

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 23 July 2020

Time: 7.00pm

Venue: Virtual Meeting Via Skype*

Membership:

To be confirmed following Annual Council on 15 July 2020.

Quorum = 6

Pages

Recording Notice

Please note: this meeting may be recorded and may be published on the Council's website.

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

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

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

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

Information for the Public

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website after 4pm on Wednesday 22 July 2020.

Privacy Statement

Swale Borough Council (SBC) is committed to protecting the privacy and security of your personal information. As data controller we ensure that processing is carried out in accordance with the Data Protection Act 2018 and the General Data Protection Regulations. In calling to join the meeting your telephone number may be viewed solely by those Members and Officers in attendance at the Skype meeting and will not be shared

further. No other identifying information will be made available through your joining to the meeting. In joining the meeting you are providing the Council with your consent to process your telephone number for the duration of the meeting. Your telephone number will not be retained after the meeting is finished.

If you have any concerns or questions about how we look after your personal information or your rights as an individual under the Regulations, please contact the Data Protection Officer by email at dataprotectionofficer@swale.gov.uk or by calling 01795 417179.

1. Apologies for Absence and Confirmation of Substitutes
2. Minutes

To approve the Minutes of the [Meeting](#) held on 25 June 2020 (Minute Nos. 714 - 717) as a correct record.

3. Declarations of Interest

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

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

- (a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.
- (b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.
- (c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

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

Part B reports for the Planning Committee to decide

4. Report of the Head of Planning Services

9 - 128

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 22 July 2020.

Issued on Tuesday, 14 July 2020

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

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

This page is intentionally left blank

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

23 JULY 2020

Standard Index to Contents

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

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

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

This page is intentionally left blank

INDEX OF ITEMS FOR PLANNING COMMITTEE – 23 JULY 2020

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

PART 2

| | | | |
|-----------------------------------|-------------------------|----------------------|--|
| 2.1 Pg 9 - 19 | 20/500938/MOD106 | SITTINGBOURNE | 153 London Road |
| 2.2 Pg 21 - 33 | 19/505582/FULL | BOUGHTON | Westgate House Site 21 Horselees Rd |
| 2.3 Pg 35 - 47 | 20/501838/PNQCLA | BORDEN | Meadow Farm Pond Farm Road |
| 2.4 Pg 49 - 77 | 20/500858/FULL | HERNHILL | Land on north east Staple Street |
| 2.5 Pg 79 - 87 | 19/504375/FULL | UPCHURCH | Bell Grove Stud Farm Halstow Lane |
| 2.6 Pg 89 - 100 | 19/505469/FULL | SITTINGBOURNE | 74 Unity Street |
| 2.7 Pg 101 - 116 | 20/500339/FULL | EASTCHURCH | Horse Gate Court Orchard Way |

PART 3

| | | | |
|-----------------------------------|-----------------------|----------------|----------------------------|
| 3.1 Pg 117 - 124 | 19/501551/FULL | MINSTER | 122 Scrapsgate Road |
|-----------------------------------|-----------------------|----------------|----------------------------|

PART 5 - INDEX

Pg 125

| | | | |
|-----------------------------------|-----------------------|----------------|------------------------|
| 5.1 Pg 127 - 128 | 19/502505/FULL | HARTLIP | 35 Hartlip Hill |
|-----------------------------------|-----------------------|----------------|------------------------|

This page is intentionally left blank

PLANNING COMMITTEE – 23 JULY 2020**PART 2**

Report of the Head of Planning

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

| | | |
|---|----------------------------|--|
| 2.1 REFERENCE NO - 20/500938/MOD106 | | |
| APPLICATION PROPOSAL Modification of a Planning Obligation under reference SW/08/1124 to remove the requirement for provision of on-site affordable housing and replace it with a requirement to make a financial contribution of £44,000 towards off-site provision. | | |
| ADDRESS 153 London Road Sittingbourne Kent ME10 1PA | | |
| RECOMMENDATION That the modification as proposed is acceptable and that the Council does not defend the appeal. | | |
| SUMMARY OF REASONS FOR RECOMMENDATION An appeal has been submitted against non-determination of this modification and it cannot now be formally determined by the Council. However Members need to determine whether the modification would have been approved if it was still before them, or on what grounds they would have refused the application to modify the Section 106 Agreement. This will then form the basis of the Council's case regarding the proposal for the purposes of the appeal. In my view, based upon relevant planning policies, the supporting letters from registered affordable housing providers, the viability evidence and site history, the commuted sum approach and amount are acceptable. | | |
| REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Mike Baldock and Cllr Nicholas Hampshire | | |
| WARD Borden And Grove Park | PARISH/TOWN COUNCIL | APPLICANT Clarity Properties LTD AGENT Brachers LLP |
| DECISION DUE DATE 20/04/20 | | PUBLICITY EXPIRY DATE 14/07/20 |

Planning History

18/503723/MOD106

Modification of Planning Obligation dated 18/05/2010 under reference SW/08/1124 to allow a reduction of on site affordable housing. Approved 30.07.2019

16/507631/LDCEX

Certificate of Lawful development to establish that works commenced under the approved planning permission, SW/13/0568, in the form of demolition of the existing buildings on 23rd May 2016. Approved 08.12.2016

SW/13/0568

Application to replace an extant planning permission SW/08/1124 (Demolition of existing buildings and redevelopment of site to provide 12, two bedroom apartments, 14, one bedroom apartments, amenity space, 26, parking spaces and cycle store and new vehicular access) in order to extend the time limit for implementation. Approved 08.08.2013

SW/08/1124

Demolition of existing buildings and redevelopment of site to provide 12, two bedroom apartments, 14, one bedroom apartments, amenity space, 26 parking spaces and cycle store and new vehicular access. Approved 18.05.2010

1. DESCRIPTION OF SITE

- 1.1 The application site is 0.09 hectares in size and rectangular in shape. It is directly adjacent to the Wickes car park and fronts onto London Road (A2). The site lies to the west of Sittingbourne Town Centre and residential properties lie opposite and to the west of the site. A Petrol Filling Station is located on the opposite side of London Road slightly to the east.
- 1.2 Construction of the 26 residential units (granted planning permission as per the history section above) is complete and a number of the units are occupied.

2. PROPOSAL

- 2.1 The current proposal is to modify the Section 106 Agreement to allow the removal of the requirement for on-site affordable housing. Due to a previous modification being granted (as approved under 18/503723/MOD106), the Section 106 Agreement requires 3 units to be provided as shared ownership affordable housing.
- 2.2 In addition, the Section 106 Agreement required / requires the following developer contributions which will be unaffected by this application:

- i) £227 per dwelling for library improvements;
- ii) an open space contribution of £17,940;
- iii) an adult social services contribution of £2362.85;
- iv) a community learning contribution of £981.05;
- v) a primary education contribution of £590.24 per dwelling; and
- vi) a secondary education contribution of £589.95 per dwelling.

(All of these payments have been made, aside from the open space contribution, which is payable within 7 days of practical completion of the development. Due to the completion of the development I am aware that the Council's Section 106 Monitoring Officer is clarifying the details with the developer and as required, requesting payment.)

- 2.3 Further to discussions between Officer's and the applicant, the proposal has been amended, from originally proposing a financial contribution of £40,000, to seek to pay a financial contribution to the Council of £44,000, prior to the occupation of any more than 22 dwellings. This sum would then be able to be used by the Council towards

affordable housing elsewhere in the Borough. The wording of the Section 106 Agreement will need to be modified to enable this change, the precise wording of which would be agreed under the instruction of the Head of Legal Services.

