve, subject to the conditions below, and the receipt of a SAMMS contribution of £245.56		
REASON FOR REFERRAL TO COMMITTEE		
Contrary to representation from Faversham Town Council		
WARD Priory	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Robert Curtis AGENT Nigels Sands And Associates
DECISION DUE DATE 14/10/19	PUBLICITY EXPIRY DATE 01/10/19	

1. DESCRIPTION OF SITE

- 1.1 The property is a two-storey semi-detached house with a single-storey wing on the rear. The house is situated prominently on the corner of Upper Brents and Kennedy Close, within the established built up area boundary of Faversham, and within the Faversham conservation area. It is also subject to an Article 4(2) Direction dated May 2007 which was issued in order to prevent piecemeal degradation of the streetscape of the town via incremental Permitted Development changes and, ideally, to raise the standard of appearance of properties when changes are being made. Unfortunately, prior to the Direction being made the front elevation has had replacement windows fitted, which detract from the original character of the property.
- 1.2 The property wraps around the corner, with the main house fronting onto Upper Brents with the flank wall and the single storey rear wing running immediately adjoining the pavement in Kennedy Close. It has an existing rear amenity area, and at the rear of the site there is a small roadway leading to a garage court serving the properties in Kennedy Close.
- 1.3 The site faces the open space alongside Faversham Creek but it is not itself in an area at risk of flooding.

2. PROPOSAL

- 2.1 The proposal consists of raising the ridge height of the rear wing by approximately 0.5m and the insertion of rooflights and glazed rear doors to enable the change of use of the rear wing to a separate dwelling. This would comprise a living/kitchen space and bathroom at ground floor level lit by existing side windows, and two bedrooms on an inserted first floor level lit by three new rooflights.

2.2 The unit would have its own small private amenity space and a single off-road parking space to the rear. The drawings also show a single off-road parking space to the rear for the existing property which has no off-road parking space at present.

2.3 The rear of the property is 13 metres from the side elevation of 1 Kennedy Close, and (apart from the rear glazed doors) all fenestration would face across Kennedy Close towards 31 Upper Brents, with a distance of 14 metres between properties.

3. PLANNING CONSTRAINTS

3.1 Faversham conservation area

3.2 Within established built-up area boundary

4. POLICY AND CONSIDERATIONS

4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2031 policies ST1 (Delivering Sustainable Development); ST3 (The Swale Settlement Strategy); ST7 (The Faversham and Kent Downs Area Strategy); CP4 (Good Design); CP8 (Conserving and Enhancing the Historic Environment); DM7 (Vehicle Parking); DM14 (General Development Criteria) and DM33 (Conservation Areas)

4.2 Supplementary Planning Guidance (SPG): “The Conversion of Buildings into Flats & Houses in Multiple Occupation”, and “Conservation Areas”.

5. LOCAL REPRESENTATIONS

5.1 One “objection” has been received from the attached neighbouring resident, but this is specifically neither in support of nor against the proposal. The objection relates only to an error in the drawings submitted which originally showed the red line boundary including an outside lavatory building within her ownership. In response to this, the applicant’s agent has submitted amended drawings remedying this error.

6. CONSULTATIONS

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

“1) The proposed dwelling is close to neighbours.

2) The Committee questioned if the proposed extension is big enough to be a separate dwelling.”

6.2 Natural England raises no objection, subject to the receipt of a SAMMS payment as the site is within 6km of The Swale Special Protection Area (SPA). I have prepared an Appropriate Assessment in this regard below.

6.3 Kent Highways and Transportation have commented that the application does not meet their criteria for a response.

7. APPRAISAL

7.1 The main issues to consider in this case are those of the principle of the new dwelling here, residential amenity, and the effect upon the surrounding conservation area.

- 7.2 The site lies well within the built-up part of Faversham in a residential area where a new house is acceptable in principle, subject to the impact on the SPA being mitigated.
- 7.3 In terms of impact on residential amenity, the minor height increase will have minimal impact and there will be no loss of privacy to neighbours. I note the concerns expressed by the Town Council regarding the proximity of the proposed dwelling to other surrounding dwellings, but the new house will only be attached to the host property and the relationships to neighbours will not be unusual or unacceptable.
- 7.4 With regard to the surrounding conservation area, it should be noted that the physical changes proposed are fairly minimal, needing only the very slight raising of the ridge line by approximately half a metre, and some minor changes to fenestration. The proposal also includes two new off-road parking spaces, which are to be welcomed, and which will again be of benefit to the appearance of the conservation area.
- 7.5 The Town Council's second objection relates to the size of the proposed accommodation. There is no local policy on floorspace standards for new houses, but the Council does have published Supplementary Planning Guidance for flat conversions, and as this is essentially a conversion I feel that it is appropriate to consider this. Our guidance requires a two bed unit to have a minimum floor area of 40m². The unit concerned would have a floor area of 58.5m², thus far exceeding our minimum requirement. As such, although I acknowledge the concerns of the Town Council, I consider that their concerns do not amount to reasons to refuse the proposal.
- 7.5 Should the application be approved, it would create a small, more affordable unit, suitable for someone looking for their first home; such units have been identified as being needed within Faversham.
- 7.6 As such, I recommend that the application be approved, subject to strict accordance with the conditions given below and the receipts of a suitable SAMMS payment.

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

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

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

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

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

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

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

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

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

8. **RECOMMENDATION** – Approve subject to the following conditions and receipt of a SAMMS payment:

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 complete accordance with drawing no. 19/3002/1f.

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

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

Reason: In the interests of visual amenity

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

Reason: In the interests of the conserving the special character of the conservation area.

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

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

Reason: In the interests of residential amenity.

- (6) The area shown on the submitted plan 19/3002/1f as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

The Council's approach to the application

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

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

In this 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.

INFORMATIVES

- (1) The Council would welcome dialogue with the applicant with a view to discussing the restoration of the front of the property, particularly the windows.

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

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



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2.4 REFERENCE NO - 19/502283/FULL		
APPLICATION PROPOSAL Erection of a block of 7 no. dwellings with parking, refuse and cycle store.		
ADDRESS Land Adjacent To Crescent House Otterham Quay Lane Upchurch Kent ME8 7UY		
RECOMMENDATION Grant subject to securing a SAMMs contribution of £491.12 (2 x £245.56)		
SUMMARY OF REASONS FOR RECOMMENDATION The principle of residential development on this site has been established by the approval of 17/500825/FULL and the proposal would not give rise to unacceptable harm to visual or residential amenities.		
REASON FOR REFERRAL TO COMMITTEE Originally a Parish Council objection. This application was considered at 10 th October 2019 Planning Committee and Members voted to delegate to Officers to approve subject to the provision of a delivery space and also discussions with KCC Highways and the agent to provide improvements to the footpath adjacent to the site. Through discussions it was clear that it was not possible to provide the designated delivery space within the site without the loss of a residential space and the applicant did not wish to enter into a section 278 agreement with Highways as outlined below.		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Heritage Designer Homes AGENT Mr Paul Fowler
DECISION DUE DATE 09/07/19		PUBLICITY EXPIRY DATE 08/08/19

Planning History

17/500825/FULL

Erection of 5 no. 4 bedroom houses, with associated parking and refuse store

Approved Decision Date: 18.04.2018

Adjacent site:

17/500594/PNOCLA

Change of use of offices (B1) to residential (C3). The building will be divided into 5 units.

Prior Approval Granted Decision Date: 24.03.2017

1. BACKGROUND

- 1.1 This application was reported to the Planning Committee at the Meeting on 10th October this year. The original report is attached as an Appendix.
- 1.2 At that Meeting, Members delegated authority to officers to approve the application, subject to the provision of a drop off/delivery space within the site and to discussions with KCC Highways and the applicant regarding upgrading the footway opposite the site on Otterham Quay Lane.
- 1.3 This report will not repeat the information and consideration of the pertinent issues relating to the application contained in the original report and will instead deal solely

with the matters delegated to officers to deal with – namely the delivery space and the footway.

2. CONSULTATIONS

- 2.1 KCC Highways were consulted regarding potential footpath improvements to the adjacent footpath running along Otterham Quay Lane and stated that a section 278 agreement would need to be entered into to secure this.

3. BACKGROUND PAPERS AND PLANS

- 3.1 Application papers and drawings for 19/502283/FULL and also 17/500825/FULL.

4. APPRAISAL

- 4.1 The previous committee report is attached for reference as an appendix. This includes detail relating to local representation and a full assessment on visual and residential amenity of the scheme. This report will only assess the sought amendments from the 10th October Planning Committee.
- 4.2 In the October meeting it was agreed that Planning Officers would liaise with KCC Highways and the applicant regarding the potential improvements to the adjacent footpath that runs down Otterham Quay Lane. KCC Highways were contacted for comment and responded stating that a S278 agreement with the applicant would need to be agreed should footpath improvements be a consideration.
- 4.3 This was then put to the agent/applicant who was not inclined to enter into an agreement with KCC when this was not required on the previous scheme. Drawing members attention to the extant permission on the site 17/500825/FULL it should be reiterated that on this approval there was no footpath provision nor agreement to improve the existing footpath. This current proposal offers only two additional dwellings of a smaller scale and differs very little in any other aspect. Members will note that KCC Highways do not consider improvements to the footway to be necessary as part of this development, and I do not consider that planning permission could be safely refused on such a basis.
- 4.4 Also agreed in the October meeting was discussion with the agent/applicant to include a designated delivery space within the development. It became clear through discussions with the agent that it would not be possible to provide a designated delivery space on the site without the loss of one of the existing residential spaces. It must be noted here that it is not a KCC Highways requirement for this delivery space and that KCC Highways raised no concerns to the original parking orientation and provision. Substantially larger residential developments are approved without such provision, and there is no planning policy basis for such a requirement. There is unrestricted parking on Gills Terrace and the vehicle movements down this road are relatively low. Notwithstanding this, domestic deliveries are often very quickly completed, and any inconvenience which may arise from a delivery vehicle parking within the site would be temporary in nature and quickly resolved. In my view it is more important to provide adequate off street parking for the occupiers of the proposed dwellings than to provide a space for delivery vehicles to park, and I therefore recommend that the application is approved as presented to Members, without the provision of such a space.

5. CONCLUSION

- 5.1 To conclude, the principle of residential development on this site has already been accepted as a result of approved application 17/500825/FULL and it is considered the proposed dwellings will not lead to unacceptable impacts on residential amenity nor will they cause harm to the character and appearance of the streetscene.
- 5.2 Discussions were held with the agent/applicant and KCC Highways in relation to possible footpath improvements and also providing a drop off space for delivery vehicles. However, it was considered that the drop off space was not achievable within the boundary of the site nor was it reasonable to expect the applicant to contribute to the footpath improvements when the scheme differs so little from the previous approved applications. As such I recommend this application be approved.

6. RECOMMENDATION

GRANT Subject to the following conditions and securing of the required SAMMs payment:

CONDITIONS to include

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
- Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- 2) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.
- Reason: In the interest of visual amenity.
- 3) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.
- Reason: In the interest of promoting energy efficiency and sustainable development.
- 4) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).
- Reason: In the interests of water conservation and sustainability.
- 5) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such

a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

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

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

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

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

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

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

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

- 9) The finished floor levels are to be set no lower than 6.3m above Ordnance Datum (AOD).

Reason: To minimise the risk of internal flooding.

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

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

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

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water

pollution caused by mobilised contaminants in line with paragraph 170 of the National Planning Policy Framework.

- 12) Before any part or agreed phase of the development is occupied, all remediation works identified in the approved remediation strategy previously submitted, shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Reason: To ensure any contaminated land is adequately dealt with.

- 13) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure any contaminated land is adequately dealt with.

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

- 16) No development beyond the construction of foundations shall taken place until technical details of the car charging points have been submitted and approved by the Local Planning Authority. These shall be installed prior to the occupation of any of the dwellings.

Reason: In the interests of sustainability.

INFORMATIVES

Environment Agency:

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

- • Duty of Care Regulations 1991
- • Hazardous Waste (England and Wales) Regulations 2005

- • Environmental Permitting (England and Wales) Regulations 2010
- • The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

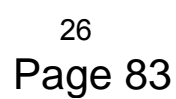
The Council's approach to the application

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

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

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

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



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2.6 REFERENCE NO - 19/502283/FULL		
APPLICATION PROPOSAL Erection of a block of 7 no. dwellings with parking, refuse and cycle store.		
ADDRESS Land Adjacent To Crescent House Otterham Quay Lane Upchurch Kent ME8 7UY		
RECOMMENDATION Grant subject to securing a SAMMS contribution of £491.12 (2x 245.56)		
SUMMARY OF REASONS FOR RECOMMENDATION The principle of residential development on this site has been established by the approval of 17/500825/FULL and the proposal would not give rise to unacceptable harm to visual or residential amenities.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Heritage Designer Homes AGENT Mr Paul Fowler
DECISION DUE DATE 09/07/19		PUBLICITY EXPIRY DATE 08/08/19

Planning History

17/500825/FULL

Erection of 5 no. 4 bedroom houses, with associated parking and refuse store

Approved Decision Date: 18.04.2018

Adjacent site:

17/500594/PNOCLA

Change of use of offices (B1) to residential (C3). The building will be divided into 5 units.

Prior Approval Granted Decision Date: 24.03.2017

1. DESCRIPTION OF SITE

- 1.1 The application site is a parcel of vacant land on Otterham Quay Lane, situated west of Upchurch within the designated countryside close to the Borough boundary with Medway.
- 1.2 It comprises part of the grounds and parking area of a redundant office building known as Crescent House (which has been granted consent by way of prior approval for conversion to 5 houses under ref. 17/500594/PNOCLA). The area has since been cleared and a 1.8m fence erected along the boundary of the site.
- 1.3 To the north is a residential dwelling, The Cottage, northwest is the Otterham Quay Lane industrial estate, west is Crescent House, to the south are open fields, southeast a small cluster of residential dwellings, and across the road to the east is part of Upchurch golf course.

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- 1.4 It is approximately 2.5km by road (1.9km via PRow) to Rainham shopping centre, 2.7km to Rainham train station (1.7km via PRow), and 1.8km to the Co-op / chip shop / school in Upchurch (1.6km via PRow)

2. PROPOSAL

- 2.1 The application seeks permission for the erection of 7no. 3-bed houses and associated amenities. The scheme amounts to an amendment to the previously approved scheme for 5 dwellings, adding an additional 2.
- 2.2 The houses would be arranged in an L-shaped terrace with the rear of the dwellings facing onto the corner, approximately mirroring the footprint of the existing former office building at Crescent House (which is to be converted into dwellings). The proposed houses are of a relatively simple design with a mixture of brick and dark-stained cladding, and have a maximum ridge height of approximately 8.3m.
- 2.3 Vehicle access would be via the existing site entrance on Gills Terrace and car parking would be provided as part of an extension to the existing car parking area. The proposed houses would face inwards onto this parking area, with rear gardens adjacent to Otterham Quay Lane and Gills Terrace – the submitted Design and Access statement and plans show timber close-boarded fence along the rear boundaries with Otterham Quay Lane with hedgerow planted to the front of this.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

The western part of the site, roughly where Plots 1 and 2 and the car parking court are proposed, lies within Flood Zone 2.

4. POLICY AND CONSIDERATIONS

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

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

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

5. LOCAL REPRESENTATIONS

- 5.1 Upchurch Parish Council object to the application for the following reasons:

- It is over intensive development of the site;
- The development is very cramped;
- There is insufficient parking provision for the seven houses and their visitors
- There is not enough space for bicycles;
- The accommodation is cramped;
- Access and egress to the site is poor;

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- The proposal would provide affordable housing which would attract young families with young children and there is nowhere for the children to play;
- The site is not sustainable as there is no footpath and very limited public transport
- It is sporadic development in the countryside.
- It impacts on the tranquility of the countryside;
- It is not conducive to the entrance to the village

5.2 Swale Footpaths Group note the footpath running along Gills Terrace.

5.3 No other received.

6. CONSULTATIONS

6.1 The Environment Agency raise No objection to the proposal subject to conditions relating to finished floor levels, contamination and surface water drainage.

6.2 Southern Water advise the applicant to contact the Environment Agency and local drainage authority.

6.3 Natural England refer to their standing advice.

6.4 KCC Drainage note that the application falls outside of KCC's remit as statutory consultee.

6.5 Environmental Health raise No objection, subject to conditions.

6.6 KCC Highways state :

"1) I note that the application differs little materially in highway terms from the previous application SW/17/500825 that was considered acceptable by us, subject to conditions. The previous plans appeared to preserve a pedestrian link originally proposed under application ref.CN/13/0001 for the neighbouring Crescent House site, albeit in an amended form, offering a footway around the perimeter of the site. It appears now in the current plans that this is intended for hedgerow planting, which would preclude pedestrian movement between the both the application site and the neighbouring site. I would therefore recommend that these proposals clearly define a 1.5 metre footway connecting the site to the east side of Otterham Quay Lane via dropped kerbs, at the location identified previously.

2) I cannot determine at this stage the amount of space available for cycle parking under these proposals, it would appear insufficient given the dimensions of the combined refuse and cycle store. A general rule of thumb is to allow 0.6 metres width per cycle to allow for ease of access.

3) I would also welcome a proposal on how users of electric vehicles are to be accommodated on this development."

6.7 KCC Archaeology No response received. No conditions were requested on the previous application.

6.8 KCC Rights of Way (received 23/07/19) No objection.

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6.9 UK Power Networks: No response received.

6.10 Southern Gas Networks: No response received

6.11 KCC Minerals and Waste: No response received.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings for 19/502283/FULL and also 17/500825/FULL.

APPRAISAL**Principle of Development**

7.2 The application site lies outside of the built up area boundary and is thus within the countryside, where the Council's established policies of rural restraint seek to restrict residential development unless for the purposes of (amongst others) agricultural worker's housing, or affordable housing to meet an identified local need. In this instance however the principle of development is considered to have been accepted as a result of approved application 17/500825/FULL which granted planning permission on the site for the erection of 5no. dwellings each with 4no. bedrooms in a similar layout to the scheme now put forward. The difference in the two schemes lies in the number of units. However – as set out below, the bulk and scale of the building is not markedly different between the two schemes, and I consider it unlikely that refusing this application based on the principle of development, bearing in mind the previous decision of the Planning Committee, would be sustainable at appeal.

Visual Impact

7.3 The orientation of the dwellings was established as acceptable on the previous approval and it was considered acceptable to have the dwellings fronting inwards onto a central courtyard. The external design of the dwellings differs slightly from the previous approval to accommodate the additional two units however the layout is still 'L shaped' and the dwellings have a similar height to those on the previous approval. The roof design is appropriate with a pitched design and the fenestration is sensibly arranged so that it is visually balanced and ensures an active frontage is visible from the highway.

7.4 I note the Parish Council's comments regarding the addition of 2no. units resulting in an overdevelopment of the site but I do not share their view. The footprint of the proposed development is only minimally different from that approved under 17/500825/FULL and it is not considered that this represents intensive development of the site. I note that concerns relating to this scheme being considered sporadic development in the countryside, impacting the tranquillity of the countryside and not being conducive to the entrance of the village. Given that the scheme does not differ markedly from the approved development, the refusal of planning permission on these grounds would be difficult to defend on appeal.

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- 7.5 The parking area is enclosed to the centre of the site and landscaping has been proposed to soften the appearance of the tarmac area, I consider this is beneficial and recommend that a full landscaping condition is implemented below.
- 7.6 In summary the massing, orientation and height of the dwellings reflect the previous approval and are considered to be of an acceptable design and I do not consider that any significant harm will be caused to visual amenity over and above that of the approved development.

Residential Amenity

- 7.7 There are a handful of existing dwellings within the immediate vicinity, and the existing adjacent office block is to be converted to houses under the prior notification process. Due to the layout of the proposed development and the position of those other properties, however, I do not consider that there would be any serious harm to residential amenity. The distances between the habitable windows of the proposed dwellings and those situated at Crescent House are all in excess of 21m and therefore I do not consider that there will be any harmful overlooking. There is a distance in excess of 11m, which is the Council's expected distance on flank to rear windows, on plots 1 to 4 which face towards adjacent neighbour 'The Cottage'. I therefore consider that the amenity of the residents of this dwelling will not be significantly impacted by the proposal.
- 7.8 The floorspace sizes for the proposed dwellings are considered acceptable with all the rooms meeting the minimum national space standards with the exception of bedroom 3 in Plot 5 which is only slightly under the minimum standard of 7.5sqm at 7sqm. I believe that on balance given that the overall floorspace of the propose dwelling is in excess of the minimum standard that this is acceptable and will not cause harm to residential amenity.
- 7.9 The residential gardens provided are considered to be of a modest but acceptable size for the sizing of the dwellings and in reference to the Parish Council's comments these garden spaces would provide areas for the children to play.

Highways

- 7.10 I do not consider that there are any reasonable grounds for refusal in regards highway safety and amenity. The site has good access via an existing road (Gills Terrace) and sufficient parking would be provided within the confines of the site. Each dwelling would have two dedicated parking spaces which meets the requirement for 3 bedroom dwellings. The access and parking arrangements remain as per the previously approved scheme, save for the loss of 1 visitor space and the addition of 4 residential spaces. I note that KCC Highways have no objection to this provision. The parking provision for the approved residential conversion at Crescent House, 17/500594/PNOCLA, is maintained with one space being reallocated to the north east to but no loss of parking.
- 7.11 KCC Highways initially suggested that the scheme should include the provision of electric vehicle charging points which the agent has been forthcoming with and has

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submitted an amended plan showing one electric charging point per household. Highways also suggested the size of the cycle storage be increased to meet the minimum size standards. The agent has amended the plans and a width of 0.7m per dwelling is now allowed for cycle access and storage.

- 7.12 KCC Highways mention in their consultation response that they believed there to be a provision of a footpath around the edge of the site under application 17/500825/FULL however this was not the case as this area was never designated as such. This matter has been raised with the agent who has stated that the area to the front of the boundary fence was to be used as landscaping to soften the appearance of the built development. There is still a footpath within the internal boundary of the site, connecting the dwellings to each other and an open link to the adjacent Crescent House as well. I note that there is a footpath on the opposite side of Otterham Quay Lane giving pedestrian access to Rainham. The layout of the scheme was considered acceptable under 17/500825/FULL and therefore I see no reason for it not to be acceptable now.

Landscaping

- 7.13 There will be a close boarded fence around the private amenity space of the dwellings. However the strip of land to the front of this fence will be used as an area of landscaping in an attempt to soften the appearance of the built development. Low shrub and hedge planting is also proposed to surround the car parking spaces. A condition below has been included to ensure a full landscaping scheme including native species planting is submitted and approved by the Council.

SPA Payment

- 7.14 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £245.56 for each new dwelling. As consent has already been granted for 5no. dwellings on the site and this approval went through before the collection of SAMMs mitigation fee on schemes under 10 dwellings the Council has used its discretion and requested the mitigation fees for the 2no. additional units. The agent has confirmed the applicant is willing to pay this fee. For the sake of thoroughness I have included an appropriate assessment below.

8. CONCLUSION

- 8.1 To conclude, the principle of residential development on this site has already been accepted as a result of approved application 17/500825/FULL and it is considered the proposed dwellings will not lead to unacceptable impacts on residential amenity nor will they cause harm to the character and appearance of the streetscene. As such I recommend this application be approved.

9. RECOMMENDATION

GRANT Subject to the following conditions:

APPENDIX A**CONDITIONS to include**

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

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

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

Reason: In the interest of visual amenity.

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

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

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

Reason: In the interests of water conservation and sustainability.

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

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

- 6) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant

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sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

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

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

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

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

- 9) The finished floor levels are to be set no lower than 6.3m above Ordnance Datum (AOD).

Reason: To minimise the risk of internal flooding.

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

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

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

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

- 11) Before any part or agreed phase of the development is occupied, all remediation works identified in the approved remediation strategy previously submitted, shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on

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site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Reason: To ensure any contaminated land is adequately dealt with.

- 12) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure any contaminated land is adequately dealt with.

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

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

INFORMATIVES

Environment Agency:

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

- Duty of Care Regulations 1991
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Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency

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should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

The Council's approach to the application

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

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

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

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

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

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

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

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

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

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

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

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

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

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

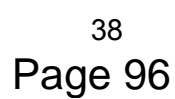
In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured prior to the determination of this application) will ensure that these impacts will not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

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

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

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

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2.5 REFERENCE NO - 19/504399/FULL		
APPLICATION PROPOSAL Change of use to existing unused toilet block to retail premises (A1 Shop) for the sale of sporting goods.		
ADDRESS Red Lion London Road Dunkirk Faversham Kent ME13 9LL		
RECOMMENDATION - Approve		
REASON FOR REFERRAL TO COMMITTEE Contrary representations from local residents, and at the request of Cllr Tim Valentine		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Neil May AGENT
DECISION DUE DATE 04/11/19	PUBLICITY EXPIRY DATE 11/10/19	

1. DESCRIPTION OF SITE

- 1.1 The site is a small outbuilding set to the front of The Red Lion public house in Dunkirk with external access. The structure in question is now used for storage for the pub, but it once formed the toilet block serving the pub. It is difficult to date this part of the building, but it seems likely that it dates from the late C19/early C20.
- 1.2 The unit is finished externally in painted brickwork and weatherboarding under a single ridged Kent peg tiled roof. There is an existing single rooflight on each plane of the roofslope. As such, the unit is a fairly conventional building of its type and age, albeit with modern rooflights.
- 1.3 The site is situated outside any established built up area boundary, in a small area of development which includes the pub, a farm shop and nursery, and a few residential dwellings. It is near to the access slip road to and from Dunkirk off the A2 Trunk Road and is very accessible to and from the Canterbury direction.
- 1.4 There is a large off-road parking area for the pub adjacent to the building

2. PROPOSAL

- 2.1 The proposal is to convert this small building to a retail unit selling sporting goods, which would include guns, ammunition, and associated products. No external changes to the building are proposed, and it is envisaged that all changes will be internal mostly relating to improving the security of the building.
- 2.2 The proposed hours of business for the shop are 09:00 to 17:30, Monday to Friday; 09:00 to 15:00 on Saturdays; with the shop closed on Sundays and Bank Holidays.
- 2.3 The business is currently located (without the benefit of planning permission) at the remote Cleve Hill Farm in Graveney. An application for a change of use of a former farm building at Graveney has been made under planning reference 19/502750/FULL, but this is not being proceeded with due to the applicant's desire to move the business to Dunkirk.
- 2.4 The applicant has submitted the following supporting statement:

"To whom it may concern.

I Neil May Director and owner of Kent Gunsmiths Limited am applying for change of use to an outbuilding of The Red Lion and supply this cover letter to explain my intentions. I have previously submitted plans for change of use at my current location Cleve Farm, ME13 9EE and have since held off due to access problems and difficult to find location for my customers. This application would be more viable for my business to survive.

My Partner(Owners Daughter) and I currently live at the premises (not in the building purposed) change of use would enable better security and keep the business in the family with The Red Lion benefiting from the additional income. I feel the site purposed would make good use of a disused unfunctional building in danger of falling into a state of disrepair.

This application is submitted with the full intentions to help both Kent Gunsmiths and The Red Lion financially survive in difficult times, Change of use to the individual building purposed would have no affect on the existing premises or licences in the future. The Owner would be prepared to sign a declaration if required to insure that change of use if approved would remain for the sole use by the Current Owner for the purpose of Kent Gunsmiths Trading and could not be used to aid further change of use of a different nature or additional businesses trading.

The location currently has a high presence of agricultural and farming businesses local that would potentially benefit from the additional customers my business would bring to the area as they have similar interests.”

3. PLANNING CONSTRAINTS

- 3.1 Outside established built-up area boundary.

4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST3 (the Swale Settlement Strategy); DM3 (The Rural Economy); DM7 (Vehicle Parking); and DM14 (General Development Criteria)
- 4.2 Policy DM3 in particular is relevant to this proposal. It encourages the sustainable growth and expansion of business and enterprise in the rural area, with a preference for re-use of rural buildings and the retention and enhancement of rural services.

5. LOCAL REPRESENTATIONS

- 5.1 Three objections have been received. Their comments may be summarised as follows:
- The description of sporting goods is misleading as it will be used for the sale and repairing of guns
 - Both the building and the surrounding area are unsuitable for the proposed use due to the remote location and security of the building
 - There is concern surrounding the lack of evidence which has been provided to surrounding residents
 - Concerns for residents' safety as there are Park Homes and other housing nearby

- The timber wall facing the car park could be a weak point for breaking in
- Where would customers try out a gun before buying?
- A gun shop and a public house is not a good combination
- Occasional stays by grandchildren is a great concern

5.2 One email of support has been received from an existing customer of the business. The comments may be summarised as follows:

- The current location of the business is remote and not very convenient for customers
- Good use of a vacant building in a rural area in an ideal location to cover the client base, which will support the local economy
- No need for concerns over security *‘due to the very high standards set by Kent Police for Registered Firearms Dealers’*
- Most of the business is by appointment

6. CONSULTATIONS

6.1 Dunkirk Parish Council does not object to the change of use to an A1 retail use, but does object to that use being for the sale of guns and ammunition. The Parish Council's comments in full are as follows:

“Dunkirk Parish Council discussed the application and is not opposed to the change to A1 shop use in principle, but would attach a few caveats.

Because of the use, specifically a gun shop, with quantities of ammunition, there are concerns that it might be possible to control by conditions.

Storage & handling of hazardous materials (i.e. cartridges) is a material consideration.

We hope officers will also address this with Kent Police.

Because the building is not thought to be of the strongest construction, it would be prudent to condition the safety of the goods inside by ensuring the building is made secure and/or ensure the goods are all kept in tamper proof containers or cages.

Concerns were raised on the proximity of weapons to licensed premises, which could lead to civil disorder.

There is access to the A2 arterial roadway, only a few metres away, and the ease of escape (if raided) must be considered.

Thus far there has been no input from Kent Police and Dunkirk Council feels it is imperative that they are fully consulted, and the decision on this specific change of use, must be entirely guided by them.

The use for the sale of other products would not cause as much consternation in the local community.

If you are minded to consent the A1 use, we would ask for a condition to exclude the use applied for in this case unless it is subjected to a further application.”

6.2 Kent Police’s Designing out Crime Officer has commented as follows:

“We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).

Applicants/agents should consult us as local Designing out Crime Officers to address CPTED. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behavior (ASB), Nuisance and Conflict.

If this application is to be approved we strongly request a Condition be included to address this application and its additional security requirements and to show a clear audit trail for Design for Crime Prevention and Community Safety to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

This information is provided by Kent Police DOCO’s and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.”

6.3 Kent Highways and Transportation advises that the proposal does not meet their criteria to warrant a response.

6.4 The applicant has responded to the issues raised by the Parish Council and local residents. His response may be summarised as follows:

- a. Security issues are governed by Kent Police who apply strict policies, and require an inspection and sign off by them before trading can commence
- b. There are a number of established gun shops in Kent, some being close to houses, in High Streets or near to public houses
- c. Live firing ranges with a licensed bar on site haven’t had any problems
- d. The building concerned is a brick building with wooden cladding and steel bars preventing access via windows
- e. There are no plans to test firearms on the site

7. APPRAISAL

7.1 The main issues to consider in this case appear to be those of development in the countryside, effect on the rural economy, and the effect upon the amenities of local residents. In terms of the first issue above, the main issue is the impact of a new retail use on the character and functioning of the countryside. I do not consider that the nature of the goods to be sold is especially significant as it is the local impacts from the retail use itself (the sale and display of goods) or from customers arriving and departing that are important, and I do not see that these will vary much between different types of

sales; especially from such a small building. The use itself will not be noisy, and traffic to and from will be easily accommodated on the highways concerned. A countryside location seems sensible for this type of business, and I see no objection to a small scale retail use here as it can only add to the viability of the public house and support its rural trade, in accordance with policy DM3.

- 7.2 The sale and use of firearms is understandably an emotive issue for many people, and I fully understand the concerns raised by local residents and the Parish Council. The Government website includes the following details with regard to becoming a Licensed Firearms Dealer:

'Any business that manufactures, sells or transfers shotguns, firearms or ammunition, and anyone involved in the repairing, testing or proving of them, must register with the police.

In order to sell firearms, including air weapons, by way of trade or business, you must register as a firearms dealer with the local police.

You must:

- *complete application form 116 from your local police*
- *return your application to your local chief officer of police with the correct fee*
- *provide information on all places in the area where your business will be carried out*

You will be required to explain the nature of your business and show that you have an understanding of firearms legislation.

Conditions

The chief officer of the police can attach any reasonable conditions to your licence, and may change these at any time with written notice.

As a registered firearms dealer, you must:

- *keep firearms secure*
- *not sell firearms or ammunition to anyone under the age of 18, or anyone you believe to be drunk or unsound of mind*
- *not sell firearms or ammunition to anyone who is not authorised to own a firearm or shotgun*
- *not carry out your business in a place that may be a danger to the public*

If you obtain new premises that are not entered in the register, you must notify the chief officer of the police as soon as possible. You must include all necessary information.

To renew your registration certificate, you must return your current certificate to the police and apply for a new certificate in the standard way. You must do this within or before 3 years from the granting of your original certificate.

You must keep a register of all firearms or ammunition transactions and you must record all transactions within 24 hours of their occurrence, in particular the quantities and descriptions of all firearms and ammunition:

- *manufactured - including the dates for these*

- *purchased or acquired - including the names and addresses of the sellers or transferors and the dates of the transactions*
- *accepted for sale, repair, test, proof, cleaning, storage, destruction or other purpose*
- *sold or transferred - and the areas where the person's firearm certificates were issued*
- *in your possession for sale or transfer at the date of your last stocktake*

When recording the above information you must include the names and addresses of all relevant parties, and the date these transactions occurred.

Details on the register must be kept for at least 5 years from the date of the transaction.

You must allow the police to inspect the register and your stock if requested.

If you sell, let or lend a shotgun to a holder of a visitor's shotgun permit, you must notify the police, in writing, of the transaction within 48 hours.'

- 7.3 In the light of the above requirements I see no need for the Council to seek to impose additional or parallel requirements that we are not well versed in or equipped to enforce, and which may only reduce clarity about who is in charge of ensuring the security of the premises. I would prefer to leave security matters to the expertise of Kent Police and not the Borough Council.
- 7.4 With regard to the comments from the Police's Designing Out Crime Officer, I see no benefit in the Council asking for or seeing details of the security measures to be adopted as the Council's role is to consider the environmental impacts of a retail use. I do not think that such a condition is necessary or reasonably related to the development being proposed – both of which are tests of the need for a condition.
- 7.5 Put another way, if this building was already in retail use, no planning application would be necessary to sell firearms as opposed to, say, furniture or shoes, and if the Council were to include such a condition it could be considered to be unreasonable and might be successfully appealed. I have therefore not recommended such a condition, but I have instead suggested an informative, advising the applicant to consider the concerns raised by the Parish Council and local residents when applying to Kent Police for the appropriate licence.
- 7.6 When considered as a simple application for retail use of this small building attached to an existing commercial premises with extended opening hours, and opposite an established farm shop in a small nucleus of commercial activity, I see no likelihood of sales affecting the amenities of local residents.

8. CONCLUSION

- 8.1 In conclusion, whilst I fully understand the safety concerns raised by the Parish Council and local residents, in this case safety issues will be fully addressed by Kent Police, and if Members are minded to grant permission, that permission cannot be implemented unless the applicant takes appropriate safety measures which will need to be approved by Kent Police. I see no valid reasons to refuse the proposal as submitted.

9. RECOMMENDATION - Approve 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 use of the premises hereby permitted shall be restricted to the hours of 9 am to 5:30pm on weekdays; and 9 am to 3 pm on Saturdays only, and it shall not be open to the public at any time on Sundays or Bank Holidays.

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

In this 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.

INFORMATIVE

- (1) The applicant is strongly advised to consider and act upon the security concerns raised by the Parish Council and local residents when applying to Kent Police for the appropriate Licenses.

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

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



2.6 REFERENCE NO - 19/503590/FULL			
APPLICATION PROPOSAL Demolition of existing Coach House and erection of 2no. semi detached 4 bedroom houses, with off-road parking and new vehicular access onto London Road as amended by drawing no's. 705/01A; 705/02A; 705/03A; 705/04A; 705/05A; 705/06A; 705/07B; 705/08A and 705/10			
ADDRESS 8 London Road Teynham Sittingbourne Kent ME9 9QS			
RECOMMENDATION – Grant subject to securing a SAMMS contribution			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Teynham And Lynsted	PARISH/TOWN COUNCIL Lynsted With Kingsdown	APPLICANT Mr Matt Brown AGENT Nicholas Hobbs Associates	
DECISION DUE DATE 20/09/19		PUBLICITY EXPIRY DATE 29/08/19	

Planning History

18/505707/FULL

Demolition of existing dilapidated property and construction of two pairs of semi-detached buildings to provide 4no. five bedroom dwellings

Refused Decision Date: 22.01.2019

1. DESCRIPTION OF SITE

- 1.1 The application site is adjacent to 8 London Road, a two storey nineteenth century detached dwelling with adjacent contemporary coach house/garage, also known as Mount House, which lies within the Cellar Hill and Greenstreet conservation area, and within the Local Plan defined built-up area boundary. The application site was previously used as part of the garden to Mount House.
- 1.2 The site is situated on the south side of London Road and sits in a prominent position on the brow of the hill, near to several listed buildings located on the corner of the junction with Cellar Hill. The surrounding properties are a mix of bungalows, terraced, semi-detached and detached homes varying in style, character and age. Immediately to the east of the property is a bungalow and to the west are two storey terraced homes fronting the highway.
- 1.3 Cellar Hill, Lynsted and Greenstreet conservation area character appraisal describes the area as (**with my emboldening**):

*Four detached houses of widely varying ages complete the development on this side of the London Road. **Number 8 dates from the early nineteenth century**, whilst The Old Forge dates from the seventeenth century. The Walnuts lies on the opposite side of Cellar Hill and was built in 1825. Both The Old Forge and The Walnuts occupy key positions on the brow of the hill on either side of the Cellar Hill junction. Forge House, with its half-hipped peg tiled roof has a characteristically Kentish appearance, whilst The Walnuts has an attractively proportioned front in red brick approached via a short*

shingled drive. The brick of outbuildings at the rear of The Walnuts, with their peg tiled roofs, are important to the appearance of the entry into Cellar Hill, being attractive in their own right way and defining the edge of the carriageway.

The section of London Road, Greenstreet extending from Station Road to Cellar Hill has a character and identity which distinguishes it in a number of ways from development further to the east. Here the carriageway and footways are noticeably wider than in the rest of Greenstreet, and many of the buildings (especially on the southern side) are set back from the road so that trees and shrubs become a part of the street scene. This separate visual identity is further enhanced by the road alignment as it climbs to a high point at the junction with Cellar Hill.