- 2.4 It is of fundamental importance at this point to set out the background to this application. Members may recall that a similarly proposed modification was reported to Planning Committee on two separate occasions in 2017 for the removal of on site affordable housing. For clarity there is no reference number for the application made in 2017 as it was not submitted separately as a formal modification to the Section 106 agreement, but rather as a proposed modification under the original planning permissions (as referenced above). However, a summary of the application is provided as follows.
- 2.5 The application submitted in 2017 initially proposed the removal of on site affordable housing, a viability appraisal upon occupation of the 21st unit and a commuted sum of a maximum of £31,000 if the scheme achieved a certain level of profit. This proposal was reported to the Planning Committee of 2nd February 2017 with an Officer recommendation for approval. Members resolved - *“That the application be deferred to allow officers to advise the developer to either provide affordable housing or more than £31,000 for offsite affordable housing, and that it can not be dependant upon their profit margins.”* As a result of this, the applicant undertook a viability appraisal which was independently assessed and concluded that the scheme would not be viable if affordable housing was provided.
- 2.6 The application was reported back to Members at the 14th September 2017 Planning Committee meeting. The proposed modification was again to remove the requirement for on site affordable housing with a viability re-assessment submitted upon the occupation of the 21st unit. However, the proposal was altered to propose a commuted sum of a minimum of £31,000 if it was viable to do so, despite the conclusions of the viability appraisal and independent assessment as referred to above. There was again an Officer recommendation for approval. At the meeting, Members resolved that *“That the modification to the Section 106 Agreement for SW/08/1124 & SW/13/0568 be rejected and officers discuss alternative options with the applicant.”*
- 2.7 As set out above, the proposal considered in 2017 had not been submitted as a formal modification under Section 106A of the Town and Country Planning Act. Therefore, there was no requirement to issue a formal decision notice and there was no right of appeal for the applicant. As a result of this, under reference 18/503723/MOD106 a formal application to modify the Section 106 was made.
- 2.8 The application submitted under 18/503723/MOD106 was first reported to the Planning Committee on 7th March 2019. The modification sought an amendment to the Section 106 Agreement to remove the requirement for on site affordable housing and instead to provide a commuted sum of £40,000, prior to the occupation of the 21st unit. The application was deferred following the Head of Planning Services calling in the application *“as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance.”*
- 2.9 The application was reported back to the Planning Committee on 4th April 2019 with a revised proposal. In summary, the application sought to modify the Section 106 Agreement to provide for 3 affordable units on site. However, due to potential delivery

issues, a fall-back option was proposed if these units were unable to be provided as on-site provision. This fall back option was a contribution of £40,000 which would be payable before the occupation of 22 open market units. An update to the 2017 viability appraisal was also submitted prior to this committee meeting which set out that *“the latest UK House Price Data values in Swale have flat-lined since June 2017 when the original Viability Report was submitted. During this time, there has been an increase in Primary Building Cost (PBC) of 4.3% as shown in the attached BCIS data. As such, it can be concluded that the viability position is actually even weaker than before and certainly no better.”* At the 4th April 2019 meeting, Members resolved that the application was deferred *“until after the meetings with the Applicant and Registered Providers had taken place.”*

- 2.10 As a result of the above, the proposal was again amended to seek to provide 3 on site affordable units with the fall-back option of the financial contribution removed. This was a result of positive discussions which had taken place between a Registered Provider (RP) of affordable housing and the applicant. This proposed modification was considered acceptable by Members. As a result the S.106 was modified in this manner and the application approved.
- 2.11 The supporting information submitted with the proposed modification now being considered sets out that *“the RP made an offer to acquire the 3 x affordable housing units which was accepted by the applicant. The applicant has made strenuous efforts to conclude the agreement with the RP but these have proven to be unsuccessful. Unfortunately, the RP has now withdrawn from the purchase. The Applicant has also approached other RP’s but without success. It is therefore considered that there is no realistic prospect of securing a further RP willing to deliver the units on site.”*
- 2.12 The result of the above is the proposal which has now been submitted as set out in paragraph 2.3 above.

3. PLANNING CONSTRAINTS

- 3.1 None

4. POLICY AND CONSIDERATIONS

4.1 The National Planning Policy Framework (NPPF)

Para 62: *“Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:*

a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and

b) the agreed approach contributes to the objective of creating mixed and balanced communities.”

Para 57: *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the*

circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.”

4.2 National Planning Practice Guidance

Within the section entitled ‘Planning Obligations’, the following is set out:

“Plans should set out the contributions expected from development towards infrastructure and affordable housing. Where up to date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. Planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.”

The section entitled ‘Viability’ states the following:

“Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required”

And

“For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.”

4.3 Bearing Fruits 2031: The Swale Borough Local Plan 2017

Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014-2031); CP3 (Delivering a wide choice of high quality homes); DM8 (Affordable Housing).

Policy DM8 states that in Sittingbourne, the affordable housing provision sought (on developments of 11 dwellings or more) will be 10%. Furthermore, it states that *“In exceptional circumstances, and in accordance with a supplementary planning document to be prepared by the Borough Council:*

a. on-site affordable housing provision may be commuted to a financial contribution to be used off-site, singly or in combination with other contributions.”

The supporting text to policy DM8 at paragraph 7.3.10 states the following:

“The starting point for any planning application is the on-site provision of affordable housing. In exceptional cases, the Council may consider affordable housing provision to be provided off-site. In such a case, it may be possible to require a commuted sum (or payment in lieu), which is an amount of money, paid by a developer to the Council when the size or scale of a development triggers a requirement for affordable housing, but it is not possible or desirable to provide it on the site. This option may be appropriate, for example, in cases of economic difficulties, where provision on an alternative site could be of higher quality, or where improvements to the quality of the existing housing stock are considered more appropriate.”

5. LOCAL REPRESENTATIONS

- 5.1 In accordance with The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992, the application has been advertised via a site notice, which expires on 14th July 2020. If any further comments are received in addition to the one set out below I will report this to Members via a tabled update prior to the meeting.
- 5.2 As referred to above, I have received one comment, stating the following – *“I am instructed on behalf of The Sittingbourne Society to express concern at the proposal contained within the above planning application. It seems wrong to us that at a time when the government is urging local authorities to provide more affordable housing the Council should be asked to reduce the amount of such housing to be provided in the Borough. We hope therefore that the Council will continue to require a proportion of housing provision to be “affordable” and will not permit the developer to wriggle out of his responsibilities in the way he is proposing.”*

6. CONSULTATIONS

- 6.1 Cllr Mike Baldock (Cabinet Member for Planning and Ward Member) commented *“I want this referred to the Planning Committee.”*
- 6.2 Cllr Nicholas Hampshire (Ward Member commented *“It is my wish that this modification be referred to the Planning Committee for decision.”*
- 6.3 Cllr Ben J Martin (Cabinet Member for Housing) has stated *“As I sit on the planning committee I don't want to predetermine myself, however, the commuted sum seems a bit on the low side compared to the cost of providing a unit. Waverley council use this https://www.waverley.gov.uk/downloads/file/2839/commuted_sums_calculator to calculate commuted sums.”*
- 6.4 The Council's Affordable Housing Manager has stated:

“In regard to the £40K commuted sum in lieu of the 1 x 1BF and 2 x 2BF's Sage HA were due to deliver as shared ownership, I have looked at current market sale prices of similar new-build flats in Sittingbourne and have found the following:

- 153 London Rd (Clarity Mews) flats are advertised at offers over £130K for a 1-bedroom and £180K for a 2-bedroom

- 1-bed flats on the Abbey Homes development at Mill & Wharf are available for around £150-£160K

- Cooks Lane 1-bed flats are advertising prices at £162,500
- No5 High Street 1-bed flats are up for sale at £162,500
- 2-bedroom flats have just been launched for sale at Redrow's site Regents Quay advertised at £200K-£215K

Other than the Redrow scheme, these are very similar sale prices to those available at 153 London Rd and also sale prices considered back in 2015 when discussions were taking place about commuted sum values for this site. Furthermore, when we were considering the commuted sum amount in Nov 2016, we took account of commuted sums for two developments in Sittingbourne, both of which have now been paid. The six flats at Staplehurst Rd provided £75K and, four flats at 4 Canterbury Rd provided £69K. If the average commuted sum per flat of these schemes is considered, 153 London Rd's commuted sum could be a little higher at just over £44K. However, this does not of course take account of any expert commuted sum calculation or methodology that may need to be applied.

I would suggest that the wording around how the commuted sum should be spent is left relatively open so that it can be used towards any/all schemes across the borough for all types of affordable housing, including older persons/extra care and general needs on Council owned sites or on RP partnership developments for example.

Taking the above into account, along with Sage's decision to withdraw from the purchase due to it not being financially viable for an RP to own, operate and manage a scheme of just 3 dwellings in this location, Heylo's recent decision to also not take on these three units due to the location, current sales market and price and also reiterating the continuing issue that RP's are not accepting low numbers of affordable homes on development sites, it is my opinion that a sensible approach in this case would be to accept a commuted sum in lieu of affordable housing delivery."

7. SUPPORTING INFORMATION

- 7.1 Along with the comments set out in paragraph 2.11 above, the application is also supported by letters from two RPs. One of these has been submitted by Sage Housing which states *"We have decided to withdraw from the purchase of the 3 affordable housing flats at 153-155 London Road because it is not financially viable for us as a registered provider to own, operate and manage a scheme of just 3 affordable housing units in this location."*
- 7.2 The second letter, provided by Heylo Housing states that *"We are not in a position to offer on the 3 shared ownership flats at 153-155 London Road. Due to the location, price of the flats and current sales climate we have decided Home Reach will not be feasible in this area at this current time."*

8. APPRAISAL

- 8.1 As set out above, there is a complex history to this proposed modification which includes various amended proposals being reported to Members on 5 separate occasions. It is recognised through the history of these applications that Members have been very firm in their requirement that on site affordable housing should be provided in this case.

- 8.2 It is also my view that the delivery of on site affordable housing is, wherever possible the best case scenario. Relevant planning policies set this out, however, they also recognise that due to issues such as viability, or other specific factors this is not always possible. One specific factor is the issue of RPs being unable or unwilling to manage low numbers of affordable dwellings upon sites, which is a recurring theme across the Borough. I note that the Council's Affordable Housing Manager raised this as a very likely scenario when commenting on the previous applications submitted to modify the Section 106 Agreement in this way. I also give weight to the correspondence received from two RPs, as stated above, which reflects this in the application now being considered. As a result of this I am of the view that the principle of a commuted sum approach should be accepted here and would be in accordance with policy DM 8 of the Local Plan, allowing for the sum to be directed towards the delivery of affordable housing elsewhere in the Borough.
- 8.3 As a result of the above, this then leads onto a consideration of what level of financial contribution should be considered appropriate. In terms of this I firstly turn to the Council's Affordable Housing Manager's comments above which have included examples of when commuted sums have been accepted in the past, comparing this to average sales prices and then setting out what would likely be appropriate in this case. As a result of the applicant's agent being provided with the comments of the Council's Affordable Housing Manager, the proposal was amended from initially offering £40,000 as a commuted sum to £44,000 as per the proposal now before Members.
- 8.4 In addition to the above, I secondly turn to the relevant viability issues in this case. I note that a viability assessment was carried out in 2017 which set out that the developer would be making a profit of 0.65%. This is somewhat below the normal expected returns of 15-20%. Further to this, as a result of the time that had elapsed when the applicant submitted the application under 18/503723/MOD106, a viability update was submitted in April 2019 to reflect updated house price trends and building costs. Members may now consider that as a further period of time has elapsed that an update to the viability review should have been undertaken by the applicant. I considered this but believed it appropriate to undertake a review of flat prices in Swale in the intervening to provide an up to date representation. As a result of this I have analysed data of flat prices in Swale in the period from when the last viability review was undertaken in 2019 until the date when the latest data is available. I have analysed the Land Registry data, firstly because this is the source from which the viability update obtained information in 2019 and also because this is information which has been produced directly by Central Government. This shows that, perhaps unsurprisingly, there has been a very recent downward trend in the average flat price in Swale and for the latest month available (March 2020), the average price is lower than at any point in the period since the original viability report was undertaken. For context, the average price in June 2017 (the date when the original viability report was carried out) was £144,990, compared to £136,529 in March 2020. As such, with evidence to suggest that a commuted sum of £31,000 was appropriate in less challenging viability circumstances, I am of the view that on this basis a commuted sum of £44,000 would be acceptable and the request for further viability information would have been unnecessary.
- 8.5 I have considered the comments of the Cabinet Member for Housing and note the reference to a commuted sum calculator from Waverley Borough Council. Firstly, for

clarity, Swale BC does not have a standardised approach to calculating commuted sums. Although I am aware that other Authorities have adopted such an approach, as per the comments referred to, each Authority has a range of different circumstances and specific commuted sum calculators would be supported by background inputs related to that specific area. As such, I do not believe commuted sum calculators from other Authorities can be directly used for an application in Swale.

9. CONCLUSION

9.1 As set out above, the applicant has appealed to the Planning Inspectorate against non-determination of the proposed modification. As a result the Council is unable to formally determine the application and this role will be undertaken by the Planning Inspectorate. Therefore Members must now determine the following –

- i) Whether, if an appeal had not been made, Members would have approved the application to modify the S.106 Agreement (either in accordance with my recommendation or for other reasons), or
- ii) Whether, if an appeal had not been made, Members would have refused the application to modify the Section 106 Agreement, and if so on what grounds.

9.2 It is my firm view based upon the assessment above that the commuted sum approach in these specific circumstances is acceptable. In addition to this I am of the view that the amount, for the particular reasons discussed, is appropriate.

9.3 Therefore my recommendation is that the Council does not defend the appeal. If this was the route that Members wished to take there would still be the opportunity for the Council to agree the proposed variation to the Section 106 Agreement (a commuted sum of £44,000 instead of on site delivery of 3 affordable units) outside of the appeal process. If this was to be the case then the applicant's agent has provided comments in writing to say that they would withdraw the appeal for this to take place. An application for an award of costs against the Council has also been made by the applicant and if the above was the route that Members decided to follow then the application for the award of costs would also be withdrawn.

9.4 Members may of course disagree with my assessment of the case. However, in taking this forward to defend at appeal the reasons for refusal must be set out in clear and detailed terms (with necessary supporting evidence) to justify the decision and minimise the risks of costs being awarded against the Council. Notwithstanding this, when considering the viability evidence, the current economic climate, the supporting evidence supplied with the application, the comments of the Council's Affordable Housing Manager and the history of the site in the context of relevant planning policies, my view is that there is a reasonable prospect that the Council would lose costs.

10. RECOMMENDATION – That the modification as proposed is considered acceptable and that the Council does not defend the appeal.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development

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

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

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

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



This page is intentionally left blank

| | | |
|---|------------------------------------|---|
| 2.2 REFERENCE NO - 19/505582/FULL | | |
| APPLICATION PROPOSAL Demolition of the existing 5 bedroom house and attached garage. Construction of 6no. 3 bedroom semi-detached houses. | | |
| ADDRESS Westgate House Site 21 Horselees Road Boughton Under Blean Faversham Kent ME13 9TG | | |
| RECOMMENDATION - Grant subject to conditions and a SAMMS mitigation payment | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection | | |
| WARD Boughton And Courtenay | PARISH/TOWN COUNCIL Dunkirk | APPLICANT Mr Matthew Brown AGENT Nicholas Hobbs Associates |
| DECISION DUE DATE 16/01/20 | | PUBLICITY EXPIRY DATE 14/04/20 |

1. DESCRIPTION OF SITE

- 1.1 This site consists of a fairly large detached house set well back from the highway, and surrounded by generous gardens both to the front and the rear. It is located roughly in the centre of the site. There are a number of semi-mature/medium sized trees to the boundaries of the site, with some smaller trees within the site itself.
- 1.2 The property sits within a residential area surrounded by housing of various dates and styles. Horselees Road itself is a fairly wide road at this point, and serves as access to several housing estates and individual properties, as well as a route into and out of the village.
- 1.3 The site is located within the Local Plan designated built-up area boundary, a ten-minute walk from services and facilities within Boughton-under-Blean, which include a convenience store, a post office, two public houses, a petrol station, and a primary school. The area is subject to no special planning restraints, save that of being within 6km of The Swale SSSI and Special Protection Area (SPA).

2. PROPOSAL

- 2.1 The proposal is for the demolition of the existing five-bedroom house and the construction of six semi-detached three bedroom houses. The application as submitted originally also included a seventh property; a bungalow in the south-east corner of the site. However, I felt that the scheme resulted in an over-crowded development. The scheme has now been amended to omit the bungalow, and to spread the six houses out across the site. The access point has also been moved from one side of the site to the other.
- 2.2 The proposed houses (all of which would be the same design) would all be situated on an east/west axis, to take advantage of both morning and evening sun. They would be

of a simple design, but with some attractive architectural features such as a brick course between ground and first floor level, brick soldier courses over the ground floor windows, projecting porches, and the use of blue grey coloured upvc window frames. Roofs would be in natural slate.