London Road, Greenstreet has a strongly linear form reflecting the alignment of the Roman Watling Street. The noise and intrusion of traffic is ever present (together with parking on the footway) and with relatively few gaps between the buildings the place has a much more urban feel, although the generous width of the street at the eastern end is an ameliorating influence. The rise to the brow of the hill at the junction with Cellar Hill adds drama to the street scene and decisively marks the end of Greenstreet and the resumption of the countryside beyond.

The presence of some greenery in the environment is one of the features which differentiates the eastern end of Greenstreet from the rest of the street, and signals the change to a somewhat more spacious residential area.

Greenstreet and Cellar Hill now form part of one continuous area of development. The cluster of historic buildings around the junction of Cellar Hill with London Road identify, to some extent, with the environments of both Cellar Hill and Greenstreet and provide the physical evidence of the earlier link between two areas which have since developed somewhat diverging characteristics.

- 1.4 Earlier this year, following a very controversial application to demolish Mount House and the coach house(18/505707/FULL) and replace them with four dwellings (refused), a Building Preservation Notice (BPN) was served to protect the undesignated heritage asset of Mount House from being irretrievably lost or damaged. Subsequently an application was made to the Secretary of State to add it to the List of Buildings of Special Architectural or Historic Interest, but notification was received on 17 April 2019 that the Secretary of State had decided not to add Mount House and its coach house to this list. Nevertheless, the Council's view is that Mount House should be treated as a non-designated heritage asset and every effort be made to secure its retention, re-use and long term conservation, as it still forms a very positive feature in the conservation area. The refused scheme represented an over intensive, cramped and poorly designed development with prominent parking to the front of the dwellings which would have caused considerable harm to the character and appearance of the conservation area.

2. PROPOSAL

- 2.1 The current proposal is to retain Mount House and reposition the coach house behind this property, and to erect two new semi-detached dwellings on land to the side, each with two parking spaces and private amenity space to the rear.

- 2.2 As originally submitted, the application involved the demolition of the existing coach house. The proposal has since been modified to retain the coach house, by carefully deconstructing and rebuilding it to the rear of Mount House to serve Mount House as a garage.
- 2.3 The two new houses would be set-back from the road on the same building line as Mount House, and be sited approx. 6.3m from Mount House on one side and about 4.0m from number 10 London Road on the other side. The proposed dwellings would have a single storey element projecting 2.2m to the side and set-back approximately 6.2m from the front elevation. This part of the dwelling would have a lean-to roof with rooflights.
- 2.4 The proposed dwellings will measure approx. 5.0m wide x 14.0m deep, to a height of 5.7m to the eaves and 8.9m to the ridge. Each house will have two bedrooms within the roofspace (with front dormer, rear rooflight and obscure-glazed side windows) and two at first floor with bathroom, ensuite and landing/study, associated living space, and a generous garden to the rear (approximately 10m in length). The dwellings would be finished in yellow stock bricks with rendered gable/cornice, timber windows, cast iron rainwater goods and slate roofs.
- 2.5 Two off-road parking spaces per house (one to the side and one to the front), bicycle storage and a 7kW electric vehicle charging point located on the flank corner of each of the new houses and Mount House will be provided. The surface treatment of the driveways is to be block paving within an enclosed frontage, comprising of a low brick plinth wall with cast iron railings and a tall native species hedgerow to replicate the recent site frontage treatment.
- 2.6 The applicant sought pre-application advice following the refusal of 18/505707/FULL and the failure of the listing request. The applicant has changed his position in relation to Mount House and is now committed to retaining this Georgian period house and repairing, sensitively altering and extending it to bring it back into use as a family house; thereby sustaining it as a local landmark in the village of Teynham.
- 2.7 The principle of allowing two smaller semi-detached houses or one large house next to Mount House was informally agreed in principle following the notification from Historic England, through subsequent pre-application discussions. The possible demolition of the coach house to enable this infill development was considered at this juncture, although my position is, and remains, that it would be ideal if the coach house were to be retained if at all possible due to the heritage significance it has in its own right, and that which it contributes to Mount House as a non-designated heritage asset within the Cellar Hill and Greenstreet conservation area.
- 2.8 The application is supported by a Design and Access Statement which states the following:
- The pair of new houses will have a single storey side extension containing the kitchens, thus having little impact on the apparent overall width of the building.
 - Both houses will have provision for two off-road parking spaces, and will be able to turn around in the driveways so as to exit the site facing forwards.

- The proposed (reinstated) plinth wall and iron railings will ensure that the existing Mount House and the two new houses are largely hidden behind a tall, mixed species, native hedgerow.
- The houses will have a level-access front entrance door, with a rear terrace set flush with the internal floor finish, with ambulant-disabled access WC's on the ground floor, including a shower.
- The proposed eaves height is exactly halfway between that of Mount House and the row of terraced houses to the west of the site helping to ensure that the scale and massing of the proposed in-fill building sits comfortably between the two neighbouring dwellings.
- The design of the off-road parking has been considered carefully, so that the existing driveway can serve two of the properties requiring only a single new driveway off the London Road, allowing for a virtually continuous new hedge in front of the existing and new houses.
- The highway boundary will be marked-out by a low brick plinth wall with cast iron railings, helping further to unify the front boundary elevation.
- The combination of the plinth wall, railings and a tall (2.25m) native species hedgerow means that the car-parking and front gardens are practically hidden from view.
- The proposal will provide two much-needed family homes in this thriving built-up town.

3. **PLANNING CONSTRAINTS**

3.1 Potential Archaeological Importance

Conservation Area Cellar Hill and Greenstreet, Teynham

4. **POLICY AND CONSIDERATIONS**

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies ST1 (Delivering sustainable development in Swale), ST3 (The Swale settlement strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), CP8 (Conserving and enhancing the historic environment), DM7 (Vehicle Parking), DM14 (General development criteria), DM19 (Sustainable design and construction), DM28 (Biodiversity and geological conservation), DM32 (development involving listed buildings) and DM33 (Development affecting a conservation area)

Policy ST3 states that for Rural Local Service Centres such as Teynham/Lynsted;

The Rural Local Service Centres will provide the tertiary focus for growth in the Borough and the primary focus for the rural area. At allocated sites relating well to the existing settlement pattern and the character of the surrounding countryside, development will provide for the local housing or employment needs for their home and surrounding communities, whilst supporting existing and new services;

Policy DM33 states

Development (including changes 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 character or appearance. The Borough Council expects development proposals to:

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

The relevant section of the supporting text to this policy is as follows:

New development within, or adjacent to, a conservation area is expected to be both of an appropriate use, of a very high standard of design, and to respond positively to the grain of the historic area by preserving or enhancing the character or appearance of the place.

4.2 The National Planning Policy Framework (NPPF):

Chapter 2 (Achieving sustainable development)

Chapter 4 (Decision making)

Chapter 12 (Achieving well designed spaces)

Chapter 16 (Conserving and enhancing the historic environment)

4.3 Supplementary Planning Guidance (SPG) entitled 'Conservation Areas'.

4.4 The 'Kent Design Guide Review: Interim Guidance Note 3: Residential Parking'. Kent Highway Services recommendation for a three or four bedroom dwelling in a suburban location is 2 independently accessible parking spaces, preferably side by side. These parking spaces would each need to be 5m in length x 2.5m in width.

5. **LOCAL REPRESENTATIONS**

5.1 The Faversham Society commented as follows:

"The principle of infilling the gap between 8 London Road and the terraced properties may be acceptable. However, the proposed pair of houses appear too tall because of the inclusion of an attic storey. It should be lower than the highest part of No.8.

The canopy detail at first floor level is a poor reflection of the canopy detail on No.8.

As proposed the scheme would result in significant harm to the Character of the Conservation Area which is not outweighed by the benefit of providing the two new houses as proposed."

The poor canopy detail referred to above has since been amended in the light of these comments.

5.2 Four objections to the current application have been received. These reflect the original form of the application which involved demolition of the coach house. Their contents may be summarised as follows:

- The main Georgian house on the site is visually pleasing and an asset to the village, and the Coach House forms an important part of this
- This Georgian house was designed and built to stand in a large garden, not to be squashed next to two modern houses that are not in keeping
- Teynham is entitled to keep a small part of its own heritage The area would lose an important historic building for the sake of money making
- It would be detrimental to the house and the conservation area if the Coach House were to be demolished and replaced with bland new-builds
- To remove the Coach House to provide enough parking spaces would be a travesty and a loss to the historic culture of the conservation area
- The Coach House could be sympathetically repurposed, possibly as a dwelling similar to former coach house in Lynsted Lane
- None of the drawings refer to the existing hedgerow which is an important landscape feature of our property, adds significant quality of life, natural and monetary value to the garden
- The boundary line of Holly and other species forms an important habitat and biodiversity boost for the area, with a plethora of different species of nesting birds, invertebrates including stag beetles
- The significant disturbance or removal of the hedgerow could significantly damage the foundations of our property
- The street scene would not in any way be improved
- Teynham does not need any more new properties, there are at least 103 new dwellings being built on green orchard space adjacent to Station Road.
- Teynham is a semi rural village and should be maintained as such
- More traffic and cars from this property from this property joining an already very busy and congested area of the A2 with added dropped kerbs adding an extra difficulty to what is already a very overcrowded parking area
- Significant overshadowing of our garden and loss of light to garden and our house
- Loss of privacy
- Loss of property value

6. CONSULTATIONS

- 6.1 Lynsted with Kingsdown Parish Council originally objected to the application for the following reasons:

“The Coach House is an important historical building and should not be replaced by a pair of semi-detached modern dwellings with parking

The proposed new houses are not sympathetic to the conservation area

The proposed new houses will detract from the street scene in the aspect of the local area

The proposed new houses are not part of the approved local plan for housing development

Both the Mount House and the Coach House are worthy of being listed because of their historical value

The building of two new houses will reduce the status of Mount House in its grounds.”

Following submission of the revised scheme to reposition the coach house to the rear of Mount House, the Parish Council was re-consulted and the following comments were submitted:

“At the LKPC meeting tonight the members wish to object to this application on the following grounds.

Parking along the A2 is very limited and access onto the A2 would be very difficult/dangerous without a clear sight line for oncoming traffic at an already congested part of the road.

Moving the Coach House would compromise the integrity of the setting and its contribution to the conservation area, therefore it should be left in its original position.”

- 6.2 Natural England raises no objection to the application subject to strategic mitigation (SAMMS) payment in respect of possible increased recreational disturbance to The Swale SPA/Ramsar site.

- 6.3 Kent Highways and Transportation (KHT) initially responded to indicate they had no objections but requested the following issues be addressed:

- Pedestrian visibility splays at the accesses
- Confirmation of the surface treatment of the driveways
- Provision of cycle parking

- Provision of electrical infrastructure to facilitate the installation of electric vehicle charging points as required

These matters have been addressed in the amended scheme and KHT now have no objection subject to appropriate conditions.

- 6.4 The Council's Environmental Health Manager raised no objection subject to conditions relating to construction hours, programme for the suppression of dust during demolition and design, and measures to mitigate traffic noise. Although the location is close to the Teynham Air Quality Management Area, the development is set back from the A2 trunk road and therefore there are no concerns with regards to air quality.

7. **BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers and drawings referring to application reference 19/503590/FULL.

8. **APPRAISAL**

Principle of Development

- 8.1 The application site lies within the built-up area boundary, and close to local shops, services and public transport links. Residential development is normally acceptable as a matter of principle in such an area (in accordance with policy ST3), subject to design and amenity considerations. However, this site is also located within a conservation area and near to several listed buildings and any development involving Mount House has the potential to rejuvenate this architectural gem close to the brow of the hill at the London Road/Cellar Hill junction.

Impact on the character and appearance of the street scene

- 8.2 I am of the opinion that there is space to develop two dwellings in the gap between no's. 8 and 10 London Road without unacceptably harming the special character of the conservation area. The way this is done will depend on a high standard of design and contextual sensitivity, appropriate scaling and a commitment to retain the coach house to Mount House taking into account critical access, parking and associated landscaping requirements.
- 8.3 The proposed scheme is well-considered and takes on board the advice provided informally and without prejudice at pre-application stage. In particular the siting and scale of the units is appropriate in my view and provides an appropriate transition in scale from the modest two storey cottages at no's. 10 and 12 London Road to the more substantial dwelling that is Mount House. However, a significant concern of mine, which is also expressed by many others, was the loss of the coach house, given the heritage significance it displays in its own right and which it contributes to Mount House.
- 8.4 Accordingly, I suggested that this rather special little outbuilding could be carefully deconstructed and rebuilt to the rear of Mount House where it would contribute to and help maintain a semblance of the predevelopment street scene to positive effect. The revised scheme now proposes to carefully dismantle and reinstate the coach house in the rear garden of Mount House, re-using bricks and joinery where appropriate, where it would provide a garage and workshop to this property. Members should bear in mind that the coach house is not listed and to resist the provision of new housing in the area of land to the side of Mount House on this ground would on balance be difficult.

Impact on the character of the conservation area and setting of nearby listed buildings

- 8.5 The current proposal no longer includes the demolition of Mount House, which given the great number of local (and not-so-local) objections received for the previously refused scheme, it is clear that the existing building is a much valued property which contributes significantly to the character and appearance of the conservation area. The Conservation Area Appraisal for the Cellar Hill & Green Street conservation area specifically refers to no.8 London Road suggesting that the property dates from the early nineteenth century. I consider that the proposals now have considerable merit and the restoration of Mount House will enhance the character and appearance of the conservation area. This accords with the aim of policy DM33 that new development within a conservation area should be sensitive to the special character of the area and of a high standard of design.
- 8.6 The proposed elevational treatment of the two semi-detached houses, and also the proposed indicative facing and roofing materials are considered acceptable, although some drafting discrepancies with the fenestration design were initially identified and remedied. I also agreed with the point made by the Faversham Society concerning the design of the canopy roofs to the bays. The revised drawings have addressed these discrepancies and in my view, the new houses are now of an appropriate design and display a greater contextual sensitivity by giving a nod to some of the key design elements of the existing building.

Residential Amenity

- 8.7 The new houses will be located in the gap between no.8, Mount House and a row of terraced houses. The neighbouring property at no. 10 would be most affected by the proposal. I have made contact with the occupier of this property and have been able to view the proposal from the rear of no.10. I have carefully considered the neighbours' concerns about the positioning and impact of the proposal, particularly with the loss of existing border hedgerow, and the question of whether the new building could potentially overshadow the rear of no.10. The two storey element will be set at least 3 metres away from the common boundary to no.10 and I am of the view that the border hedgerow should be retained if possible, which may require re-positioning the building slightly closer to Mount House. This report is subject to further investigation and discussion with the applicant on this point, which will be reported at the meeting.
- 8.8 With regards to overlooking, there will be little impact from the rear facing windows as any view to the rear will face the furthest part of the neighbouring garden where amenity space is less protected. Two obscure glazed flank windows are proposed within the roof space, to serve bedrooms 3 and 4. A further two flank windows at first floor serving the landing and bathroom are also proposed. I recommend imposing a condition which requires all these windows to be obscure glazed and to open only 1.7m above the finished floor levels of the rooms they serve. On this basis, no loss of privacy would occur from either windows.
- 8.9 There is no other identifiable harm regarding the impact of the proposal upon the amenity of future occupiers of no.8, Mount House. The new building will project no further rearwards than no.8 therefore I consider that the proposal would not give rise to any serious overshadowing or loss of light to this adjoining property. The repositioned

coach house will help screen views into the rear garden to a very significant degree such that there would not be any overlooking impact either.

Highways

- 8.10 I note local concerns refer to the large volume of traffic on this section of the A2 and the already limited number of off-road parking spaces. Although this development would create a new dropped kerb off London Road to serve one of the new houses, the sight lines and pedestrian visibility splays are adequate. I note that Kent Highways and Transportation raise no concerns about an additional access point here, nor do I consider that this will result in any potential congestion or manoeuvring problems. The submitted drawings show that the proposal would provide two off-road car parking spaces, with turning space for each new dwelling and as such accords with adopted Kent County Council standards for four bedroom dwellings in a suburban location.
- 8.11 The reconstructed coach house to the rear of no.8 would serve as a garage/workshop for this property. Cycle stores are proposed behind the enclosed frontage of both new dwellings but I consider it would be better if these were positioned within the rear gardens. This would ensure that the frontage of the site could be kept as clutter-free as possible. I am expecting amended drawings to resolve this point.

Landscaping

- 8.12 The previously refused scheme proposed four closely spaced houses with parking dominating the frontage and as such there was little room for meaningful planting or enclosure. Many of the buildings in this location have enclosed frontages with substantial landscaping and any parking/access layout design needs to provide a substantial degree of appropriate frontage enclosure to protect the character of the conservation area street scene. The scheme as now proposed would provide parking to the side of the houses as well as in front, enclosed by a low brick wall and iron railings and hidden behind a tall hedgerow. I consider that the planting of a new hedgerow would ensure the development does not result in harm to the character and appearance of the conservation area.

SPA Impact

- 8.13 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £245.56 for each new dwelling. The agent has confirmed the applicant is willing to pay this fee.

Other Matters

- 8.14 Local concern makes reference to harm to the rural character of the village and that a number of new homes are already being built nearby. I note that the site is situated adjacent to other houses and as such not considered detrimental to the surrounding area. I do not see there are any reasons for refusal of two new houses here.

- 8.15 Loss of property value is not a material planning consideration and as such is not relevant to this decision.

9. CONCLUSION

- 9.1 The previous application to demolish Mount House and erect four non-descript houses with the frontage dominated by car parking was subject to overwhelming objections; and widespread calls for Mount House to be listed. That listing request was rejected by the Secretary of State and since then officers have worked intensively with the applicant here to address conservation, access and amenity concerns. The scheme before the Council now is worlds away from the applicant's original intentions and I applaud his willingness to recognise the planning priorities here.
- 9.2 The site is located within the built up area where the erection of new dwellings is acceptable in principle. I have taken into account the potential impact of this proposal on the character and appearance of the conservation area, and to the comments and objections of local residents. However, I am of the view that the proposal is sensitive to the context of Mount House and its immediate setting, and subject to receipt of revised drawings retaining the existing border hedgerow and re-siting the bike stores to the rear, planning permission should be granted.

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

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

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

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

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

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

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at

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

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

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

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

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

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

10. **RECOMMENDATION** – Grant subject to the following conditions, receipt of revised drawings and collection of a SAMMS mitigation payment.

CONDITIONS to include

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (2) The development hereby approved shall be carried out in accordance with approved drawings 705/01A; 705/02A; 705/03A; 705/04A; 705/05A; 705/06A; 705/07B; 705/08A; 705/09 and 705/10.

Reason: For the avoidance of doubt and in the interests of proper planning.
- (3) No development beyond the construction of foundations shall take place until details of the external facing and roofing materials to be used in the construction of the

dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

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

- (4) All windows and external doors shall be of timber construction and no development shall take place until detailed drawings at a suggested scale of 1:10 and 1:1 or 1:2 of all new joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (5) Details of the proposed construction and size of all new rooflights on the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The development shall be carried out in accordance with the approved details.

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

- (6) No development beyond the construction of foundations shall take place until full details at a suggested scale of 1:5 of the eaves and verge detailing on the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (7) No development beyond the construction of foundations shall take place until detailed elevational drawings at a scale of 1:10 of the front and flank elevations of the dormer windows and door canopies have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (8) No development beyond the construction of foundations shall take place until full details at a scale of 1:10 elevation drawing of the front boundary brick wall and railings and a 1:1 or 1:2 cross section drawing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- (9) A method statement prepared by a specialist detailing the schedule of materials and works for the reconstruction of the coach house, including full details at a suggested scale of 1:5 of the proposed eaves treatment and brick bonding, shall be approved in writing by the Local Planning Authority. The reconstruction shall be carried out in accordance with the approved details.

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

- (10) No occupation of either new dwelling hereby approved shall commence until the coach house has been reconstructed.

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

- (11) The proposed bathroom, landing/study and bedroom windows in the side elevations of each new dwelling hereby permitted shall be obscure glazed at all times, and these windows shall be constructed so that they are incapable of being opened except for a high level fanlight of at least 1.7m above inside floor level.

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

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

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

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

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

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

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

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

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

Reason: In the interests of residential amenity.

- (16) No development shall take place beyond the construction of foundations shall take

place until details of the design measures that will be used to mitigate against traffic noise and details of the building specification which will be used to achieve a maximum internal noise level of 35dB(A) (Fast) with windows closed have been submitted to and approved by the Local Planning Authority. The approved measures shall be implemented in full prior to the first occupation of the dwellings hereby permitted.

Reason: In the interests of the amenity of occupiers.

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

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

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

Reason: In the interests of water conservation and sustainability.

- (19) The new access hereby permitted shall make use of bound surface materials for the first 5 metres of the access from the edge of the highway

Reason: To ensure that a satisfactory means of access is provided for the site, and in the interests of highway safety.

- (20) The areas shown on approved drawing 705/01A as car parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking or turning of cars is likely to lead to car parking inconvenient to other road users, and a risk to highway safety.

- (21) The pedestrian visibility splays measuring 2.0m x 2.0m as shown on the approved drawing 705/01A shall be provided prior to the occupation of the dwellings and these visibility splays shall at all times be maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above adjacent pavement level.

Reason: In the interests of highway safety.

- (22) No further enlargement or alteration of either new dwelling, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to The Town and Country Planning

(General Permitted Development)(England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

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

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

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



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PLANNING COMMITTEE – 17 DECEMBER 2019**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO - 19/502821/FULL			
APPLICATION PROPOSAL Erection a two storey side and single storey rear extension with the insertion of 6 roof lights and external alterations. Erection of a three bay garage.			
ADDRESS Peacock Cottage Halfway Road Minster-on-sea Sheerness Kent ME12 3AA			
RECOMMENDATION - Refuse			
REASON FOR REFERRAL TO COMMITTEE Support for the application from Minster-on-Sea Parish Council			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr M Waghorn AGENT Richard Baker Partnership	
DECISION DUE DATE 13/11/19		PUBLICITY EXPIRY DATE 01/11/19	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
SW/09/0349	Change of use of bungalow from residential to A1 (retail use) - retrospective 2) Erection of fence fronting highway-retrospective.	Approved	22.06.2009
SW/92/0177	Construction of replacement single storey rear extension	Approved	04.03.1992

1. DESCRIPTION OF SITE

- 1.1 This property is a simply designed three bedroom bungalow (having a footprint of 10.7m x 8.2m) with a low hipped roof profile and garden to the rear. The application site itself is rectangular in shape and occupies an area of approximately 0.067h. Access to the site is direct from Halfway Road where there is an existing dropped kerb.
- 1.2 It is situated within the countryside on the eastern side of Halfway Road between the built-up areas of Sheerness (356m) to the north and Minster (347m) to the south. To the north, east and west of the site's boundary is Stones Garden Centre comprising of associated outbuildings, open yard and customer car park. The nursery is outlined in blue on the submitted site location plan and therefore also within the ownership of the applicant.

- 1.3 Further afield to the north and northeast lies Sheerness Holiday Park a large holiday park comprising of static caravans and associated infrastructure. Directly opposite the site to the southwest is Sheppey Court Marshes, a flat landscape identified within the Local Plan as an area of High Landscape Value and Local Designated Site for Biodiversity. The site is in Flood zone 3 which is at the highest risk from flooding.

2. PROPOSAL

- 2.1 Planning permission is sought for the substantial enlargement of the existing property to create a three bedroom house with a large attached single storey games room wing to the rear, and a detached three bay garage/workshop at the front of the site. The existing footprint of the bungalow would be extended to the side and rear, with the new first floor having a greater floorspace than the original bungalow.
- 2.2 In terms of footprint the extended property would form an L-shape. The main bulk of the ground floor would measure 13.3m wide and 11.7m in depth with the single storey rear games room projection measuring 6.7m wide and 12m in length. The first floor addition would be situated directly above the main bulk of the ground floor and will feature partly chalet style accommodation lit by dormer windows. In terms of visual appearance it would have a hipped roof broken with projecting bays. Proposed materials are render under cement boarding and concrete roofing tiles, with uPVC windows.
- 2.3 The detached three bay garage/workshop would be located towards the north western boundary. It would measure 9m in length and 6m in depth with a pitched roof.
- 2.4 The application is supported by a Flood Risk Assessment which states;

The development proposal is to extend and alter the existing three-bedroom detached bungalow to form a large three-bedroom detached house with all bedrooms at first floor level.

Reference to the Environment Agency Flood Risk Map for the area indicates that the site lies within an area benefitting from flood defences.

It is intended therefore, that flood resistant and resilient construction techniques will be adopted as detailed within the Building Research Establishment publication – “Future Proofing New and Existing Buildings. Flood Resilient Design and Construction Techniques”. In addition, any external hard surfacing is to be designed in accordance with SUDS techniques to act as flood attenuation reservoir which will reduce surface water run-off and the risk of surcharging the existing highway drains.

3. PLANNING CONSTRAINTS

- 3.1 The development is located within the countryside.
- 3.2 Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF): paragraphs 8 (dimensions to sustainable development), 11 (presumption in favour of sustainable development)

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

Policy ST1	Delivering sustainable development in Swale
Policy ST3	The Swale settlement strategy
Policy CP3	Delivering a wide choice of high quality homes
Policy CP4	Requiring good design
Policy DM6	Managing Transport Demand and Parking
Policy DM7	Vehicle Parking
Policy DM11	Extensions to dwellings in the rural area
Policy DM14	General development criteria
Policy DM19	Sustainable design and construction
Policy DM24	Conserving and enhancing valued landscapes

4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension: A Guide for Householders'

4.4 SPG 4 Kent Vehicle Parking Standards

5. LOCAL REPRESENTATIONS

5.1 No representations have been received from the general public.

6. CONSULTATIONS

6.1 Minster On Sea Parish Council supports the application subject to no irregularities being found by the case officer.

6.2 The Environment Agency refers to its flood risk standing advice which requires, amongst other things, for floor levels to be set no lower than existing.

6.3 Kent Highways and Transportation say that the proposal does not meet the criteria to warrant their involvement.

6.4 The Environmental Health Manager has objection to the application, subject to a planning condition relating to construction hours to protect residential amenity in the locality.

7. APPRAISAL**Principle of development**

7.1 The application site lies outside of any defined built up area boundary within the designated countryside where policies of rural restraint apply.

7.2 The Council's Supplementary Planning Documents: Designing an Extension – 'A Guide for Householders' stipulates,

'In the countryside, scale is of particular importance. In rural areas, policies are designed to maintain their attractive character and the extension of a small cottage to create a large house will normally be resisted. The Council will not normally approve an extension to a dwelling in a rural area if it results in an increase of more than 60% of the property's original floorspace.'

7.3 The increase in floor area measure is a useful approach in assessing proportionality, which is primarily an objective test based on size as set out above. The existing

dwelling has a floor area of 89 square metres square. The proposed development would be 241 square metres, which is net increase equivalent to 171%. The net increase is significantly over the 60% threshold as set out in SPD 'A Guide for Householders' and as such I consider the principle of development is not supported in this instance.

Visual Impact

- 7.4 With regard to visual impact, policy DM 11 relates to extensions to and replacement of dwellings in the rural area and states:

'the Council will permit extensions (taking into account any previous additions undertaken) to existing dwellings in the rural areas where they are of an appropriate scale, mass and appearance in relation to the location'.

- 7.5 The scale of development proposed here represents, in my opinion, a new build dwelling rather than a subordinate addition to an existing dwelling. The proposed extensions would overwhelm the original structure and introduce an additional storey and, by reason of their resultant imposing scale and bulk, would constitute an unsympathetic and harmful addition that would fail to appear subservient to the original property to the detriment of the intrinsic amenity value of the countryside.
- 7.6 The site is located within a prominent position which affords clear views from both directions on the approach along Halfway Road. The nature of surrounding development is low level single storey structures. The introduction of a two storey dwelling would dominant the appearance of the streetscape resulting in an unsympathetic, incongruous and harmful addition that would detract from the character and appearance of the host dwelling and visual amenities of the surrounding countryside and area of natural landscape.
- 7.7 With respect to the proposed erection of the triple garage, the Council expects garages and other outbuildings to be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location. In this respect, the proposed detached triple garage by reason of its siting forward of the principal elevation of the dwelling would be prominent and incongruous in a manner detrimental to the setting of the dwelling and the visual amenities of the countryside and area of natural landscape .

Residential amenity

- 7.8 The development would introduce an additional storey which would provide elevated overlooking opportunities to the rear (east) and principle (west) elevation. The site is bounded to the rear and both sides by Stones Garden Centre, a commercial business that provides no habitable provision. Directly opposite the site Sheehey Court Marshes, which is a flat landscape containing no development. As such, given the nature and location of the development, it does not give rise to issues prejudicial to neighbouring amenity.

Highways

- 7.9 Sufficient parking would be provided for the size of accommodation proposed. There is an existing dropped kerb and sufficient turning circle into the plot with good vision splays. In this regard the application is acceptable.

Flood Risk

- 7.10 The site is located within Flood Zone 3. Minor residential development located within Flood Risk Zone 2 or 3 must be accompanied by a Flood Risk Assessment (FRA). However – in this instance the existing bungalow has three bedrooms on the ground floor which is an internal arrangement that is not generally supported within Flood Risk Zone 3. The proposal would see the bedrooms relocated to the first floor which is considered an improvement of the existing situation in terms of potential flood risk.

8. CONCLUSION

- 8.1 The proposed development would, due to its bulk, design and scale result in an incongruous and dominant addition that would fail to appear subordinate with the host dwelling or wider setting to the detriment of the character and appearance of the area and would be harmful to the amenity value of the country side and area of high landscape value.
- 8.2 Furthermore, the proposed detached triple garage by reason of its siting forward of the principal elevation of the dwelling would be prominent and incongruous in a manner detrimental to the setting of the dwelling and the visual amenities of the surrounding area harmful to the amenity value of the country side and area of high landscape value.

9. RECOMMENDATION - Refuse for the following reasons:

REASON

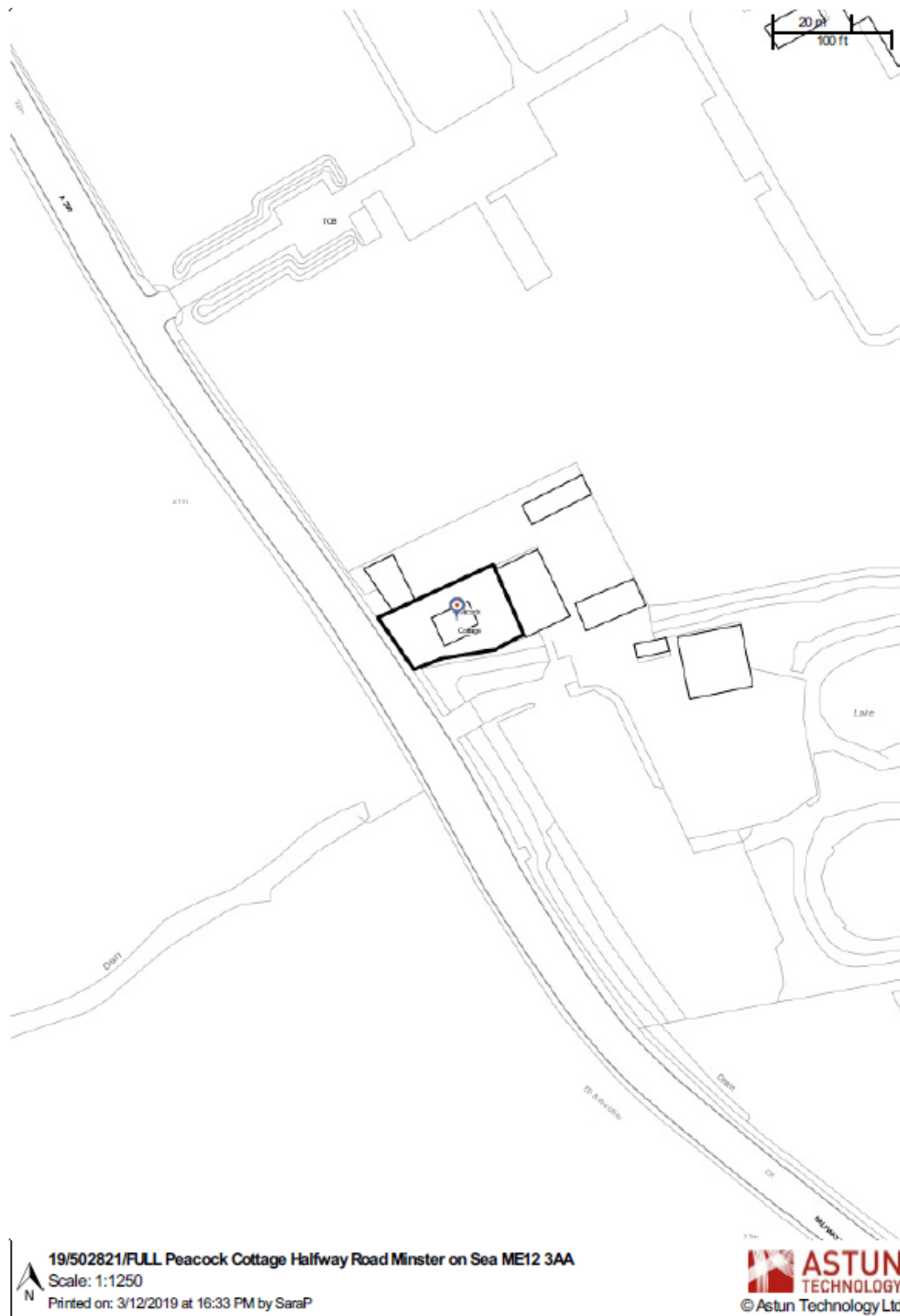
- (1) The proposed alterations to the existing dwelling by reason of their resultant imposing scale and bulk, and the property's location outside of any defined built up area boundary, would constitute an unsympathetic and harmful addition that would fail to appear subservient to the original property to the detriment of the intrinsic amenity value and character of the countryside. As such, the development is contrary to policies CP4, DM11, DM14 and DM24 of the adopted Swale Borough Local Plan (2017), the Council's Supplementary Planning Guidance (SPG) 'Designing an Extension'.
- (2) The proposed detached triple garage/workshop would, by reason of its siting forward of the principal elevation of the dwelling would be prominent and incongruous in a manner detrimental to the setting of the dwelling and the visual amenities of the surrounding area. It would be contrary to policies CP4, DM11, DM14 and DM24 of the adopted Swale Borough Local Plan (2017).

The Council's approach to the application

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

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

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



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3.2 REFERENCE NO - 19/504412/FULL		
APPLICATION PROPOSAL Extension to garage/store to form observatory.		
ADDRESS Oyster Bay House, Chambers Wharf, Faversham Kent ME13 7BT		
RECOMMENDATION - Refuse		
REASON FOR REFERRAL TO COMMITTEE Officer view is contrary to the support from Faversham Town Council		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Brian Pain AGENT Affinis Design
DECISION DUE DATE 11/11/19		PUBLICITY EXPIRY DATE 17/10/19

Planning History

SW/98/0182

Double open fronted garage and internal store shed.

Approved Decision Date: 06.03.1998

1. DESCRIPTION OF SITE

- 1.1 This site is located on the south east bank of Faversham Creek within the Faversham conservation area, and lies equidistant between Iron Wharf and Standard Quay. Oyster Bay House is a large 19th Century Victorian former warehouse and Grade II listed building standing adjacent to the Creek which has been converted to use as a private house. There is a relatively small private amenity area to the south and east of the building described by the applicant's agent as a "gravel area and a kitchen garden".
- 1.2 To the rear of Oyster Bay House is a public footpath and beyond this is a 0.25 ha garden which serves the property. This garden contains a "wild pool" and a three bay weatherboarded garage/store containing two open fronted garage bays and an enclosed storage shed, with open parking spaces alongside. This relatively modern building is single storey with timber cladding under a hipped slate roof and is orientated at right angles away from Oyster Bay House.
- 1.3 To the east of the garage is a boatyard and to the west of the garden boundary lies a small residential development. The site has a wild and interesting character which centres on boats and the waterside and the wide expanse of marshland sweeping away towards the horizon. The area is fairly unspoilt with the history of the site still clearly legible.
- 1.4 The 2004 Faversham Conservation Area Appraisal describes the area as;

4.37. Iron Wharf adjoins Standard Quay to the north. Its past association with the branch railway is still recorded by the presence of several dozen, wheel-less, goods wagons stranded here when the railway track was removed. They continue to earn a living, however, as storage lock-ups and are an intriguing survival from the creek's 'railway era' and, as an evocative reminder of past times, they now form part of the

wharf's special identity. And ever present here is the persistent metallic clang of masts and metal rigging, as they respond to the constant rise and fall of the wind.

4.38. The wharf is now occupied by small leisure craft laid up for repairs or for storage, especially during the winter months. Buildings here are sparser than at Standard Quay although the commanding presence of the Oyster Bay Warehouse, formerly a secure store for goods in transit through the port but now used for offices and flats, is exceptional. Its height and yellow-brick bulk, coupled with its position on the very edge of the flat expanse of the Swale marshes, makes it one of the town's landmark buildings. Elsewhere, portakabins and sheds serving as small stores and workshops, are stationed at intervals amongst the orderly muddle. Rows of masts, when viewed from the east, are attractively silhouetted against the sky and are an important tell-tale in the flat landscape of the presence of the otherwise-hidden water channel.

4.39. Alongside Iron Wharf is Chambers Dock where the course of the Cooksditch stream has been deepened and widened as it joins Faversham creek. A small footbridge across the entrance carries the long distance Saxon Shore Way footpath away to the north, and although the dock itself is now a rather forlorn and muddy affair it still remains home to a number of veteran craft.

4.40. Here at Standard Quay and at Iron Wharf, the long-standing relationship of Faversham town with Faversham creek is still expressed in the traditional way: old waterside buildings have survived, veteran sailing craft still visit, and water-related activities continue to thrive. Here therefore is an authentic echo of the old, somewhat rough and ready working environment that once characterised this side of the creek. To the north, the muddy banks of the channel are the refuge of whistling oystercatchers and quarrelling gulls; the dribble of water at low tide is scarcely sufficient to float the smallest of dinghies. But still it is possible to visualise how, with high water filling the creek brimful with water, commercial craft once made their way quietly upstream, through meadows grazed by cattle and sheep, to discharge their loads at the Faversham quays. Over the centuries the creek environment has been a place of outstanding character and an integral part of the wider identity of Faversham town itself. The continued survival of this small pocket of traditional character and activity is therefore of crucial importance to the town's individuality.