- 2.3 Each house would have an open plan kitchen/dining/living area and a w/c on the ground floor, with three bedrooms (one with en-suite facilities) and a bathroom at first floor level. Each house would have private amenity spaces to front and rear, and two allocated parking spaces. Four visitor parking spaces are also shown on the submitted site plan. The submitted drawings also show the provision of a shed for cycle parking, one each to serve each house.
- 2.4 A native hedge is proposed for the side and rear boundaries to the site, and a number of existing trees on the site shall remain. A number of new trees are also proposed for the site.
- 2.5 A design and access statement accompanies the application, which contains energy efficiency details including a 4.5kw roof mounted photovoltaic panel; air source heat pumps; raised levels of insulation; and low energy fittings and appliances. However, it should also be noted that the applicant has also agreed to a pre-commencement condition requiring energy efficiency of 50% above Part L of Building Regulations, should Members be minded to approve the application. Drainage is shown to be to mains sewers.
- 2.6 The density of the development works out at 28 dwellings per hectare; a level which would be consistent in an out of town development, even though the site is within the established built-up area boundary.

3. SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|----------|----------|--------------|
| Site Area (ha) | 0.23h | 0.23h | - |
| No. of Storeys | 2 | 2 | - |
| Parking Spaces | 3 | 16 | +13 |
| No. of Residential Units | 1 | 6 | +5 |

4. PLANNING CONSTRAINTS

- 4.1 Within 6km of the Special Protection Area (SPA)

5. POLICY AND CONSIDERATIONS

- 5.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Bearing Fruits): Policies ST1 (Sustainable Development); ST3 (Swale Settlement Strategy), CP3 (Delivering high quality homes), CP4 (Good Design), DM7 (Parking), DM14 (General Development Criteria); DM19 (Sustainable design and construction) and DN21 (Water, flooding and drainage)..

- 5.2 Boughton and Dunkirk Neighbourhood Plan (at present in draft form only): Policies H1 (Delivering a limited amount of new housing to meet local needs); H3 and H4 (good design, incorporating pitched roofs); H5 (Respectful of the Street Scene); H6 (Energy efficiency); and H11 (Sufficient off-road parking);

6. LOCAL REPRESENTATIONS

- 6.1 The Faversham Society objected to the application as first submitted as follows:

"This application should be REFUSED because the layout of the site is very cramped and much more dense than is characteristic of the area. It is evident from the KCC Highways' comment that parking and access will be difficult into and around the site and that parking spaces would be very tight.

A smaller number of houses on this site might be preferable. "

Their comments on the amended drawings are as follows:

'The Faversham Society considers that the scheme is still substantially denser than the surrounding context and that the site is still rather cramped. It was considered that on a site of this size a development of no more than four houses would be preferable to allow for better spacing.'

- 6.2 Four emails of objection have been received from local residents, all from the same address. The contents therein may be summarised as follows in so far as they may still relate to the scheme as now amended:

- Over-intensive use of the site and high density of development
- Loss of green space
- Increase in traffic on Horselees Road which can't effectively accommodate street parking without impacting traffic flow and access for emergency services vehicles.
- Affect on boundary hedgerows
- Impact on privacy of neighbours
- Not enough parking, and possible overflow parking on Horselees Road
- Loss of trees and impact on biodiversity
- Noise and disturbance
- Light pollution
- Additional hard surfaces and possible drainage problems
- Bin collection point ten metres from the road
- Who will maintain landscaping on site?

- Will the telegraph pole on site need to be moved? If so, to where?

6.3 Two communications of neither objection nor support have been received from local residents . The contents therein may be summarised as follows:

- Density of housing seems very high (NB. This comment was made before the previously proposed bungalow was omitted from the scheme)
- Bungalow very close to my property (Ditto)
- Concerns over maintenance of boundary hedge
- Glad to see Horse Chestnut is to be retained; hope this will be adhered to
- Poor drainage on site
- Request that boundary hedges be retained at a maximum height of 2.5 metres
- Garden and boundary has been neglected for many years. The development may improve the area.

7. CONSULTATIONS

7.1 Dunkirk Parish Council's response to the original scheme is quoted below in full:

'Whilst not objecting to the principle of development on this site, there are a number of issues that need to be addressed before we could countenance support.

Over development.

This is a larger site with, currently, a single dwelling. The proposed seven properties are felt to be excessive for the site and the area. Being a garden development it must be respectful of the site, the visual amenity of the neighbours and the street scene. Density calculations in themselves do not tell the complete picture and should be considered with extreme caution.

The proposed development would, with so many buildings, add bulk to the site; the design and scale would result in an incongruous and dominant number of additional buildings in a confined space. The dwellings would be to the detriment of the character and appearance of the area and would be harmful to the amenity value of said area.

Sustainability.

Any redevelopment should ensure there are adequate green spaces for the wildlife that will undoubtedly be on the site, and gardens for any dwelling should be large enough to allow families to enjoy an open space and even space for self sufficiency.

There isn't a design and access statement so we cannot judge the ecological aspects of the proposal. There is no information on SUDS, we cannot see air/ground source heat pumps, planting schemes etc., etc.

The proposal also looks to remove a Yew tree and build dangerously close to an established fruit tree, and no mitigation is proposed.

Road access.

The current dwelling is shown to have 5 car parking spaces and the seven properties would have a total of 14 spaces. This equates to two spaces per property and no visitors parking at all. We would also suggest that probably no more than 2 or 3 cars use the access on a regular basis, so up to a sevenfold increase in residential traffic.

The current access would be overstretched by the extra number of vehicles, and it doesn't appear that vehicles could enter and exit the site at the same time, leading to queuing or vehicles reversing into, or obstructing, Horselees Road. There are two spaces with a proposed separate access to property No. 2; the sight lines from this parking area would be very restrictive, and not meet KCC visibility splay guidelines. We note KCC has stated the height of any obstruction from this access must not be any higher than 1.05 metres. Like KCC we would suggest that this is not under the applicants controls, being a neighbouring property. This access should not be allowed.

However, this would put even more pressure on the changed existing access; another reason for less intensive development. KCC has also suggested that the plans do not accurately describe the site. They would require changes in any event, which we would support. The KCC proposed visibility splays (being 43 metres in each direction from a 2.4 metre set back on the centreline of the access) must be seen to be possible and no restrictions, left or right, can obstruct the visibility.

Onsite vehicle spaces.

The parking spaces are perhaps smaller than we would expect and there aren't sufficient spaces for visitors.

The internal site access seems insufficient to allow service vehicles access and turning, and we would expect they should be a traffic flow proposal for the tracking for an 11.4m refuse vehicle. There must be sufficient turning to allow forward exit from the site.

To sum up:

Principle of development in the village envelope accepted, but a reduced number of properties, more open space and better access and exit. It is overcrowded and out of character with the area and surroundings.

We request this particular 'out of keeping' proposal is refused.'

- 7.2 Following the receipt of amended drawings, the Parish Council were again consulted, and responded as follows:

'Dunkirk Parish Council still have (sic) concerns over the number of houses, the layout and density of the buildings and the number of occupants and cars that will be on site. The number of car movements will be high and that amount of traffic generation is in our view unacceptable. There are insufficient visitor parking for the number of proposed dwellings; and indeed the properties themselves, which would lead to more road parking close to a crossroads and bend, with the road itself being very narrow.

KCC normally only comment above 10 dwellings so their comments should not carry much weight. Yes, you can see, but that's only part of the road safety issues here.

The density of the properties is still too high, which will lead to noise and light pollution to neighbouring properties. Loss of important trees and landscaping is also a concern. There will be a loss of daylight or sunlight to existing properties and this overshadowing/loss of outlook would be detrimental and should be given considerable weight.

With this number of infill; effectively garden grabbing, the noise and disturbance from the new use should be balanced against the site.

There are also issues of overlooking/loss of privacy to be considered.'

7.3 Natural England raises no objection, subject to the payment of a SAMMS mitigation contribution.

7.4 Kent Highways and Transportation originally commented on the following matters, some of which required amendments to the site layout:

- Visibility splays
- Refuse collection
- Location of parking spaces
- Provision of electric vehicle charging points

Their comments were forwarded to the agent, who responded with new drawings, which showed the requisite visibility splays; different road surface treatments within the site; new trees and a new roadside hedge. Kent Highways and Transportation have responded that the new details have satisfied their concerns and that they now remove their objection, subject to conditions noted below.

7.5 The Council's Environmental Health Manager raises no objection, subject to a condition to control construction hours.

8. APPRAISAL

8.1 The main issues to consider here are those of the principle of development; highway and parking issues; biodiversity and sustainability issues; development density issues; and those of residential amenity. As such, I will take each issue in turn.

Principle of development:

8.2 The site is within an established built-up area boundary, in a residential area, and development here is in accordance with Policy ST3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017. As such, the principle of development here is acceptable.