1.5 The listing description for Oyster Bay House reads;

Warehouse. Circa mid C19, said to have been built circa 1843 when the creek was improved. Buff-coloured stock brick. Welsh slate roof with gabled ends and brick dentil eaves cornice. Plan: Rectangular on plan. Its north end to the creek has a hoist and a doorway at each floor for loading/unloading. There is also a hoist and doorway at each floor level at the opposite south end. Exterior: 3 storeys, the second storey partly in the roof space. 5- bay east and west sides and 3-bay north and south ends, the bays divided by brick pilasters, those at the ends clasping the corners. Segmental brick arch openings with original 16-pane cast-iron windows which have bosses at the inter- sections of the glazing bars. There is a doorway on the ground floor at right of the west side with an original door and a wider doorway at the centre of the east side. The gable ends have a central doorway on each floor with plank double doors, the ground floor doorway on the south end enlarged later and on the gables at both ends a weatherboarded timber-framed hoist housing containing old hoist mechanisms; the

hoist housing at the north end rises above the main roof level. Interior: not inspected.

2. PROPOSAL

- 2.1 This unusual application proposes the extension of the existing garage/store building over the adjacent parking spaces in the form of a tall octagonal structure topped with an observatory dome. This would all sit on a platform supported on wooden clad metal stilts connected to the southern end of the existing garage/store structure by means of an enclosed stairway. The observatory section would have a large glass fibre observatory dome above the main part of the octagonal structure, and a wide square platform around its base which would be enclosed by railings.
- 2.2 An entrance lobby is to be provided at ground floor level within the existing storage section of the building, leading via the covered staircase to an internal gallery/study area and an external deck on the first floor, with the telescope room on the upper floor. The external deck level is 4.1m above ground level (just below the ridge of the existing garage building, and the top of the dome is proposed to be at least 11.6m in height, whereas Oyster Bay House rises to over 16m tall. There would still be room for parking beneath the platform between the stilts.
- 2.3 The application also proposes the installation of an array of several PV panels on the west facing rear elevation of the garage roof slope, and the removal of three fruit trees which sit at the rear of the existing parking spaces.
- 2.4 The application is accompanied by a Design and Access Statement and a Heritage Statement which explain the significance of the area, and that the applicant is a keen astronomer with a large telescope which needs to be elevated to avoid its field of vision being obstructed by trees. It is suggested that the observatory extension will be a private facility and will *“add considerable interest into an area currently lacking architectural aplomb and could be the springboard for better structures in the future. Its impact will therefore be positive”*.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance
Conservation Area Faversham
Environment Agency Flood Zone 3 135664

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, CP8, DM14, DM16, DM32 & DM33
- 4.3 Supplementary Planning Guidance (SPG): Conservation Areas and Listed Buildings

5. LOCAL REPRESENTATIONS

- 5.1 The Faversham Society commented has commented that:

"This site is detached from the immediate curtilage of Oyster Bay House which is a Listed Building. It is within the Faversham Conservation Area, and the existing garage to which it would be attached is a modest structure.

The Observatory would add visual interest to this part of the Conservation Area which is characterised by structures and vessels of various heights. "

6. CONSULTATIONS

6.1 Faversham Town Council supports the application stating the reason as being "An interesting proposal".

6.2 Natural England has offered no comment on the application.

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents relating to application 19/504412/FULL

8. APPRAISAL

8.1 The site is located within Faversham conservation area and the principle building affected is a designated heritage asset, a Grade II listed building. The subject building, the garage/store, is a utilitarian building of unobtrusive appearance using appropriate vernacular materials, colour palette and form.

8.2 This is a sensitive setting and despite local support I do not consider the proposal would be compatible with the character of the area. It would be highly eye catching and intrusive within the generally low rise part of the conservation area, and it would be harmful to the isolated and prominent setting of the listed building. Its form would not lend itself in any positive way to the low key and utilitarian character of the buildings and of the vicinity itself; and it would be discordant to the setting of the former warehouse which has a distinct and industrial character. The height of the observatory dome would not accord with the rhythms and volumes of the surrounding built environment.

8.3 Furthermore, neither would the proposed design and appearance of the observatory on its own merits – as a standalone structure - be considered acceptable. The use of a material like glass fibre used in this context for a dome would not be acceptable and it would age to an unattractive patina. The combination of the raised platform and the octagonal/semi-circular observatory structure would be alien to the area's character.

8.4 The proposed enclosed staircase structure would be bulky, unattractive and obtrusive given its size and design, and it would not sit well with the compact and unobtrusive form and utilitarian character of the existing garage/store structure.

8.5 I also consider that the proposed solar panels would be detrimental to the character of the garage by harming its simple utilitarian character. They would also likely to be visible from the west and given the increased visibility of the site as a whole would harm the character and appearance of the surrounding conservation area given their number and density, and they would be detrimental to the setting of the listed building.

8.6 I note the comments from the Town Council and The Faversham Society which support the application describing it as "an interesting proposal" and likely to "add visual

interest” but in my view a more detailed and wider consideration of the design reveals a harmful impact from the proposal given the site’s unique and specific sensitivities, leading to the conclusion that whilst this is indeed an interesting proposal, it is not an acceptable one. In my view the proposal is contrary to adopted Local Plan policies relating to design, conservation areas and listed buildings.

8.7 Paragraph 196 of the NPPF states:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

In this case I consider that there will be harm to designated heritage assets but I see no public benefit arising from this uniquely personal proposal to outweigh the harm that I have identified. As such I do not see the application being supported by paragraph 196.

8.8 I consider that the proposed observatory extension will harm the character and appearance of the conservation area and it would also be detrimental to the setting of the listed building.

CONCLUSION

8.9 This site is located within Faversham conservation area and is immediately adjacent to the listed and imposing Oyster Bay House which is a very significant heritage asset in the skyline of the Creek, and thus the site has a unique set of sensitivities. However, the proposed development due to its size, siting, design and form would harm the character and appearance of the conservation area and be detrimental to the setting of the listed building.

9. **RECOMMENDATION** - REFUSE for the following reason:

- (1) The proposed to erect this tall observatory extension and the resultant alterations to the existing simple garage/store building, including the unattractive and obtrusive staircase link would, by virtue of its size, design, scale and form, harm the character and appearance of the Faversham conservation area and harm the setting of the grade II listed Oyster Bay House building contrary to policies CP4, CP8, DM14, DM16, DM32 & DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 Policies and Supplementary Planning Guidance (SPG): Conservation Areas and Listed Buildings.

The Council’s approach to the application

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

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

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

It is noted that the applicant/agent did not engage in any formal pre-application discussions.

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

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



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3.3 REFERENCE NO - 19/504625/FULL		
APPLICATION PROPOSAL		
Demolition of existing garage and erection of replacement garage building (as approved under 17/501081/FULL but with minor amendments) and associated car parking. First floor to be used as holiday accommodation. (Resubmission of 19/503604/FULL)		
ADDRESS Elm Tree Cottage Butlers Hill Dargate Faversham Kent ME13 9HG		
RECOMMENDATION - Refuse		
REASON FOR REFERRAL TO COMMITTEE		
Parish Council Support		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Mr & Mrs Marsh AGENT Peter S. Ferguson-McCardle
DECISION DUE DATE 07/11/19		PUBLICITY EXPIRY DATE 17/10/19

Planning History

19/503604/FULL

Demolition of existing garage/store building and erection of new garage/gym and laundry room with holiday letting accommodation above and creation of 2 parking spaces within existing paddock

Withdrawn by applicant due to officer's concerns regarding proposed height and footprint of proposed new building 19.08.2019

17/501081/FULL

Demolition of existing garage/store and erection of replacement.

Approved Decision Date: 03.05.2017

15/501697/FULL

Demolition of rear lobby and dormer window and proposed two storey rear extension plus internal rearrangements

Approved Decision Date: 07.05.2015

15/501698/LBC

Listed Building Consent for demolition of rear lobby and dormer window and proposed two storey rear extension plus internal rearrangements

Approved Decision Date: 07.05.2015

SW/10/1194

Erection of small barn and equipment store.

Approved Decision Date: 12.11.2010

SW/09/0415

Listed Building Consent for conversion of former cart lodge to residential annexe.

Approved Decision Date: 10.08.2009

SW/09/0414

Planning permission for conversion of former cart lodge to residential annexe.

Approved Decision Date: 10.08.2009

1. DESCRIPTION OF SITE

- 1.1 The property is the Grade II listed Elm Tree Cottage situated on the eastern side of Butlers Hill within the Dargate conservation area and within the Blean Woods Area of High Landscape Value. To the rear of the cottage is a small gently sloping field. The property includes the main cottage, a former cart lodge immediately to the rear (now converted to an annexe), and a double garage beyond.
- 1.2 The curtilage listed former cart lodge received planning permission and listed building consent in 2009 for its restoration and conversion to a residential annexe. This work has been completed and the applicants are using this building as a holiday let, although they have not sought planning permission for that use.
- 1.3 The garage building is a newer building, and it was the subject of an application in 2017 which approved its replacement by a new garage with storage in the roofspace, but only after the building was reduced in scale. The application was amended to ensure it did not compete visually with the adjacent listed building. That permission has not been implemented, and the current application is essentially for an alternative form of development.
- 1.4 The Dargate Conservation Area Appraisal describes the area as;

The road to Butlers Hill leading south from the hamlet has a similarly loose scatter of frontage development, again interspersed with orchards and fields. Elm Tree Cottage occupies a crucial position on the turn in the road; it is an attractive white painted weatherboarded house built in the early 1800s, and is also characteristically Kentish in appearance. The building has remained reasonably unaltered, and the setting is uncluttered in appearance. Immediately to the south west lies Bushey Whilds, an early 17th century red brick house with a clay tiled roof, although now with a modern extension at the rear.

2. PROPOSAL

- 2.1 The current application proposes replacing the existing double garage with a larger double garage that incorporates a utility room at ground floor. Within the roofspace a living room/kitchen, bedroom/dining room and an en-suite bathroom are proposed, all lit by four rooflights and two gable-end windows, and accessed by an external staircase. The application seeks to increase the approved height of the structure by around 1m to enable the roofspace accommodation to be used as self-contained holiday accommodation. The ground floor car parking and a utility room spaces would be separately accessible.
- 2.2 The proposed facing materials include handmade clay plain roof tiles, black stained timber weatherboarding, black stained timber stairs and doors, black conservation rooflights, and a red brick plinth.
- 2.3 The application is supported by a brief Heritage Statement and Design & Access Statement which argues that as the proposed building is principally the same as that previously approved, and it is located behind the former cart shed *“the proposal will*

have little or no effect on the setting of the listed building but will permit the secure storage of vehicles whilst providing a valuable tourism asset”.

- 2.4 The building has the same footprint as the replacement garage approved in 2017 but it would be taller than that approved scheme, and taller than the former cart lodge which sits between it and the main listed building.
- 2.5 The applicants have compared the proposal to a recent decision to grant planning permission within the same parish for the redevelopment of two small barns to create a new holiday let.

3. PLANNING CONSTRAINTS

Conservation Area Dargate

Grade II Listed Elm Tree Cottage

4. POLICY AND CONSIDERATIONS

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, ST3, DM3, DM14, DM32 and DM33.
- 4.2 Supplementary Planning Guidance (SPG): ‘Conservation Areas’
- 4.3 National Planning Policy Framework (NPPF)

5. LOCAL REPRESENTATIONS

- 5.1 Four letters of objection have been received from local residents and the comments therein can be summarised as follows:
 - Previous permission 17/501081/FULL is being invoked as supporting evidence for this new build. However, that permission has a condition restricting its use as ancillary.
 - As the current application is for use as a separate unit of accommodation this would be contrary to the provisions of the development plan. Policies DM11, DM16 and DM33 have not changed in the interim
 - The application is essentially for a new house and it would extend residential development in depth back from the highway
 - It would be approximately the same size as a detached house, and the same size as Elm Tree Cottage, which itself has already been extended – the extent of “development creep” at Elm Tree Cottage is astonishing
 - The claim that the proposal will have little impact on the listed building is patently wrong – it is now extended and has been subject to significant recent development – it should be protected by all the policies in place
 - The purpose and scale of the proposed building is inappropriate for the designated setting and location
 - The Dargate conservation area was won on the basis of the hamlet’s loosely scattered dwellings – it is vulnerable due to its open character and space
 - The proposed new build is inappropriate for a sensitive site at the heart of the conservation area

- The development will be visible from the bridle path and footpath and would block views of the woods within what is classed as the Blean Woods Area of High Landscape Value
- If designations within the development plan are to have any meaning then applications like these should surely be refused
- With the cottage extension, the garage and the cart shed the developed volume has tripled
- There is no need for another holiday let here as there are already at least three holiday lets within a few hundred yards of the site
- The adjoining former cart shed itself is now being used as a holiday let in violation of planning conditions – what is the point of such conditions if they are ignored?
- The stabling and sand school are all being used commercially
- An application to erect a bungalow to the rear of this site at Acorns was dismissed at appeal and that decision sets a precedent for refusal here
- The area has clay soils so soakaway drainage would exacerbate run-off problems

5.2 The applicants have responded to these points at length saying (in summary):

- Replacement of the existing garage has already been approved and if this application is refused it could still be re-built.
- This application has the same size footprint as the approved new garage and replaces an existing building
- The building is not as large as Elm Tree Cottage and is not intended as a house, some objections are exaggerated
- The new building will look better in views from public rights of way, but will look no different to neighbours, and it will not block views of the woods
- We have no use for the approved roofspace storage so propose a studio holiday flat, which would help make the re-build financially viable
- There is clear demand for such holiday accommodation in Dargate, and this helps local businesses, which the Council has supported locally
- The previous planning condition is irrelevant as this is a new planning application
- There should be loss of privacy to neighbours
- There will be no local traffic, drainage or light pollution impact

5.3 Twelve letters of support were received from across the parish and can be summarised as follows:

- The proposed garage would be a visual improvement on the existing, which is in poor repair

- There is already permission to rebuild the existing garage on the same footprint as the original plans, this application is not new but simply making amendments to make it more useful
- The applicants work hard in maintaining high standards and encourage visitors to see local sites and support the local economy
- Small scale business ventures such as this should be encouraged
- The application will support the Council's commitment to a 5 year visitors' economy framework
- The proposed holiday let will support The Dove PH which is a short walk and the pub struggles to attract people from further afield
- The applicants are strong, active members of the community
- There is no parking issues on the site and parking is discretely located down a private track
- The external stair is discretely positioned
- The change of use for the upstairs area reflects the fact that the ownership has changed since the previous application was granted and the applicants don't require an office or store
- Requirements change over time with different owners, demonstrated most often by the extension of properties in the area, but this provides progression in Dargate
- There will be no congestion, drainage or traffic problems
- The building would have no impact on neighbouring properties

6. CONSULTATIONS

- 6.1 The Parish Council originally objected to the scheme on grounds of overdevelopment but, after the applicants raised concern over a potential conflict of interest, the Parish Council has re-considered the application and now offer support to the proposal. No reason is given for this support.
- 6.2 Historic England has no comment to make.
- 6.3 Natural England raises no objection subject to a SAMMS mitigation payment in respect of The Swale SPA.
- 6.4 Kent Highways and Transportation state that the proposal does not warrant involvement from the Highway Authority.
- 6.5 The Council's Economy and Community Services Manager supports the application, and states that the site is located in a geographical location which is recognised as being well placed to offer visitors memorable experiences. Dargate has an attractive landscape and is an area that offers local distinctness, being close to the coast and to heritage attractions it is set within the food triangle of Faversham, Whitstable and Canterbury. The flexibility of a self catering unit will provide visitors an opportunity to enjoy the area contributing to economic growth.

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documentation relating to 19/503604/FULL

8. APPRAISAL

- 8.1 This proposal will sit close to Elm Tree Cottage which is a grade II listed building set within the Dargate conservation area, and located in the open countryside outside of any defined built up area boundary and therefore subject to countryside restraint policies in the adopted Local Plan and NPPF. The main relevant policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the built up area boundaries, development will not be permitted unless supported by national policy where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 8.2 Policy DM3 supports the rural economy by encouraging economic development and especially by prioritising the re-use of rural buildings over new builds. The Council has long been supportive of holiday use in vacant rural buildings and there are many such opportunities remaining to exploit. Not all approvals have in fact been implemented.
- 8.3 However, applications for new build holiday lets in the countryside, as in this case, raise similar issues as a proposal for a new dwelling albeit with some economic benefits; hence the preference for the conversion of existing vacant buildings. It should be noted that the existing former cart lodge at Elm Tree Cottage has an approved use as an annexe ancillary to the host dwelling, but this is being used as a self contained holiday let without the benefit of planning permission. It is existing buildings such as that cart lodge that the Council has preferred to see being used as holiday lets rather than a purpose built new builds. Such new build development, especially if repeated, would lead to the creation of an unlimited number of new dwellings in remote unsustainable locations to serve a market that is capable of being met from existing rural assets which is, in itself, a more sustainable approach.
- 8.4 The recent decision referred to by the applicants relates to a scheme where the two barns existed and approval recognised the benefit of a new use for the buildings, and where their rebuilding was an alternative to their acceptable re-use, but with a better appearance. This is not the same as the current case as that related to two vacant buildings with no practical alternative use, and the holiday let scheme was felt likely to represent an enhancement of the conservation area. In the current case the existing garage is an ordinary domestic outbuilding that has an ongoing function, and which would be replaced with a larger, taller building that will not enhance the character of the conservation area.
- 8.5 The remote rural location of this site is some distance from local services and public transport. Any journeys for services such as shopping etc. would need to be to Faversham or further and would need to be made by private car. As such, I consider the site to be unsustainable, and the National Planning Policy Framework (NPPF) in paragraph 11 states that new development should be sustainable. The NPPF at paragraph 79 does not exempt holiday homes from its restraint on isolated dwellings in the countryside.
- 8.6 The benefits which the proposed holiday let might bring to the rural economy would be fairly limited as there are very few local services within the immediate vicinity of the site and holiday lets from conversion would have the same benefits. Any limited benefit to the community does not significantly and demonstrably outweigh the harm when assessed against policies of the Local Plan and the Government guidance within the NPPF.

- 8.7 In terms of the design of the proposed building, its increase in height compared to the approved replacement garage would detract from its appearance and its suitability in this sensitive setting. When application 17/501081/FULL was approved it had been amended to reduce its height and make sure it was subservient to the nearby listed building. The current design is compromised with an exaggerated eaves height in order to fit in the holiday accommodation, and to my mind it appears top heavy and awkward in proportion. The proposed building is now taller than the former cart lodge, which I consider to be unacceptable and likely to harm the setting to the listed building and be intrusive within the conservation area.
- 8.8 Paragraph 196 of the NPPF requires Local Planning Authorities to weigh up the public benefit of proposals that result in less than substantial harm to heritage assets, but here the public benefits are very limited and, to my mind, they do not outweigh the harm that the development would result in.
- 8.9 Given the fact there are no nearby neighbouring properties that would be affected by the proposal, it is not considered that residential amenity would be an issue in this case.

9. CONCLUSION

- 9.1 The proposal is contrary to local and national policy as it would result in a new residential unit, albeit with a restricted occupancy condition, within the designated countryside. The harm that this would cause to the countryside is not significantly outweighed by the limited benefits to the local economy when assessed against policies of the local plan and NPPF. In addition the proposed design will be taller than the former cart lodge and it will create an intrusive and awkward looking building harmful to the setting of the listed building and to the special character of the conservation area.

Appropriate Assessment for the Purposes of The Conservation of Habitats and Species Regulations 2017

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

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

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

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

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

No mechanism to secure the SAMMS tariff has been finalised with regard to this application, but in the light of the recommendation, it is not a matter that need delay this decision at this stage.