Highways and parking:

- 8.3 The amended site drawings show a development which is in accordance with safety factors required by Kent Highways and Transportation and in accordance with Kent Vehicle Parking Standards Interim Guidance Note 3 (IGN3). Each property would have two allocated parking spaces, and the drawings show four visitor spaces. I note that the Boughton and Dunkirk Neighbourhood Plan requires one parking space for each bedroom per property, but the Plan is at draft stage only and as such carries little weight at the moment. This is a small development of only six modest houses and I would therefore contend that it would have little impact on highway safety and convenience and is thus in accordance with Policy DM7 of the Local Plan. Members will note the inclusion of conditions below to ensure highway safety.

Biodiversity and Sustainability issues:

- 8.4 The loss of certain trees on site is unfortunate, but I note that a number of the existing trees are to be retained and new trees planted. I also note the energy efficiency measures proposed by the applicant, and further note that the applicant has agreed to the imposition of a pre-commencement condition requiring energy efficiency levels of 50% above Part L of Building Regulations, and in accordance with Policy DM19 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017. As such, I am confident that these issues have been successfully addressed and that this part of the proposal is acceptable.

Density of Development:

- 8.5 I note the concerns raised by local residents and the Parish Council with regard to the development. I would agree that a high density development, of perhaps forty or fifty dwellings per hectare, would be more akin to town centre development, but the proposed density here is 28 dwellings per hectare, which is very much akin to development surrounding the site, apart from some very large plots. The development meets all the Council's normal spatial requirement, and I see no objection to the number of units now proposed. I would also agree that, had the seventh proposed property not been omitted from the proposal, this may have tipped the balance, but with its removal, I consider the proposal to be acceptable. The present house on the site is somewhat of an exception to rule in the immediate vicinity; the existing properties surrounding the site are somewhat smaller with much smaller gardens. As such, the proposed density is more in line with that surrounding the site, rather than as the site is now. As such, I consider the proposed density of development to be acceptable.

Residential Amenity:

- 8.6 I note the concerns raised with regard to residential amenity. I appreciate that local residents may have got used to many years of a property placed in a fairly central position on a large plot of land, and that subsequently, the proposed development might cause concern for the loss of that development, to be replaced with one of a higher number of dwellings. However, the development has been designed so that a passer by on the road might be able to see all the way through this development, and with acceptable space between both existing and proposed dwellings, no new issues of privacy or overlooking would be engendered by approving this proposal, and any

potential erosion of residential amenity would be minor. As such, I also find this part of the proposal to be acceptable.

Other Matters:

- 8.7 I note concerns regarding the maintenance of hedges, etc, but such matters would be private matters between residents. Similarly, the possible relocation of the telegraph pole would be a private matter between the developer and the service provider.
- 8.8 I do not accept that the proposal for six dwellings, if approved, would have an adverse impact via noise and disturbance, nor would I contend would it produce an adverse increase in light pollution, bearing in mind that the site is surrounded by other residential properties.

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.

9. CONCLUSION

- 9.1 In conclusion, this is an application for six residential properties in a residential area, within the established built up area boundary, bringing much needed properties on a brownfield site. All details being acceptable, I recommend that the proposal be approved, subject to the conditions below and the receipt of a SAMMS mitigation payment

- 10. RECOMMENDATION - GRANT** Subject to the following conditions and collection of the SAMMS tariff:

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 the following plans:

Drawing numbers 709/03; 709/04; 709/05A and 709/10A.

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

- (3) The dwellings hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition 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 promoting energy efficiency and sustainable development.

- (4) The dwellings hereby approved 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) Prior to the occupation of any dwelling hereby permitted it shall be provided with an electric vehicle charging point in accordance with details which shall first have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of promoting sustainable forms of transport.

- (6) No development beyond the construction of foundations shall take place until details of external finishing materials to be used in the construction of the development hereby approved shall have been submitted to and approved 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 surrounding area.

- (7) 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 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.

- (8) 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.

- (9) 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.

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

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

Reason: In the interests of residential amenity.

- (11) The areas shown on the approved drawing 709/10A as car parking spaces 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 (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 garaging of cars is likely to lead to car parking inconvenient to other road users.

- (12) The 2.4m x 43m sight lines shown on drawing 709/11 shall be provided prior to the occupation of the properties hereby permitted and thereafter maintained clear of any structure, tree, plant or other obstruction which exceed 1.05 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

- (13) No development beyond the construction of foundations shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage

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

- (14) No development beyond the construction of foundations shall take place before details of cycle storage (two cycles per dwelling) have been submitted to and approved by the Local Planning Authority. The approved storage facilities shall be completed in accordance with these approved details prior to the occupation of the respective dwelling.

Reason: In the interest of promoting sustainable forms of transport.

- (15) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.

Reason: In the interests of highway safety and convenience.

The Council's approach to the application

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

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

INFORMATIVES

- (1) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.

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

Ordnance Survey - data derived from OS Premium

Enter map title
Scale: 1:2500
Printed on: 13/7/2020 at 12:44 PM by MandiP

ASTUN
TECHNOLOGY
© Astun Technology Ltd

This page is intentionally left blank

| | | | |
|--|---------------------------|--|--|
| 2.3 REFERENCE NO - 20/501838/PNQCLA | | | |
| APPLICATION PROPOSAL | | | |
| <p>Prior notification for the change of use of a building and land within its curtilage from agricultural workshop and storage barn to 2 no dwellinghouses and associated operation development. For it's prior approval to:</p> <ul style="list-style-type: none"> - Transport and Highways impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Noise impacts of the development. <p>- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed.</p> <ul style="list-style-type: none"> - Design and external appearance impacts on the building. | | | |
| ADDRESS Meadow Farm Pond Farm Road Borden Sittingbourne Kent ME9 8LJ | | | |
| RECOMMENDATION - Prior Approval Granted | | | |
| REASON FOR REFERRAL TO COMMITTEE | | | |
| Local objections and it is also considered that this application raises unusual /difficult issues which warrant members consideration | | | |
| WARD Borden And Grove Park | PARISH/TOWN Borden | COUNCIL | APPLICANT Bloomfields AGENT Bloomfields |
| DECISION DUE DATE 30/07/20 | | PUBLICITY EXPIRY DATE 09/06/20 | |

1. DESCRIPTION OF SITE

- 1.1 The agricultural building in question here is an isolated, simply designed, portal framed building with external blockwork and fibre cement sheeting. There is currently an extension (to be removed) to the front elevation of the building that is clad in green metal sheeting. The building has been used for storage of equipment associated with agriculture, and more recently used as a mess room used by workers associated with lambing.
- 1.2 The application building is currently accessed via Duwards Place, which is a very narrow unmade track leading from Pond Farm Road (a Local Plan designated rural lane) to the south of Borden village. The track provides access to a converted oast house and a row of eight terraced cottages. The track passes very close to the properties on Duwards Place, where the terraced cottages front the track. Whilst the properties do have rear gardens, the access track actually runs between the properties and their front gardens/parking spaces, and the application building and surrounding land is accessed via a gate at the far end of the track. Access from the track onto Pond Farm Road is difficult, with high hedges and very poor visibility to either side; and the junction sits on the inside of a bend in the road, exacerbating the lack of visibility.
- 1.3 The application building itself does not lie directly behind the cottages in Duwards Place, but beyond them, amongst open agricultural land to the west. It sits at a distance of almost 50m from the closest cottage, and approximately 30m from the nearest part of any Duwards Place garden. The building does sit adjacent to the very end of another

very large garden of a property fronting Pond Farm Road, but it is over 100m from the property itself.

- 1.4 There is an alternative access track to the building further south which appears to have normally been the main way to access this building over many years, but this is not proposed for access to the conversion now proposed.

2. PROPOSAL

- 2.1 This is an application submitted under the Prior Approval procedure for the conversion of an agricultural building to form two single storey dwellinghouses, along with necessary building works. Members should note that because this is a Prior Approval application, planning permission is already granted for the proposed change of use by Class Q of Part 3 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order (2015) (as amended) (the GPDO). This grants a general planning permission (subject to a number of criteria being met) for up to five dwellings to be converted from agricultural buildings on a single agricultural holding, provided the building(s) in question is not enlarged, and the curtilages to be provided do not exceed the floorspace of the dwelling(s) created.

- 2.2 The resultant dwellinghouses are subject to restrictions on normal rights for further extensions and alterations, but Class Q of the GPDO does mean that the principle of new homes being created from agricultural buildings in rural locations (except in locations including conservation areas and AONBs) is approved in principle; even where Local Plan policies might otherwise restrict such conversions. The GPDO requires that all such conversions are subject to a Prior Approval process, and the current application is for Prior Approval in relation to the following required matters:

(a) transport and highways impacts of the development,

(b) noise impacts of the development,

(c) contamination risks on the site,

(d) flooding risks on the site,

(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and

(f) the design or external appearance of the building,

There is also a further new criterion – but this takes effect from the 1st August 2020 only.

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

- 2.3 This Prior Approval process is intended to be a straightforward technical assessment of the practicalities of the proposed conversion to determine if the building(s) is suitable for residential use, and not a subjective assessment of the planning merits of the development. Parish Council and neighbour notification is not required, but a site notice is required, and I have gone beyond this minimum measure by also consulting nearby residents directly.

2.4 This scheme seeks to take down the green clad extension and convert the remainder of the building into two similar single storey 2 bed residential dwellings. This will be done through internal alterations, the insertion of new doors and windows, and installation of a new roof covering and some wall cladding. There are no plans to extend the building beyond its existing walls or roof, and all new windows would be at ground floor level. The curtilage is shown to the same size as the converted part of the building, as required by the regulations.

2.5 The application is supported by a Planning Statement that sets out how the proposal accords with all the basic requirements of Class Q of the GPDO, and the applicant addresses the Prior Approval criteria as summarised below:

- (a) Transport and highway impacts: The proposed use as two dwelling-houses would not amount to any material increase in traffic numbers. The proposal could not reasonably be said to give rise to any significantly greater number of movements than the current use of the building for agricultural purposes.
- (b) Noise impacts: The current access runs immediately adjacent to the existing row of terraced houses situated perpendicular to the highway, such that the passage of commercial and agricultural vehicles would clearly have a discernible impact upon occupants of those properties. The use of this access by domestic vehicles would therefore be bound to improve or lessen the likelihood of noise impacts at those properties.
- (c) Contamination risks: There is not known to have been any inappropriate spreading of materials such as sludges or any contamination being moved from its original source. The area is not known to be affected by the natural or background occurrence of potentially hazardous substances, such as radon, methane or elevated concentrations of metallic elements. It is therefore submitted that there would not be any unacceptable risks from pollution and the development would be appropriate to its location.
- (d) Flooding risks: The site is not located within any designated Flood Zone and does not have critical drainage problems that have been notified to the Local Planning Authority by the Environment Agency.
- (e) Whether the location or siting of the building makes it otherwise impractical or undesirable: It is clear that the nature of the surrounding uses which this prior approval matter is intended to safeguard against are not present at this site. It is strongly submitted that the nature of the uses surrounding the application building are not such that they should be considered sufficient to give rise to any undesirable impact
- (f) The design or external appearance of the building: The proposal aims to retain the character of the existing building as much as possible. The position of openings aims to reflect those within the existing building where this can be achieved. In terms of the visual impact of the proposed external works, the proposed changes to the fabric of the building have been carefully thought-out to ensure that they would result in only minimal changes which are reasonably necessary to convert the building. Modern

materials would be used to ensure an attractive finish, however, the design subtly highlights the agricultural character, for example, by the use of the existing portal frame will retain the barn like structure.

2.6 The applicant has also responded to the objections on traffic grounds (see below) with an addendum to his Planning Statement. Here, he seeks to provide additional information in relation to the transport and highway impacts of the development, and I have summarised his addendum in relation to transport and highway impacts as follows (although he does address other objections which I have not summarised):

- The works required to convert the building involve removal of the lean-to extension, the insertion and replacement of doors, and replacement cladding
- Paragraph 109 of the NPPF says *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”* (his emphasis).
- In this case there is actually two made accesses to the building. One of which is now actively used via a track that traverses close to the cottages aligning Duvards Place. The second is a made access which runs in parallel further to the south and adjacent to a property called Amberfield (sic).
- The building was originally constructed to provide a storage space for agricultural machinery but has in recent years been used for the storage of hay which has been grown on the land, the storage of equipment connected with the rearing of lambs, and other purposes ancillary to the agricultural use of this holding.
- In recent years the building has served as a mess room of worker's employed at the holding, mainly in connection with the lambing of the sheep. The main part of the building is for storage requirements and a farm workshop. The building also contains a toilet/washroom and refuge area for workers, together with a small farm office.
- It is understood that vehicle movements have been generated with respect to each of the component elements to which the building has been used, including the applicant travelling to the site every single day before 9am in order to feed the sheep. Additionally, the owner would usually visit the site in the evening in order to check on the welfare of the sheep and the security of the fencing etc. During a normal day, the site would also be accessed by one or two other friends / associates that assist with the rearing of the sheep / maintenance of the land.
- The site is also jointly owned by the applicant's sister who regularly visits the site 3-4 times per week to tend to the sheep and generally enjoy being in the countryside. Deliveries of feed take place around once per month. This takes place by LGV. Bedding is delivered to the site during the lambing season usually by HGV.
- Traffic related to raising sheep, including a vet and a sheep shearer also visits the site.

- In summary, the existing use of the building is considered to generate vehicle movements of around up to 10 trips per day. It is noted that a neighbour has commented that the site is accessed by about 2-3 vehicles per day (or 4-6 vehicle 'trips' per day), which is understood to be reasonable on some days, but slightly lower than actual vehicle numbers most days.
- The nature of the existing use of the building must also be considered in light of the fact that the existing access to the site is also served by nine residential properties. Each one of these could reasonably be expected to generate five vehicle trips per day.
- The proposed use is for two dwellings. Each dwelling is understood to generate on average about five vehicles 'trips' per day. Bearing in mind that a vehicle trip represents one movement to or from the site, it is considered that the proposed use as two dwellings would not result in any material increase in vehicle movements. During peak lambing times, the existing use of the site is understood to generate vehicle trips that notably exceed that amount. It is therefore considered that the proposed use as two relatively modest dwellings should not be prevented or refused on highway grounds.
- At worst, the impact on the number of vehicle movements can be considered negligible in planning terms, as there is no material indications to indicate that any change to vehicle numbers will be discernible. In this context, it would be neither positive or pragmatic to consider that prior approval may be required, in the context of an existing access already serving nine residential properties.
- This proposal for converting the existing building will naturally change the 'character' of vehicles accessing the site which could improve amenity at these properties. There is also minimal attention to the fact that this building is also served by a second made access which runs parallel to the south, adjacent to the property which fronts Pond Farm Road, called Amberfield (sic).
- The Council is asked to consider what happens to this building should it be determined that prior approval is not granted for the conversion of the building. In such a scenario, an agricultural use of the site will intensify and/or a commercial/agricultural tenant be found for the building. This alternative would lead to a far less neighbourly arrangement than currently proposed.
- It is acknowledged that the existing track was designed at a time when there was a lot less traffic with smaller vehicles. It is considered that the proposed use would also result in a return to the use of the track by smaller domestic vehicles, which would be far more appropriate.
- One neighbour has commented that 2-3 vehicles access the farm per day. This is considered to be slightly below average, according to the owner's account of the nature of the use of the existing site. Though even at this frequency, movements are

comparable to that which would be expected in relation to the proposed residential use.

- 2.7 The addendum report also encloses three further letters of support for the application, but these essentially echo points made above, and in the two letters of support referred to below.
- 2.8 Finally, the applicant has most recently provided an amended site layout plan to show that vehicle parking provision for the proposed conversion, two spaces for each new dwellinghouse, will be provided within the defined new curtilage.

3. PLANNING CONSTRAINTS

- 3.1 None.

4. POLICY AND CONSIDERATIONS

- 4.1 In this case policy considerations are only relevant so far as relevant to the subject matter of the prior approval, as if the application were a planning application. The applicant has provided the following note regarding the relevance of planning policies:

‘To this end it is relevant to note the Ministerial Statement on Local Planning by Nick Boles published in advance of the changes to legislation which permit the proposed change of use, which in itself is considered to carry a degree of weight as a material consideration. It was said that “we expect local planning authorities to take a positive and proactive approach to sustainable development, balancing the protection of the landscape with the social and economic wellbeing of the area...other protected areas are living communities whose young people and families need access to housing if their communities are to grow and prosper”.’