10. RECOMMENDATION – Refuse for the following reasons:

- (1) The proposal represents unnecessary, undesirable and unsustainable residential development in this remote countryside location. The harm to countryside interest that might result from this proposal is not outweighed by the limited contribution made to the rural economy when assessed against the policies of the Local Plan and NPPF. The proposal would therefore fail to comply with policies ST3, DM14 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 79 of the NPPF.
- (2) The proposed development would, by virtue of the additional height of the building

and its awkward proportions, fail to protect the setting of Elm Tree Cottage, and would not preserve or enhance the character and appearance of Dargate conservation area. As such the proposal is contrary to policies CP4, DM14, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), 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 – 17 DECEMBER 2019

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Land to the rear of Hales Cottage Tunstall Road Tunstall**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

To my mind this decision substantially underestimates the likely impact of the development in replacing a small garage with a house, and which fails to recognise the inevitable ongoing pressure to enlarge the approved dwelling. This decision can only have a negative impact in an area where protecting the character of Tunstall as a separate settlement from Sittingbourne is a formal aim of the adopted Local Plan; an aim which can now only be threatened by further unnecessary development proposals.

- **Item 5.2 – Land West of Brown Jug 76 Horsham Lane Upchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision with regards to housing in the countryside. The development was contrary to the Local Plan and the Inspector accordingly dismissed the appeal.

- **Item 5.3 – 4 Haysel Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that this domestic extension would have harmed the character and appearance of the area.

- **Item 5.4 – 77 Queenborough Road Halfway**

APPEAL DISMISSED

DELEGATED REFUSAL**Observations**

The Inspector fully supported the Council's decision.

- **Item 5.5 – Land at A2 London Rd/Western Link Faversham**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

An excellent decision, where the Inspector endorsed the Council's decision for reasons relating to harm to the setting of the adjacent Syndale Conservation Area and harm to the character and appearance of the rural area. The Inspector concluded that despite the lack of a 5-year housing land supply, the harm identified was such that the development would not amount to sustainable development for which the NPPF presumes in favour.

- **Item 5.6 – Land situated at 32 First Avenue Queenborough**

ENFORCEMENT APPEAL DISMISSED**Observations**

An excellent decision on a longstanding enforcement case, where the Inspector gave full support to the Council's action.

- **Item 5.7– Land at Brotherhood Wood Yard Gate Hill Dunkirk**

ENFORCEMENT APPEAL APPELLANT'S COSTS CLAIM REFUSED**Observations**

This is a welcome decision recognising that the Council did not act in an unreasonable manner despite the Inspector finding that the actual enforcement notice was unclear and not capable of correction without injustice to the appellant. The Council's decision to immediately withdraw the notice when the Inspector raised his concerns has clearly played a part in his decision not to award costs to the appellant.

- **Item 5.8 – Murre Conyer Quay Conyer**

ENFORCEMENT APPEAL DISMISSED**Observations**

Full support for the Council's interpretation of the relevant regulations, and for the requirements of the enforcement notice.



Appeal Decision

Site visit made on 19 July 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 30 October 2019

Appeal Ref: APP/V2255/W/19/3228248

Land to the rear of Hales Cottage, Tunstall Road, Tunstall, Sittingbourne, Kent ME10 1YQ

- 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 Miss Tracey Gammon against the decision of Swale Borough Council.
 - The application Ref 18/504925/FULL, dated 19 September 2018, was refused by notice dated 15 November 2018.
 - The development proposed is described as, 'demolition of the existing garage, to be replaced with a one bedroom Lodge with basement'.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing garage and erection of a single storey one bedroom dwelling with basement at Land to the rear of Hales Cottage, Tunstall Road, Tunstall, Sittingbourne, Kent ME10 1YQ in accordance with the terms of the application, Ref 18/504925/FULL, dated 19 September 2018, subject to the attached Schedule of Conditions.

Procedural Matter

2. In the interests of clarity, I have used the description of development from the decision notice in the decision above.

Main Issues

3. From the evidence before me the main issues are:
 - whether the proposed development would accord with the development plan strategy for housing with particular regard to the settlement boundaries and Important Local Countryside Gap (ILCG);
 - whether the proposed development would provide a suitable living environment for future occupiers with particular regard to internal size and outlook; and
 - the effect of the proposed development on The Swale Special Protection Area (SPA).

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Reasons

Settlement boundaries and ILCG

4. The site lies outside the defined built up area boundary of Sittingbourne and within the ILCG in the terms of Policies ST3 and DM25 of the Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (LP). The ILCG seeks to retain the individual character and setting of settlements by preventing their merging. Tunstall is a satellite village of Sittingbourne and the appeal site is situated to the north of the village in an area of the ILCG where the two settlements are particularly close. To the south of the site lies Hales Cottage and to the west lies the rear garden of Hales House. Therefore, the site is not isolated in the terms of the National Planning Policy Framework (Framework).
5. From the evidence before me and my observations during the site visit, No 120 Park Drive lies to the north of the appeal site and the land to the north of Hale House has been developed through the implementation of planning permission adjacent to No 120 Park Drive¹ (No 120) for a dwelling and garage. While I note that that scheme was largely within the built-up area of Sittingbourne and outside the ILCG, the rear boundary of that garden is nevertheless shared with the rear boundary of Hales House. Moreover, the Council states that the ILCG at this point contains a number of domestic outbuildings in what are essentially large gardens. Therefore, from the evidence before me, the separation of Sittingbourne and Tunstall in the vicinity of the appeal site is largely reliant on the rear gardens of properties in either settlement.
6. I note the Council's comments that the principle of an independent domestic dwelling on this site is contrary to policy and is therefore unacceptable. However, LP Policy DM25 which relates to the ILCG, states that within these gaps, unless allocated for development by the Local Plan, planning permission will not be granted for development that would undermine one or more of their purposes. The LP also states that the purposes of ILCGs are to maintain the separate identities and character of settlements by preventing their merging; safeguard the open and undeveloped character of the areas; prevent encroachment and piecemeal erosion by built development or changes to the rural open character; and influence decisions on the longer-term development of settlements through the preparation and review of Local Plans.
7. The proposal would involve the demolition of an existing garage and the erection of a single dwelling with basement that would be in a similar position, and height as the garage and with a slightly larger footprint. Therefore, the difference between the existing site and the proposed in terms of built development above ground would be limited and the difference in the gap between buildings in either settlement would be negligible.
8. While the change of use of the site to a dwelling and domestic garden may increase the activity on the site, the proposed use would be in line with the adjacent Hales House and the properties immediately to the north of the site such that the ILCG in this area would continue to be reliant on gardens to serve its purpose of separating the settlements. Furthermore, the increase in activity

¹ Council ref: 17/502544/FULL

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- on the site and access would be likely to be limited given that the proposal consists of only one bedroom and a limited number of future occupants.
9. Consequently, the proposal would not result in actual or perceived coalescence of settlements, would not result in loss of a critical part of the gap and the extent of land remaining undeveloped would be similar to existing such that it would continue to maintain the sense of separation. Moreover, while I note the comments relating to permitted development rights in conservation areas, a suitably worded condition would be necessary to prevent the extension of the proposal that would be likely decrease the gap between buildings and increase built development in the ILCG. Therefore, the proposal would be unlikely to result in pressure for future development that would be difficult to contain.
10. I acknowledge the comments of the Inspector for the appeal case at No 120². While I agree with the Inspector that the protection of the countryside gap at this point is important to prevent harm to the individual character of the settlements of Tunstall and Sittingbourne, I note that that proposal was for five houses whereas this proposal would replace a garage with a dwelling of a similar footprint. Therefore, although the Inspector for that case found that that development would result in the countryside gap being removed, since this scheme would not significantly increase the amount of built development, it is not directly comparable with that proposal. While I note the Council's concern that the proposal would set a precedent for future development, each case must be determined on its individual merits.
11. LP Policy ST3 states that outside the built-up area boundaries, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The appearance of the proposed dwelling is not an area of dispute and from the evidence before me I do not consider that the design of the proposed dwelling would be harmful to the character and appearance of the area. Since the adjacent properties are dwellings with associated gardens, any increase in activity on the site would be likely to be in line with the character and appearance of the surrounding area. Therefore, the proposal would accord with this Policy.
12. While I note the comments of the Inspector for the case at Lower Halstow³, that case involved a substantially extended building that would have filled the full width of the plot. Since the proposal subject of this appeal would only slightly increase the footprint of the existing garage, that appeal case is not directly relevant to this proposal.
13. Consequently, the proposed development would accord with the development plan strategy for housing with particular regard to the settlement boundaries and Important Local Countryside Gap (ILCG). Therefore, it would not conflict with LP Policy ST3 which restricts development outside the built-up area boundaries unless it would contribute to protecting the intrinsic value of the countryside among other things. It would also not conflict with LP Policy DM25 which restricts development in the ILCG that would undermine one or more of their purposes.

² Appeal ref: APP/V2255/W/16/3145709

³ Appeal ref: APP/V2255/W/18/3217204

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Living conditions

14. The proposed dwelling would have a smaller floor space than that required under the Technical Housing Standards: Nationally Described Space Standards 2015 (NDDS). However, from the evidence before me, the NDDS is not adopted under the LP, and the internal size of the proposed rooms would provide accommodation that while not spacious, would be functional and meet the needs of future occupiers, given that the proposal is for one bedroom only and would have a limited number of occupants.
15. Turning my attention to outlook, the bedroom in the basement would have a somewhat restricted outlook to an external stair area. However, given that future occupiers are unlikely to spend substantial portions of the day in this space or the bathroom, the proposal would not cause undue harm to the living environment of future occupiers in this regard.
16. I note the Council's concerns regarding the proposal setting a precedent for future development. While I consider that, given the particular circumstances of this case, the proposal would be unlikely to influence decisions on the longer-term development of settlements, in any event, each case must be determined on its individual merits.
17. Consequently, the proposed development would provide a suitable living environment for future occupiers with particular regard to internal size and outlook. It would therefore not conflict with LP Policy DM25 which relates to ILCGs and seeks to restrict development where resultant pressure arising from a development or an allocation that would be difficult to contain. It would also not conflict with the Framework in this regard.

The Swale SPA

18. The appeal scheme proposes a single dwelling on a site that lies within 6km of The Swale SPA site. New housing development within this distance of the SPA would be likely to increase the number of recreational visitors to the site, potentially resulting in disturbance to the integrity of the habitats of qualifying features.
19. Since the appeal proposal is for a one-bedroom dwelling and the number of additional recreational visitors would be limited, the likely effects on the SPA from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the SPA. Consequently, an Appropriate Assessment (AA) is necessary to ascertain the implications for the site.

Appropriate Assessment

20. The Swale SPA was classified for rare and vulnerable birds and for regularly occurring migratory species such as waders and waterfowl. The Thames, Medway and Swale Estuaries - Strategic Access Management and Monitoring Strategy (SAMMS) sets out detailed mitigation measures that would be funded by S106 contributions at a specified tariff per dwelling. Since this includes a range of habitat-based measures such as education and communication, and has been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on The Swale SPA.

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21. As part of the appeal, the appellant submitted a signed and dated Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 that would ensure that the financial contribution of £239.61 would be paid before the commencement of development. The definition of the contribution includes reference to The Swale SPA and given the details of the site and title plan, I am satisfied that the UU runs with the title plan mentioned within. Furthermore, Natural England has indicated that the proposed financial contribution to mitigate the effect on the SPA is sufficient to avoid an adverse impact to the integrity of the European Site and relevant features. On this basis, I am persuaded that the contribution via a UU would be effective in mitigating the adverse effects of the proposal on The Swale SPA in a timely manner.
22. I note the comments of the Inspector for the case at Newington⁴, however in that case no method of securing a financial contribution was provided. Therefore, that case is not directly relevant to this appeal.
23. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
24. Consequently, the proposed development would not adversely affect The Swale SPA and would not conflict with the Framework in this regard.

Other Matters

25. I note that Hale House, Hale Cottage and The Coach House are located near the site and are Grade II listed buildings. I also note that the site lies within Tunstall Conservation Area (CA). Although the Council has not objected to the proposal on the basis of the effect of the proposal on the setting of the nearby listed buildings and CA, I am required, as a statutory consideration, to have regard to these matters when determining the appeal. The significance of the listed buildings lies in the evidence of historic architecture and original detailing and given their traditional vernacular appearance, they contribute to the rural character of the area. Since the proposed dwelling would not be significantly larger than the existing building and would be of a traditional design with locally distinctive materials, it would preserve the significance of the listed buildings and CA.
26. While I note comments relating to the existing and historic use of the garage, given that the proposed dwelling would have one bedroom, it would result in a limited number of future occupants. Therefore, it is likely that there would be a limited frequency of vehicular movements associated with the proposal. Consequently, it is unlikely that the proposed scheme would result in an unacceptable effect on highways safety and this point has not altered my overall decision. Furthermore, the Highway Authority has not objected to the proposal and from the evidence before me I see no reason to disagree.
27. I note that in addition to the matters discussed above other concerns have been raised locally. These include character and appearance, harm to trees,

⁴ Appeal ref: APP/V2255/W/17/3188809

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drainage, light, wildlife and parking. Nonetheless, these were before the Council when it determined the appeal planning application and it found that they did not warrant the refusal of planning permission. Given the evidence before me, I have found no reason to disagree.

Conditions

28. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance. I have amended some of the wording of the conditions in the interests of precision and clarity.
29. In addition to the standard time limit condition, I have included a condition requiring that the development is carried out in accordance with the approved plans as well as conditions relating to the external materials and landscaping. This is in the interest of certainty and to safeguard the character and appearance of the area. Given the sensitive nature of the character and appearance of Tunstall Conservation Area, a condition relating to external joinery work is necessary.
30. Given the emphasis in the Framework that the planning system should support the transition to a low carbon future in a changing climate, conditions requiring the submission and implementation for sustainable construction techniques and relating to water consumption are necessary.
31. A condition relating to hours of construction and demolition and the parking of vehicles are necessary to protect the living conditions of neighbouring occupiers and highways safety. The reference to permitted development in the condition relating to parking is not necessary and has been omitted.
32. While I note that such a condition has not been suggested by the Council, in this case, there is exceptional justification for removing specified permitted development rights in order to protect the character and appearance of the CA, the setting of the nearby listed buildings and the purposes of the ILCG.

Conclusion

33. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

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Schedule of Conditions

- 1) The development hereby permitted shall begin no 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: DRG No 4, DRG No 5, DRG No 6 and DRG No 7.
- 3) No development above ground shall commence until samples of the materials to be used in the construction of the external surfaces of the development, hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
- 4) No development above ground shall commence until detailed drawings at a suggested scale of 1:5 of all new external joinery work, (which shall be of timber construction) and fittings together with sections through glazing bars, frames and mouldings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plans.
- 5) No development above ground shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) 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.
- 7) No development above ground shall commence until details have been submitted to and approved in writing by the local planning authority, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. The development shall be carried out in accordance with the approved details.
- 8) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).
- 9) Demolition or construction works shall take place only between 0730 and 1900 on Monday to Friday, and between 0730 and 1300 on Saturdays

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and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 10) The development shall not be occupied until space has been laid out within the site in accordance with drawing no. DRG No 6 for 1 car to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority: Schedule 2 Part 1 Classes A, B, C, D, E.

END OF SCHEDULE



Appeal Decision

Site visit made on 16 September 2019

by **Hilary Orr MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/V2255/W/19/3231884

76 Brown Jug, Horsham Lane, Upchurch ME9 7AP

- 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 Finlon Ltd against the decision of Swale Borough Council.
 - The application Ref 18/506062/FULL, dated 19 November 2018, was refused by notice dated 21 January 2019.
 - The development proposed is the proposed residential development of 6 x 3 bed, 2 storey houses and associated access to/from Horsham Lane.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The address was slightly amended during the course of the application. This better describes the appeal site address and corresponds with that on the appeal form. As the Council have used this amended address in their decision, so shall I.

Main Issues

3. I consider that the main issues are:
 - Whether the proposal is in suitable location for new residential development, the effect of the proposed development on the character and appearance of the area, and whether there would be an over reliance on travel by private motor vehicles;
 - The effect of the proposed development on highway safety with reference to on-site parking and turning; and
 - The effect of the development on the Swale Special Protection Area (SSPA).

Reasons

Location of development

4. Policy ST3 of the adopted Bearing Fruits 2031: The Swale Borough Local Plan (2017) (LP) sets out the Councils settlement strategy for Swale. This policy resists development outside the built up area boundaries, unless supported by national planning policy, amongst other matters. The National Planning Policy

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Framework (the Framework) discourages residential development within the countryside in unsustainable locations.

5. The appeal site falls outside any built up area boundary and as such, is located in the countryside. Any residential development beyond the boundary established by the local plan, would therefore conflict with the aim of providing homes in accordance with the bars identified and the agreed settlement hierarchy.
6. The appeal site would therefore not be in a suitable location for additional housing, given its location outside any established built up boundary. Consequently, it would be contrary to policies ST3 and CP3 of the LP, that seek to provide new homes in accordance with the settlement hierarchy.

Character and appearance

7. The appeal site comprises a piece of land between the Brown Jug Public House, and the rear gardens of 40 to 43 Woodruff Close. There is an existing garage or outbuilding in the north eastern corner of the site. In common with other boundary treatments in the area, substantial hedging separates the site from the road, the rear gardens of Woodruff Close and the orchard that lies to the rear. The site is currently vacant and largely overgrown. The car park for the Brown Jug Public House lies immediately to the east, with the public house beyond.
8. The residential areas of Medway lie to the south west and Upchurch to the east. The area is mainly rural in character with a number of dwelling houses to the north of Horsham Lane. The land to the South of Horsham Lane is designated as an important Local Countryside Gap (LCG) although the site itself lies outside this designated area.
9. The pre-amble to Policy DM25 of the Local Plan sets out the purpose of the LCG. In summary it seeks to maintain separate identities and character of settlements by preventing the emerging; safeguard the open and undeveloped character of the areas; and prevent encroachment and piecemeal erosion by built development or changes to the rural open character.
10. The proposed development would introduce a terrace of six, three bedroom houses with associated amenity space, parking, and access from Horsham Lane. The houses would front onto Horsham Lane and would be set behind a new pedestrian footpath. Each dwelling would have a small front garden with additional gardens to the rear. Parking for seven vehicles would be provided to the rear of the dwellings. An additional two spaces are proposed to the east of the access road and a further two adjacent to Plot 6.
11. I acknowledge that there is residential development to the north of Horsham Lane. However, the appeal site currently provides an important break between the dwellings to the west and the public house and further dwellings to the east. This and the very rural and open character to the south of Horsham Lane within the LCG, gives the immediate area a strong sense of being in the countryside.
12. From my site visit I could see that, when travelling from west to east, the Brown Jug Public House appears to jut out into the road. Moreover, Horsham Lane narrows at this point, so vehicles have to slow down to pass those travelling in the opposite direction. Both of these factors make the building and

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car park highly prominent in the street scene. The introduction of a large row of terraced properties, set within small gardens would introduce a close grained form of development that would appear incongruous in this very prominent rural location.

13. For the above reasons I find that the proposed development of six terraced houses would introduce an overly dense form of development that would be in stark contrast with the predominantly rural character of the area. Consequently, the proposed development would cause significant and demonstrable harm to the character and appearance of the area. Accordingly, it is in conflict with policies ST1, ST3, CP3, DM9, DM14, DM24, and DM25 of the adopted LP. These policies when taken together seek to manage, protect, and where possible enhance the intrinsic value of the Countryside.