5. LOCAL REPRESENTATIONS

- 5.1 Nine letters of objection from local residents have been received and can be summarised as follows, where relevant to the matters being considered:
- In the last 25 years there was a vehicle recovery business being run from the premises in contravention of planning regulations at the time. A non-agricultural business was operating from this very site before being used for very light agricultural use
 - Not enough evidence has been provided that the building was used for agricultural purposes on or before 20th March 2013. The dates provided for the sheep are from 2015
 - Because the building is directly behind our property, we will be overlooked by the main windows of the dwellings
 - Trees to replace the tall evergreen trees on our boundary should be required
 - Suitable provision or retention of boundary fences should be required, and details of any trees to be removed or altered
 - If approval is granted conditions should be included so the proposed rear patio doors do not overlook ours and our neighbours rear garden

- The development would use an inadequate access. Duvards Place is a single track, unmade, private road with no pavement or lighting. It is unsafe for additional vehicles, especially during construction
- Deliveries have to be made by small vehicles as larger ones cannot turn round and have to reverse out
- The junction onto Pond Farm Road is single track and visibility is limited in both directions – it is also used as a 'rat run' with traffic travelling at inappropriate speeds
- Large construction vehicles would not be able to safely access Duvards Place
- The residents of Duvards Place are responsible for the upkeep of the road and extra traffic involved with construction and new residents accessing properties will result in an increase of maintenance costs
- The applicant had a perfectly good access road was wider and tarmacked access leading straight to this building which the family sold 18 months ago
- The land at the end of Duvards Place was only latterly added to the holding and the gate to Duvards Place was fenced off for over 25 years. The gate at the end of Duvards Place is relatively new and was not needed until the other access was sold off
- Evidence of the limited former use of Duvards Place was shown recently when a hay delivery by tractor and trailer to the farm became wedged in the garden hedge of The Oast and narrowly avoided damaging the water main
- The delivery driver had to abandon the trailer in Pond Farm Road causing a significant blockage to road users and property access
- Damage caused by the tractor had to be repaired by ourselves
- The owners of The Oast and the other cottages own half the width of the track leading to Duvards Place and Meadow Farm and our deeds say that there is only suitable access for bullocks and a traction engine, therefore oversized vehicles delivering building and plant materials is not appropriate
- The applicant currently uses Duvards Place daily but building multiple dwellings will increase traffic and footfall along the existing fragile track; an alternative access point should be considered
- The cottages in Duvards Place are nineteenth century, with access only designed for horses and farm vehicles. They step straight onto the track as there is no pavement
- There is no indication whether any works will be required to electricity lines which would impact Aberfield nearby, which could disrupt our property
- Traffic will not decrease as there is still a vast amount of agricultural land still owned by the applicant that will likely still be accessed for agricultural purposes
- A site visit should be undertaken to understand residents' concerns over the access
- The cottages were built some time ago and have no foundations and therefore heavy traffic is not suitable
- Gardens are across the track and hosepipes and electric cables need to be run across the track to do the gardening – greater use of the track would be dangerous

5.2 Two comments in support of the application were submitted from people who have used the applicant's agricultural services, and these can be summarised as follows:

- I have had a lamb supply from the applicant for the last 10 years as I run a public house

- I have visited the farm and believe the change of use would be a good idea as it would lead to less heavy machinery using the roads, reducing the danger and noise levels in the area
- I have known the applicant for over 5 years now and have used them for minor agricultural services
- As a local resident in Oad Street I fully support the conversion as it will improve the character of the site and perhaps reduce the vehicle activity currently generated by the agricultural business

6. CONSULTATIONS

- 6.1 The GPDO Prior Approval procedure does not grant planning permission, and does not require consultation with the Parish Council. No comments have been submitted from the Parish Council.
- 6.2 Kent Highways and Transportation initially responded to say that it was a non protocol matter and did not require their involvement. However, due to the nature of some objections which refer to suitability of the access, and with which I have considerable sympathy, I went back to Kent Highways and sought further advice. Kent Highways have not felt it appropriate to provide formal advice, but they have sent me the following informal advice on the highway aspect of the proposal:

“It’s the case that we won’t provide formal comments on non-protocol applications, but we can offer advice in order to assist you in your assessment. As such, I would offer the following advice that you can refer to if needed:

It is widely accepted that per square metre, an agricultural building would typically generate more vehicle movements than the equivalent residential floorspace, which is partly why the change of use was made easier under planning legislation with the introduction of the Prior Notification process for this type of development. It is not relevant how the current user of the building operates, and what level of activity they may have at present, it’s the worst-case potential of the building being used for agricultural or other permitted operations that matter. For example, buildings could be used to store numerous items of farm machinery or plant that may be needed on a daily basis and will attract many vehicle movements throughout the day. There are probably many other legitimate operations typically associated with an agricultural building that would also generate a lot of activity, and with larger vehicles than expected with residential use.

In terms of highway assessment, the general consideration is whether the site can accommodate the associated parking demand for residential use so that it is not likely to overspill onto the public highway. If no land was available around the building, this could lead to vehicles parking on-street and potentially cause obstructions or hazards. Similarly, a safety issue could be created in the conversion of a building directly alongside the carriageway if it proposed the introduction of an opening onto it. Clearly in that case, pedestrians could emerge straight out into the path of traffic, and that would not be acceptable.

Where a building is on land remote from the highway and using an existing access route, there would generally be space available for residential parking to be

accommodated on-plot, and no new physical features would be introduced to create a safety issue to interfere with the public highway.

Of course, we cannot comment on the legitimacy of an access route used to serve a site, and any dispute over their rights to use it will be a private legal matter between those interested parties”.

- 6.2 The Council's Environmental Health Manager has no objection to the application subject to a standard contaminated land condition.

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documents relating to 20/501838/PNQCLA.

8. APPRAISAL

- 8.1 It is important for Members to note from the outset that this is not an application for planning permission; it is a request to determine whether or not Prior Approval is required **only** in relation to:

- Transport and Highways impacts of the development
- Contamination risks of the site
- Flooding risks on the site
- Noise impacts of the development
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed
- Design and external appearance impacts of the building

- 8.2 This is essentially a technical assessment of the issues outlined in the GPDO, which itself grants deemed planning permission for the development, and would normally be dealt with under delegated powers. It has been referred to Members as there are a number of local objections. It is, however, important to note that the Prior Approval process automatically approves the details unless the Council refuses Prior Approval within 56 days, unless an extension of time is agreed by the applicant. In this case the applicant has agreed to an extension of time until 31 July to avoid a refusal of Prior Approval, and to allow the matter to be considered by the Planning Committee. However, if the Committee decides to defer this application I do not expect the applicant to agree a further extension of time, and so the development would be approved by default at the end of the month. It is therefore vital that a decision either way be made on this application at the meeting.

- 8.3 I am satisfied that the use of the building in question was agricultural at the relevant date (20 March 2013), and I am of the opinion that the proposal now being considered wholly complies with the conditions set out in Class Q of the GPDO 2015 (as amended). The agent has described in the Planning Statement (see above) how the proposal meets all of the requirements of Class Q and, having consulted with the necessary consultees. I now address the various Class Q criteria that are relevant to the Prior Approval procedure.

Transport and Highways Impacts of the Development

- 8.4 I have read the neighbours' objections in regards to highway safety and the suitability of Duvards Place as an access carefully. Duvards Place is a very narrow and poor quality access, leading directly across the face of the cottages, with extremely poor sightlines onto Pond Farm Road, and it appears unsuitable for additional traffic. I must say that I share many of the residents' concerns about any possibility of increased traffic, which is why I specifically went back to the applicant and Kent Highways seeking some further information and advice. The applicant's addendum to the Planning Statement is summarised above in terms of transport and highway impacts. Essentially this suggests that neighbours have underestimated the usual daily trips to the site and that the change of use to two dwellings would amount to around the same number of vehicular movements, but with smaller domestic vehicles.
- 8.5 Kent Highways have made it clear that this is a non-protocol matter on which they do not offer formal advice. However, in informal terms, Kent Highways are of the opinion that the use of this building as two dwellings would not create any further traffic or harm to the highway network and as such Prior Approval ought not be refused in this respect. I therefore have to advise Members that, whatever misgivings they might have, there is no clear case to refuse Prior Approval in relation to transport and highway matters.
- 8.6 Matters relating to ownership and rights of way over the access is a private legal matter to be agreed between the owner of the land and the applicant, and is not a material planning consideration under Class Q.

Noise Impacts of the Development

- 8.7 Residential use of the building would not give rise to such substantial noise or disturbance as to indicate a reason to refuse the Council's Prior Approval. A certain amount of noise is to be expected during conversion works, but this would be short-lived and is a factor of development in general. Nor do I see any case for refusal on noise grounds relating to traffic past Duvards Place in the light of my comments above, and the type of traffic and the times of day, usually associated with residential use compared to agricultural use.