Travel

14. From the evidence provided, the proposed development would be served by two school busses with an additional bus for general public use. The timetables provided by the Appellant, show that this would offer a service to Rainham, Gillingham, Sittingbourne and Chatham, where a range of services, facilities and shops could be found. There is understood to be a bus stop at Woodruff Close, a short distance away. However, whilst the bus service may provide an alternative for future residents, it is an infrequent service which would be unlikely to override the need for private vehicles to access day to day facilities and services.
15. I recognise that the scheme would provide cycle storage for each of the dwellings. Nonetheless, Horsham Lane is generally narrow and unlit, and this would make cycling, especially in the winter months or after dark, a less attractive alternative to the private car.
16. Accordingly, in the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, I do not consider that the scheme provides a viable alternative to the use of private cars for future residents.

Highway safety and parking

17. Kent County Council, whilst not objecting to the proposed development have nonetheless requested a number of amendments to the parking layout. The Appellant has provided additional drawings within their statement for this appeal to demonstrate that these changes could be incorporated into the design. I consider that these amendments could be achieved through a suitably worded condition if the appeal were to be allowed. Accordingly, I do not find conflict with Policies DM7 and DM14 of the LP, and the appeal does not fail in this regard.

Effect on Swale Special Protection Area

18. The Habitat Regulations 2015 require an assessment to be undertaken, as to whether a proposal would be likely to have a significant effect, on the interest features of a protected site.
19. The appeal site lies within the zone of influence of the Swale Special Protection Area and would provide a net increase of six dwellings. Therefore, the development has the potential to cause harm to this designated area. I am

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aware that since the determination of the application the Appellant has submitted a unilateral undertaking, in respect of a contributions to secure the required Strategic Access Management and Monitoring payment. However, as I have already identified, substantive harm to the character and appearance of the area, such that the appeal should be dismissed, there is no need to consider this further.

Other matters

20. My attention has also been drawn to the development at Woodruff Close to the west of the site. This comprises a development of larger dwellings set in larger plots. I have not been provided with the full history for this site but from the limited evidence I have, the circumstances for granting permission were significantly different from those found at this site. In any event I have to determine this appeal on its own planning merits, and its presence would not justify granting this appeal.

Planning balance and overall conclusion

21. The Council confirms that it does not have a 5-year supply of housing sites in place. The Council's policies that relate to the supply of housing are therefore out-of-date. Paragraph 11 of the Framework is therefore engaged, which states that 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.
22. I acknowledge that the proposal would provide limited social and economic benefits, through the build process and the provision of electric vehicle charging points. The proposed development would also contribute toward the Borough's targets for housing delivery and 5-year land supply. However, given that the proposal would only provide six dwellings, I attach moderate weight to these social and economic benefits.
23. A number of letters of support have been received and in summary include: The proposed development would lead to an improvement of the site; The new footway would improve pedestrian safety; The design of the proposal would be in keeping with the rural setting; The proposal would provide good quality and attractive homes.
24. Notwithstanding all of the above, the proposed development would not conform with the settlement strategy of the Borough, it would cause substantial harm to the character and appearance of the area and it would create the need for travel, placing it in conflict with the environmental objectives of sustainability as set out in paragraph 8 of the Framework, and this weighs very heavily against the scheme. When the Framework is considered as a whole, I find that the scheme does not constitute sustainable development. This is because the positive housing land supply, and any other benefits, are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.

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25. Having regard to the above findings the appeal should be dismissed.

Hilary Orr

INSPECTOR

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Appeal Decision

Site visit made on 2 September 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 13 September 2019

Appeal Ref: APP/V2255/D/19/3235617

4 Haysel, Sittingbourne ME10 4QE

- 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 Pope against the decision of Swale Borough Council.
 - The application Ref 19/502037/FULL, dated 17 April 2019, was refused by notice dated 10 June 2019.
 - The development proposed is first floor extension with dormer.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The prevailing majority of residential properties in Haysel have retained their original single storey flat roofed front extensions, car ports and garages. In combination with a consistent palette of materials this positively contributes to its uniform and suburban character and appearance. I observed that despite some alterations to the roofs of properties within the locality, in the form of roof lights and solar panels, none of them benefitted from dormer windows or similar roof alterations to those before me.
4. Despite the use of matching materials and although the proposal would not increase the overall roof height or footprint of the existing dwelling, it would substantially alter its form and appearance, removing the existing flat roof by continuing the existing slope of the roof and introducing a wide and squat dormer window with a hipped roof form.
5. The property is sited in a conspicuous position on entering the street and the eye would be unacceptably drawn to the its overly dominant scale and markedly different form to the existing dwelling and those that surround it. It would be an unduly prominent addition that in such a context would be entirely out of keeping with the character and appearance of the host property and the area. It would not be an appropriate standard of design and would harmfully diminish the contribution that the host property makes to the appearance of the streetscene.

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6. For these reasons, the proposal would cause significant harm to the character and appearance of the host property and the area. Accordingly, it would conflict with Policies DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan and associated guidance¹ which, when taken as a whole and amongst other things, require alterations and extensions to be of an appropriate design quality, well sited and of a scale and design that is sympathetic and appropriate to the location and maintains or enhances the character of the streetscene.

Other Matters

7. It is not determinative that the appellant has drawn my attention to an identical extension that was approved at 39 Pond Drive² which is close to the appeal site. On the evidence before me that permission was never implemented and is no longer extant. Further, it also appears to have been considered under a different development plan which I have no details of.
8. I have also had regard to the appellants requirements for additional living accommodation but the limited benefits from this would not outweigh the significant harm to the character and appearance of the host property and area that I have identified. Thus none of these other considerations, on their own or in combination, alter my view.

Conclusion

9. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole. Material considerations do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

¹ Swale Borough Council: Designing an Extension A Guide for Householders 2011.

² SW/04/0320.



Appeal Decision

Site visit made on 9 October 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/V2255/W/19/3229704

77 Queenborough Road, Halfway, Sheerness, Kent ME12 3DB

- 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 David Hall against the decision of Swale Borough Council.
 - The application Ref 19/500279/FULL, dated 19 January 2019, was refused by notice dated 17 April 2019.
 - The development proposed is demolition of existing detached garage and formation of 1 new detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The submitted plans show the replacement of a side extension by a differently located side extension and the provision of a garage to replace a shed to the other side of the dwelling. These changes relate to application 19/500658/FULL which at the time of the appeal submission had not been determined. Accordingly, I have not taken these changes into account in my decision.

Main Issues

3. The main issues are the effect of the proposal on the living conditions of the occupiers of the host dwelling in relation to (a) outlook and sense of enclosure, and (b) the adequacy of the remaining amenity space provision.

Reasons

Outlook

4. The appeal relates to a detached bungalow on a corner plot fronting Queenborough Road. There is a detached garage in the back garden with an access on the return frontage to Holmside Avenue. The proposal is to construct a two storey three bedroom detached house on a plot about 7m wide with a back garden approximately 10.5m in depth.
5. There would be a separation of only about 4.5m between rear facing living room windows at no. 77 which are set in a small projection and the flank wall of the proposed house. The height, mass and proximity of the new house would have a significant adverse effect on outlook from the living room windows and an overbearing impact. As the house would be to the south of no. 77 there would also be some loss of natural light through shading. A bedroom alongside the living room has rear facing windows and would also be affected but to a

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lesser degree as the windows face the back garden to the new house rather than the house itself.

6. The proposal would be in conflict with Policies CP4 and DM14 of the Swale Borough Local Plan (2017) (SWLP) which collectively require the design of new development to be appropriate to its surroundings in respect of scale, height and massing and to cause no significant harm to amenity and other sensitive uses. The impact on existing occupiers would also be contrary to Paragraph 127 (f) of the National Planning Policy Framework (the Framework) that requires planning decisions to ensure that development: *"create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future occupiers"*.

Amenity space

7. The existing bungalow would be left with a rear garden with a depth of only about 5m to the boundary fence with the proposed house. Whilst the width of the rear garden would be in excess of 20m, the quality of much of this private garden area would be shaded and compromised by the proximity and massing of the flank wall to the proposed house. The bungalow benefits from extensive garden areas to its front and eastern side, but these have low enclosures, are open to view from the public footway and offer little privacy.
8. The Council's officer report refers to a normal required depth of 10m for private amenity space, but this is not evidenced in the policies referred to. The proposal would not achieve this requirement, but the overall quantum of all amenity space would be adequate given the size of the remaining plot. However, the retained private amenity space for the bungalow would be small, poor in quality and not commensurate with the large size of the dwelling. In these respects, the proposal would be of poor design and not conserve or enhance the built environment. It would thereby be contrary to Policies CP4 and DM14 of the SWLP.

Special Protection Area

9. The site is within 6km of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). As the proposal has the potential to affect the site's special features of interest, and an Appropriate Assessment is required to establish the likely impacts in accordance with a recent court judgement¹. The Council's report claims this has been undertaken without information provided by the applicant.
10. The Council's findings are that the proposed development is of a very small scale and, in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to off site mitigation. This would involve financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM). The Council's report indicates that the appellant has offered to make the SAMM contribution but there is no evidence of this in the appeal submissions. If the appeal were to be allowed this issue would have warranted greater scrutiny but the appeal is to be dismissed for other reasons.

¹ (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union.

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Other matters

11. The occupiers of Millbrook, a detached house adjacent to the southern boundary to the appeal site, have objected to the proposal in relation to its impact on their living conditions. I concur with the Council's findings in that there would be sufficient separation for the new house not to be overbearing or to result in undue disturbance, that the flank oriel window would not result in overlooking and that parking provision would be adequate.
12. The appellant claims that the Council cannot demonstrate a five year housing land supply and that the tilted balance in favour of sustainable development at Paragraph 11 of the Framework should apply. The site is within a sustainable location within the built up area of Halfway and as a windfall provision would not be contrary to the Council's locational policies for new housing. The Council's pre-application reply letter claims that the Council can demonstrate a five year housing land supply. In the absence of further evidence on this matter, I have assessed the proposal against the stipulations of Paragraph 11.
13. Whilst I have noted the representations from the appellant citing the Framework's objective of significantly boosting the supply of homes, Paragraph 117 on the effective use of land requires "*safeguarding and improving the environment and ensuring safe and healthy living conditions*". The adverse impacts on the host bungalow in relation to loss of outlook, an overbearing impact and retention of poor quality private amenity space would significantly and demonstrably outweigh the benefit of one additional dwelling when assessed against the policies in the Framework taken as a whole.
14. I note that there was some encouragement for the scheme in the Council's pre-application response letter. But this did warn that it would need to be sufficiently demonstrated that there would be no harm to the residential amenity of the occupants of the host property, the critical factor in determination of this appeal.

Conclusion

15. For the reasons given, and having regards to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR

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Appeal Decision

Hearing Held on 15 October 2019

Site visit made on 15 October 2019

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

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/V2255/W/18/3212702

Western Link, Faversham, ME13 8TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr George Barnes of Shepherd Neame Ltd against the decision of Swale Borough Council.
 - The application Ref 17/505079/OUT, dated 29 September 2017, was refused by notice dated 6 April 2018.
 - The development proposed is outline application with all matters reserved for erection of 50 houses, provision of open space (1.1ha), new vehicular access, strategic landscaping and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved. I have determined the appeal on this basis.
3. In the interests of clarity, it was confirmed to me that the following plans are indicative only: Planning indicative layout (4993 D-01 G), Planning indicative layout (4993 D-01 L), Planning indicative sections; (4993 D-02B), Planning indicative elevations (4993 D-03 A). I have considered the appeal on this basis.
4. A revised plan was submitted within the appellant's evidence which was not before the Council at the time that they made their decision (4993 D-01 Rev R). The plan includes notation that shows an area where it suggested that layout would be determined as part of this appeal. I appreciate that the application was submitted in outline and therefore it would be open to the appellant to propose this arrangement when reserved matters were submitted. However, interested parties made their comments based on the evidence before them, with a reasonable expectation that a detailed assessment of the site layout would be made at a later stage. Therefore, in the interests of fairness and openness, these revised plans will not form any part of this assessment.
5. In the Statement of Common Ground agreed between the main parties, it is confirmed that the Council would not pursue the part of its second reason for refusal relating to the loss of best and most versatile agricultural land. I have considered the appeal on this basis.

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6. A signed and dated agreement pursuant to section 106 of the Town and Country Planning Act 1990 was submitted after the hearing. This includes obligations relating to Adult and Social Care, Community Learning, Libraries, Off-Site Formal Sports, Primary Education, Secondary Education, Wheelie Bins, Youth Services, Affordable Housing and SPA mitigation.

Main Issues

7. The main issues are:

- The effect of the proposed development on the setting of the Syndale Conservation Area.
- The effect of the proposed development on the character and appearance of the rural area.
- The effect of the proposed development on highway safety with particular reference to the level crossing.

Reasons

Setting of the Syndale Conservation Area.

8. The Syndale Conservation Area (the CA) derives its significance from its mainly open character and appearance, including the landscaped parkland which surrounded the, now destroyed, Syndale House. It includes mainly undeveloped land with a limited number of buildings, and also sites of historic and archaeological interest. Although outward views may not be of particular importance to the parkland's original significance, nevertheless, the surrounding open setting makes a positive contribution to the way in which the open character and appearance of the CA is experienced. Consequently, the undeveloped nature of the appeal site, which is in very close proximity to the CA boundary, makes an important positive contribution to the significance of the CA for this reason.
9. The proposed development would change what is currently an undeveloped piece of open land which is close to the boundary of the CA into urban residential development. I agree that the provision of open land to the southern part of the site would reduce this urbanising effect. However, even with this area of landscaping the development to the northern part of the site is still in close proximity to the CA and the proposed development would nonetheless have a negative effect on the undeveloped setting to the CA.
10. Both main parties confirmed at the hearing that the proposed development would result in less than substantial harm to the setting of the CA, and I agree with these conclusions. I note the appellant's position that this harm would be at the low end of the 'spectrum' of less than substantial harm. Nonetheless I am mindful that in the National Planning Policy Framework (the Framework) paragraph 193 says great weight should be given to the conservation of designated heritage assets and any harm to such assets should require clear and convincing justification.
11. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the proposal's public benefits. This requires a balancing exercise of harm against the public benefits of the proposal.

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12. The benefits put to me include that the proposed development would result in the provision of 50 homes, 20 of which would be affordable (and 18 of which are 3 and 4 bedroom family homes), and I agree that this is a notable benefit of this scheme.
13. It would provide economic support for the construction industry during construction, albeit that this benefit would be for a limited time, and household expenditure from future residents would support the local economy. However, these benefits are not unique to this scheme. The proposed development would also provide an area of 1.1ha of open space. I have considered the mitigating effect of the open space above in terms of its effect on the character and appearance of the area, and this informs the position that there would be less than substantial harm to the CA. I understand that a residential development such as this would be expected to provide some open space for future residents. As such the wider public benefits of this provision are limited.
14. I note that some trees on site would be retained, however as they already exist I do not consider this a benefit of the proposals per se. Whilst conditions are suggested which would provide ecological mitigation for reptiles on the site, I am not presented with any mechanism to secure enhanced ecological measures along the railway line. I note that ecological enhancements (including bird and bat boxes) would also be secured by condition. However, based on the evidence before me I understand that such benefits would not be unique to this development.
15. Nevertheless, taking the above into account, these public benefits would not outweigh the great weight that I am required to attach to the heritage asset's conservation. I therefore conclude that the proposed dwellings would fail to accord with national policy which seeks to conserve and enhance the historic environment.
16. Consequently, the proposed development would have a harmful effect on the setting of the Syndale Conservation Area. In this respect, it would be contrary to policies ST7 and DM33 of Bearing Fruits 2031 The Swale Borough Local Plan Adopted July 2017 (the Local Plan), which together require that development affecting the setting of a conservation area will preserve or enhance all features that contribute positively to the area's special character or appearance.

Character and appearance

17. Together Policies ST1, ST3 and ST7 of the Local Plan outline the Swale settlement strategy. They include that at locations outside the built up boundaries development will not be permitted except in specific circumstances including where the development would protect the intrinsic value and beauty of the countryside, amongst other things. These policies also seek to maintain the individual character of settlements and preserve aspects of the morphology of Faversham which contributes to its significance. These policies are generally consistent with the Framework.
18. The site is outside the defined built up area boundaries for the purposes of the development plan. The site is separated from the built up area boundary of Faversham by the railway line. This acts as a prominent physical barrier between the residential development (including the land adjacent to the existing housing where I understand that permission has been granted for

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residential development) and the surrounding countryside land. There is open land on all three other sides, albeit that the A2 and Western Link Road (and roundabout) separate the site from the neighbouring open space. There is also a building and forecourt which appeared to be used for car sales fronting the A2 close to the site. Due to its location surrounded by open land it appears as a single stand-alone unit rather than part of the built up area of Faversham. Consequently, although it is close to built development in places, the open undeveloped nature of the appeal site makes a positive contribution to the intrinsic character of this pleasant countryside location.

19. The development of the site would introduce built form to this open area, eroding the open and undeveloped qualities set out above. Consequently, it would undermine these attractive rural characteristics of the site and would be harmful to the intrinsic character and beauty of the countryside for these reasons.
20. I appreciate that the proposed landscaped area would result in only part of the site being occupied by buildings and would assist to soften the visual impact of the development on the approach to Faversham. However, the urban edge of Faversham is reasonably well defined at present and I consider that the landscaping proposed would be insufficient to mitigate the harm of the proposal extending built form into the countryside, adversely affecting the setting of the settlement.
21. At the hearing my attention was drawn to Policy DM24 (Conserving and Enhancing Valued Landscapes) of the Local Plan. Planning permission was not refused with reference to this policy and I am not presented with evidence which leads me to conclude otherwise.
22. Consequently, the appeal scheme would cause harm to the character and appearance of the rural area. As such, in this respect, it would be contrary to Policies ST1, ST3 and ST7 of the Local Plan, the aims of which are outlined above.

Highway Safety

23. Following the Council's determination of the planning application Network Rail submitted comments which raised concerns about public safety in relation to the Union Level Crossing resulting from an increase in the number of people using the facility. While I note that the appellant disagrees with these conclusions, he has not submitted detailed evidence to dispute them. As such, in the absence of substantive evidence to demonstrate otherwise, I conclude that without any form of mitigation the proposed development would result in harm to highway safety.
24. A mechanism to prevent this was suggested by way of a negatively worded condition which would require that a physical barrier be constructed which would close the access to the level crossing from the southern side, thereby removing any additional crossing movements from future occupiers.
25. The level crossing forms part of a public right of way which leads from St Nicholas Road to the A2, across the appeal site. I heard that the physical barrier proposed would require a diversion to this public right of way. I also heard that both Kent County Council and the Faversham Footpath Association

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- had concerns about the proposed alternative route as it would be longer, would include steps and would be less convenient.
26. I have had regard to the advice in the planning practice guidance that Grampian conditions should not be used where there is no prospect at all of the action in question being performed within the time-limit imposed by the permission.
27. Based on the evidence before me I am not satisfied that there is no prospect at all of the right of way being rerouted or closed. As such this issue could be addressed via a negatively worded condition which would ensure that the additional crossings by pedestrians would not take place as a result of the proposed development.
28. I have not been provided with any mechanism to improve the existing crossing. Furthermore, I have been made aware of an appeal decision¹ at a site in a different local authority area. I note the Inspector states that his conclusions are 'in the absence of any measures to improve the safety of the unmanned railway crossing'. As can be seen above, measures, in the form of a negatively worded condition, are considered in this appeal, and therefore these cases are notably different.
29. Consequently, the proposed development would not result in a harmful effect on highway safety with particular reference to the level crossing. I am not directed to policies of the development plan relevant to this issue. Nevertheless, in this respect, the proposed development would comply with the relevant advice in the Framework including paragraph 109.

Planning Balance

30. The Council are unable to demonstrate a 5 year housing land supply. Therefore, in accordance with paragraph 11 d) of the Framework, policies which are most important for determining the appeal proposal i.e. Policies ST1, ST3 and ST7 are out of date. This position is agreed by the main parties in the Statement of Common Ground. The Framework states that planning permission should therefore be granted unless specific policies in the Framework provide a clear reason for refusing the development proposed. Footnote 6 appended to this makes clear that this includes policies relating to designated heritage assets. Given my finding of conflict with those policies of the Framework and with Policies ST7 and DM33 of the Local Plan, the appeal proposal cannot therefore be considered sustainable development for which the Framework presumes in favour.

Conclusion

31. For the reasons above, this appeal should be dismissed.

H Miles

INSPECTOR

¹ APP/D3830/V/17/3166992

APPEARANCES**FOR THE APPELLANT**

Michael Bedford QC	Cornerstone Barristers
Simon Milliken	Milliken and Company Chartered Surveyors and Town Planners
Jonathan Billingsley	The Landscape Partnership
Jonathan Edis	Heritage Collective
Chris Blamey	RGP
Peter Hadfield	Ecology Solutions

FOR THE LOCAL PLANNING AUTHORITY

Andrew Byrne	Senior Planning Officer, Swale Borough Council
Simon Algar	Design and Conservation Manager, Swale Borough Council
Michael Ellis	Public Rights of Way Officer Kent County Council

INTERESTED PERSONS

Elliot Stamp	Town Planner Network Rail
Ormus Khan	Liability Advisor Network Rail
Gemma Kent	Level Crossing Manager Network Rail
Susanna Foster	Commercial Scheme Sponsor Network Rail
Anne Salmon BA, MCD, MRTPI	Faversham Footpaths Association

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter from Faversham Footpaths Group dated 7th October 2019 and Document from Anne Salmon BA on behalf of Faversham Footpaths Group
2. Closing Statement on behalf of the Appellant
3. Policy DM24 of the Local Plan

DOCUMENTS SUBMITTED AFTER THE HEARING

1. S.106 Agreement dated 22/10/2019
2. Extracts from Developer Contributions Supplementary Planning Document Adopted 30 November 2009
3. Open Spaces and Play Area Strategy 2018-2022
4. Policy CP7 of the Local Plan

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Appeal Decision

Site visit made on 12 November 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2019

Appeal Ref: APP/V2255/C/19/3229816

The land situated at 32 First Avenue, Queenborough, Kent ME11 5JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Haig Squire against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 25 April 2019.
- The breach of planning control as alleged in the notice is without planning permission, the detached brick and block outbuilding constructed at the rear of the premises, the approximate position of which is highlighted on the plan, which in the opinion of the Council would require planning permission.
- The requirements of the notice are:
 - (i) Demolish the building.
 - (ii) Remove from the Land all waste arising from the works undertaken in (1) above.
 - (iii) Remove all hard standing and return the land to its original condition.
 - (iv) Make good any boundary fencing arising from the above actions.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matters

1. The notice alleges the unauthorised construction of an outbuilding to the rear of the premises. The requirements of the notice, at (iii), also include the removal of hard standing. However, that exceeds what is alleged in the breach of planning control. I also note that the requirements refer to (1) in (ii) and this would be more clearly expressed as (i). As a result, I will correct the notice to remove the first part of (iii) and change (1) to (i).

The Appeal on Ground (c)

2. An appeal on this ground is that "those matters" (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
3. There is no dispute that the outbuilding constitutes development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been sought from or granted by the Council for the outbuilding.

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4. The building referred to in the breach of planning control is a single storey building within what was the garden at 32 First Avenue, Queenborough. The appellant suggests that it benefits from planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995. However, that Order has been superseded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The Council have suggested that the building was constructed after the GPDO 2015 was enacted that has not been disputed by the appellant, so I consider that is correct.
5. Class E, Part 1, Schedule 2 of the GPDO 2015 enables the construction of buildings incidental to the enjoyment of a dwellinghouse, subject to a number of criteria. These include that the height of a building within 2 metres of the boundary of the curtilage of the dwellinghouse should not exceed 2.5 metres in height. The eaves should not exceed 2.5 metres in height.
6. The outbuilding has a single pitched roof with the higher side on the boundary with 31 First Avenue. It is located close to the rear of the dwelling and across the width of the rear garden. There is no direct access from the dwelling to the outbuilding. The dwelling is let to tenants. The appellant states that he uses the building for repair of his cars and that the occupiers of the dwelling have access to the outbuilding through the rear gates.
7. Given the layout and relationship between the dwelling and outbuilding, along with the use by the appellant for the repair of cars, I consider that the building is used independently of the dwelling. As such, it is not in a use incidental to the enjoyment of the dwellinghouse, so it does not comply with Class E, Part 1, Schedule 2 of the GPDO.
8. The Council suggest that the building is within 2 metres of the side boundaries of the property and at least 2.7 metres in height, which is above the restrictions set out above. The appellant disputes that and states that it is 2.5 metres in height. It is unclear why the figures are inconsistent. Even if I were to conclude that the appellant's measurements are correct, this would not affect my finding that the building is not incidental to the enjoyment of a dwellinghouse.
9. Since no planning permission has been granted for the development it therefore constitutes a breach of planning control.
10. For these reasons, I conclude that the appeal under ground (c) should fail.

Formal Decision

11. It is directed that the enforcement notice is corrected by substituting the requirements at section 5 with the following:
 - (i) Demolish the building.
 - (ii) Remove from the Land all waste arising from the works undertaken in (i) above.
 - (iii) Return the land to its original condition.
 - (iv) Make good any boundary fencing arising from the above actions.

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12. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR

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Costs Decision

Hearing Held on 29 October 2019

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

**Costs application in relation to Appeal Ref: APP/V2255/C/18/3203175
Land at Brotherhood Wood Yard, Gate Hill, Dunkirk, Faversham, Kent ME13
9LN**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Joe Robb for a full award of costs against Swale Borough Council.
- The hearing was in connection with an appeal against an enforcement notice alleging, without planning permission, the change of use of woodland to an extension of the Brotherhood Woodyard gypsy and traveller site; the raising of ground levels; and the erection of fencing and double gates enclosing the land.

Decision: the application is refused

The submissions for Mr Joe Robb

1. The enforcement notice issued by the Council was found to be defective, both in terms of the identification of the land to which the notice relates and the breach of planning control that was alleged. Those defects resulted in the enforcement notice being withdrawn at the Hearing. The notice was defective from the outset and, despite being invited on several occasions to withdraw the notice by the applicant's professional representatives, the Council nevertheless chose to proceed with the Hearing. Having regard to the criminal sanctions that follow if an enforcement notice is not complied with, it is incumbent upon the Council to draft the notice correctly. The Council failed to do that and, together with the refusal to withdraw the notice prior to the Hearing, this amounts to unreasonable behaviour. That unreasonable caused the applicant to incur unnecessary and wasted expense, such that a full award of costs is justified.

The response by Swale Borough Council

2. The Council issued the enforcement notice against a flagrant breach of planning control. The Council accepts that the wording of the notice could have been clearer, but believed that the notice could have been corrected without causing injustice. The notice was found to be defective on two points: the description of the breach of planning control, and the plan attached to the notice. In terms of the latter, the Council sought to correct the plan and cited the legal precedent to the effect that a plan can be corrected to increase the land subject to the notice provided that no injustice is caused¹. In relation to the

¹ *Howells v Secretary of State for Communities and Local Government* [2009] EWHC 2757 (Admin)

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description of the breach of planning control, this was not a point initially made by the applicant: it was a point raised by the Inspector at the Hearing, which the applicant then seized upon. The Council withdrew the notice promptly once it became apparent that the notice was defective and could not be corrected. The Council therefore acted reasonably in the circumstances. In the alternative, should the Inspector disagree, then a partial award of costs should be made only in relation to the ground (a) appeal.

Reasons

3. The Planning Practice Guidance advises that, 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. The Planning Practice Guidance indicates that one of the aims of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and to follow good practice. The Planning Practice Guidance provides examples of unreasonable behaviour which may result in an award of costs against a local planning authority. These examples include where an appeal against an enforcement notice could have been avoided by more diligent investigation that would have avoided the need to serve the notice in the first place, or ensured that it was accurate.
4. I concur with the Council that the applicants claim for an award of costs should be considered in two parts: the breach of planning control alleged in the notice, and the plan attached to the notice. It is convenient to consider the latter in the first instance.
5. I have considerable sympathy for the Council in terms of attempting to define the area subject to the notice. As I understand it, the Council initially arrived at the dimensions of the 'red line' depicted on the plan attached to the notice by reference to plans submitted by the applicant with planning application SW/13/0137. The 'red line' for that planning application was based upon a survey drawing completed in 2010 ("the original survey"). In that context, the 'red line' shown on the plan attached to the notice correlates very closely with the original survey.
6. As it subsequently transpired, and as shown on a later survey drawing produced by the Green Planning Studio in 2018 on behalf of the applicant, the area of land occupied by the Brotherhood Wood Yard gypsy and traveller site ("the Permitted Site" referred to in paragraph 3 of the notice) clearly does not correlate with the plans submitted with that planning application. Two points flow from this.
7. Firstly, as the applicant's original agent pointed out, the corollary is that an area of the gypsy and traveller site as existing does not have the benefit of planning permission (or, in the alternative, the planning permission as a whole has not been implemented correctly). I will return to the consequences of that below in relation to the breach of planning control that is alleged.
8. For present purposes, the salient point is that the original survey upon which the Council relied was inaccurate. In my view, the Council cannot be criticised or found to have acted unreasonably for relying upon inaccurate plans previously provided by the applicant himself when drawing up the plan attached to the notice.

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9. I pause here because I recognise that, in accordance with the Planning Practice Guidance, the indication by the applicant's agent that an area of the gypsy and traveller site does not have the benefit of planning permission should have prompted a review by the Council of its own case. One course of action that the Council could have considered, and which was advocated by the applicant's representatives, would have been to withdraw the notice at that point. However, the Council was consistent in its view that the plan attached to the enforcement notice could have been corrected, notwithstanding that the area subject to the notice would have increased. In that context, the Council relied on the judgment in *Howells* which, in my view, it was correct to do.
10. Having regard to the judgment in *Howells*, the only matter for me at the Hearing was therefore whether correcting the plan attached to the notice would have caused injustice. I am entirely satisfied that the applicant would not have been caused injustice had I corrected the notice to embrace the larger area shown in the later survey. I would, upon reflection, have had to consider carefully whether the Council itself would have been caused injustice in terms of effectively 'under-enforcing' against the area of the existing gypsy and traveller site that does not have the benefit of planning permission. However, as a matter of principle, the Council was entitled to adopt the position it did in believing that the plan attached to the notice could be corrected and therefore did not act unreasonably.
11. My main difficulty with the plan attached to the notice is in relation to the hatched area(s). It is clear from the Council's evidence, and as expanded upon at the Hearing, that the Council is only seeking to take action against the breach of planning control alleged to have occurred in the area at the south-west corner of the land, shown hatched on the plan attached to the notice. The problem is that this hatched area is not referred to in paragraph 2 of the notice, which purports to identify the land to which the notice relates. That is a clear defect with the notice.
12. The Council sought to address that defect by pointing out that the "Permitted Site" is a clearly defined rectangular shape, such that the land to which the notice relates would have been obvious to the recipient of the notice. There is, I accept, some logic to the Council's position in this respect. The Council also explained it had been in discussion with the applicant prior to the notice being issued, and that the recipient was therefore already well aware of the area to which the notice relates when he 'opened the envelope'.
13. It is a fundamental principle that an enforcement notice must be read as whole, both in terms of the written part of the notice and the plan attached to it. In this case, paragraph 2 of the notice is very clear in stating that the land to which the notice relates is that edged in red on the attached plan. In the absence of any reference to the hatched area, the recipient of the notice was entitled to draw the conclusion that the breach of planning control alleged was intended to relate to the all the land edged in red. That had consequences for the recipient's understanding of the breach of planning control alleged as well as the grounds of appeal upon which he chose to mount his defence.
14. The situation is not helped by the fact that plan attached to the notice shows three different parcels of land edged in red. One of those parcels is the hatched area. To complicate matters even further, there is a second and unexplained hatched area shown in the central part of the part of the land.

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15. For all these reasons, the plan attached to the notice is fundamentally flawed and I would not have been able to correct it without causing injustice to the applicant. However, that does not necessarily mean that the Council acted unreasonably. The plan was in error but the Council steadfastly maintained its position that the plan was sufficient to identify the land to which the notice relates and could be corrected without causing injustice. There is, as indicated above, a certain logic to the Council's position and, whilst I ultimately took a different view, that was not an unreasonable stance to take.
16. Turning now to the breach of planning control alleged in paragraph 3 of the notice, I note firstly that this was not a point initially made by the applicant but was a point that I raised myself at the Hearing. The key point, and one which the applicant's representative at the Hearing did clearly make, is that paragraph 3 of the notice must be read in conjunction with the plan attached to the notice. As indicated above, paragraph 2 of the notice is very clear in stating that the land to which the notice relates was that edged in red on the attached plan. The applicant was entitled to take the view that this was the whole of the land edged in red and therefore including the Permitted Site. This in turn influenced the grounds upon which the applicant made his appeal as well as the manner in which those grounds of appeal were framed.
17. At the Hearing, the Council again steadfastly maintained its position that the breach of planning control alleged in the notice is clear. In particular, the Council pointed to the wording at the end of paragraph 3 which indicates that the matters stated relate 'beyond the boundaries of the site as approved under planning ref: SW/13/0137 ("the Permitted Site")'. This, the Council suggested, clearly indicated that the breach could only have related to the hatched area shown on the plan attached to the notice, and not all of the land edged in red. The Council again took the view that any defect in the notice could be corrected without causing injustice.
18. I do not concur with the Council in that respect. There is an inherent contradiction in stating that the notice relates to all the land in edged in red in paragraph 2 of the notice and then suggesting that it only relates to a part of that land that was not then specifically identified in that paragraph. Moreover, for the reasons explained at the Hearing, the breach of planning control stated at paragraph 3(1) of the notice does not actually allege any development for the purposes of Section 55(1) of the 1990 Act and cannot stand. It was not possible for the recipient of the notice to understand from that description what the breach of planning control alleged actually was. The notice could not be corrected in either of these respect without causing injustice insofar, as was indicated at the Hearing, the applicant would have made his case differently had he fully understood the breach of planning alleged in the notice and the land to which the notice relates.
19. Nevertheless, that does not necessarily mean that the Council acted unreasonably in the context of the Planning Practice Guidance. The Council had drafted a notice which it considered clearly set out the breach of planning control that it sought to attack. The Council, quite fairly, conceded at the Hearing that the wording of the notice could have been clearer but genuinely considered that any defects within it could be corrected. Although I ultimately took a different view, the Council defended its position with clearly presented and cogent arguments that had a certain logic to them. I find nothing unreasonable in that.

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20. Overarching all of the above is the fact that the Council did promptly withdraw the enforcement notice once the defects within it had been explored at the Hearing and it became apparent that the notice could not be corrected. In my view, that was an eminently sensible and reasonable approach to take, and one that is entirely in keeping with good practice as set out in the Planning Practice Guidance.
21. I take the applicant's point that it is incumbent upon the Council to draft the notice correctly and that, on this occasion, the Council failed to do that. However, it is apparent that in this case the situation on the ground is somewhat fluid and complex, and that information previously provided to the Council was ultimately found to be inaccurate. In these circumstances, I am not persuaded that this is a situation where an appeal could have been avoided by more diligent investigation on the part of the Council to ensure that the notice was accurate. Given, then, that an appeal against that notice was necessary, I find overall that the Council did not act unreasonably in defending its position in the appeal proceedings or by not withdrawing the notice when invited to do so by the applicant.
22. In conclusion, I find that the Council has not acted unreasonably. It follows that an award of costs is not justified in this case.

Paul Freer

INSPECTOR

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Appeal Decision

Site visit made on 1 October 2019

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/V2255/C/19/3225341

Murre, Conyer Quay, Conyer ME9 9HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the Act").
- The appeal is made by Mr James Bell-Reeves against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 19 March 2019.
- The breach of planning control as alleged in the notice is without planning permission a carport and summer house have been erected approximate positions hatched black on the attached plan labelled 1 and 2. In the opinion of the Council these buildings would require planning permission, which has not been granted.
- The requirements of the notice are:
 - (i) Remove the car port and all associated materials shown in its approximate location labelled 1 and hatched black on the attached plan
 - (ii) Remove the summer house and all associated materials shown in its approximate location labelled 2 and hatched black on the attached plan.
 - (iii) Return the Land back to its original form prior to the erection of the carport shown in the approximate location hatched black and labelled as 1 on the attached plan
 - (iv) Return the Land back to its original form prior to the erection of the summer house shown in the approximate location hatched black and labelled as 2 on the attached plan
 - (v) Remove all materials and debris caused in complying with condition (i) and (ii) above from the Land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary matters

1. The breach of planning control alleged at Section 3 of the notice contains a typographical error in missing the words "in the" between "erected" and "approximate positions". It is clear what is intended in the description of the breach, so no party would be substantially prejudiced by correcting this error.

The Appeal on Ground (c)

2. An appeal on this ground is that "those matters" (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. There is no dispute that the carport and summer house amount to development as defined in section 55 of the Act and that as such they require

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- planning permission. The appellant contends that these buildings benefit from planning permission by virtue of having been developed in accordance with Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
3. I understand that the appellant lives on Murre, a houseboat that is kept at Conyer Quay. Adjacent to the quay is an area of land associated with the boat and I understand there are a number of similar houseboats in the vicinity, each with their own private area of quayside, some of which contain buildings. As such, the appellant considers the houseboat to be his dwelling and the adjacent area of land, his garden.
 4. The rights under the GPDO referred to above relate to the provision of outbuildings incidental to the enjoyment of a dwellinghouse. However, a dwellinghouse would comprise a building in use as a dwelling. Houseboats normally float and are only attached to the ground by ropes that would allow them to be easily moved. As such, their degree of attachment to the ground and permanence are not sufficient to be defined as buildings. On the balance of all the evidence before me, I find that to be the case here. Consequently, although Murre may be residentially occupied, in planning terms it is not a dwellinghouse. As a result, the land on which the car port and summer house have been constructed is not within the curtilage of a dwellinghouse.
 5. The rights conferred by Class E, Part 1, Schedule 2 of the GPDO are only available to land within the curtilage of dwellinghouses such that they are not available to Murre. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
 6. For these reasons, I conclude that the appeal under ground (c) must fail.

The Appeal on Ground (f)

7. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek the removal of the carport and summer house and return the land to its original form in order to remedy the breach of planning control.
8. I have concluded above that the buildings do not benefit from planning permission granted by the GPDO. In the absence of an appeal under ground (a) I am not able to consider the effect of the buildings on the character and street scene of the area. As such, the requirements of the notice are necessary to remedy the breach of planning control.
9. For these reasons, I conclude that the appeal under ground (f) should fail.

The Appeal on Ground (g)

10. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
11. The appellant suggests that a period of 9 months would be necessary to comply with the notice. Although I note the particular circumstances of the appellant, he is legally obliged to comply with the requirements of the notice.

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Taking account of the evidence presented, three months is not an unreasonably short period of time in which to carry out the necessary works. Consequently, I conclude that it is not appropriate to extend the period for compliance.

12. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decision

13. It is directed that the enforcement notice is corrected in Section 3 by inserting the words "in the" between "erected" and "approximate positions".

14. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR

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