Contamination Risks of the Site

- 8.8 Due to agricultural buildings often being used to store chemicals it is common for the Environmental Health Manager to request a standard contaminated land condition which she has done here. The Environmental Health Manager raises no objection subject to the condition set out below.

Flooding Risks on the Site

- 8.9 The site is not within a Flood Zone where there is a risk of flooding, and the Council's Prior Approval should not be withheld in this regard.

Location or Siting

- 8.10 Local Plan policies in respect of sustainability should not be applied this type of application, as the very nature of agricultural buildings is that they are often in rural locations where Local Plan policies would normally resist new residential development. In this case the location of the building is not subject to issues that would give rise to

substandard levels of amenity for occupants of the new dwellings. As such the Council's Prior Approval should not be refused in this respect.

Design or External Appearance of the Building

- 8.11 The design suggested for the proposed dwellings, is simple, and in my opinion is acceptable. I note two local objections that the proposed patio doors will create overlooking issues, however, the building is single storey, some distance from neighbours, and not in an elevated position. Nor do I consider that the proposed appearance of the dwellings would be especially harmful to the character or appearance of the site or the wider countryside, and Prior Approval should not be refused in this regard.

Other Matters

- 8.12 As noted above, the Council has very limited powers under which it can consider these types of application, and these have been set out in detail above. Comments relating to rights of access are not material to the consideration of this proposal and do not amount to reasons to refuse Prior Approval.

9. CONCLUSION

- 9.1 In my view this proposal meets the basic requirements of Class Q of the GPDO, and in terms of the limited and specific matters to which the Prior Approval procedure relates, it is acceptable. However, further details are required in respect of potential land contamination on the site and an appropriate condition is recommended below.
- 9.2 I note the local concerns about this proposal, and I am sympathetic to many of them. However, planning permission is already granted by the GPDO and this application relates only to specific matters, which I have discussed above. I do not consider that any detailed matter amounts to a reason for the Council to justifiably refuse Prior Approval under the very limited matters that can be taken into account under the terms of the Class Q Prior Approval procedure.
- 9.3 Therefore, I recommend that Prior Approval is granted subject to the condition set out below.

10. RECOMMENDATION – Prior Approval is required and granted subject to the following condition:

- (1) If during construction/demolition 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.

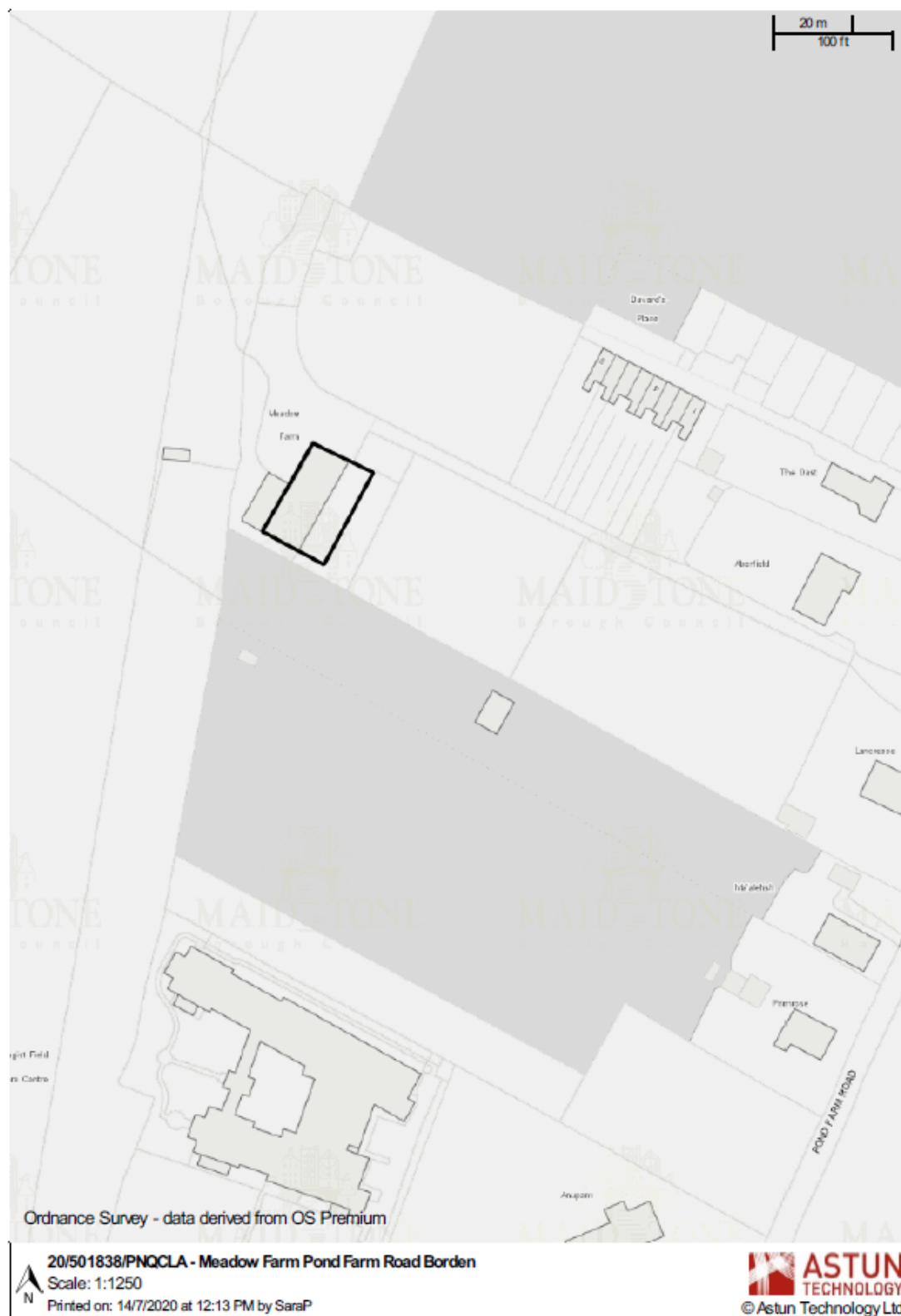
Reason: To ensure contaminated land is adequately dealt with.

INFORMATIVES

- (1) This decision relates only to the conversion of the building under Class Q of Part 3 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and does not represent planning permission for rebuilding of the structure. The Council reserves the right to take enforcement action if at any time the works appear to amount to a re-building such as if the degree of removal of existing wall and roof so indicates.
- (2) Any dwelling created by virtue of this procedure will not attract usual householder Permitted Development rights for alterations such as an extension, roof alterations, garden buildings or pools, a hardstanding or other external works. Any such works will need to be submitted as a planning application to the Local Planning Authority and approved in writing before any works can commence.
- (3) This Prior Approval is based on drawing PRO_01_103 Revision B which shows the curtilage for the dwellings. All vehicle parking associated with the use of the building as a dwelling shall be restricted to within the curtilage shown. Parking in associated with the dwelling other than within this area will represent an unauthorised use of agricultural land and would be liable to enforcement action.

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

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



This page is intentionally left blank

| | | |
|--|-------------------------------------|--|
| 2.4 REFERENCE NO - 20/500858/FULL | | |
| APPLICATION PROPOSAL Erection of 8 dwellings, comprising 6 affordable homes and 2 open market homes (cross subsidy). | | |
| ADDRESS Land On The North East Staple Street Hernhill Kent | | |
| RECOMMENDATION Grant subject to conditions , the signing of a suitably worded Section 106 Agreement to secure the proposed affordable housing and a SAMMS mitigation payment. | | |
| REASON FOR REFERRAL TO COMMITTEE Called in by Councillor Valentine | | |
| WARD Boughton And Courtenay | PARISH/TOWN COUNCIL Hernhill | APPLICANT English Rural AGENT Martello Building Consultancy |
| DECISION DUE DATE 01/05/20 | | PUBLICITY EXPIRY DATE 08/07/20 |

1. DESCRIPTION OF SITE AND HISTORY

- 1.1 The site consists of a small open area of agricultural land fronting the northern side of Staple Street, in the north-east quadrant of the crossroads formed by the lanes known as Staple Street, Bull Lane and Kemsdale Road. Staple Street itself is a Local Plan designated rural lane (as is Kemsdale Road) with limited, generally linear, development surrounded by open countryside and agricultural land. The site lies within a Local Plan defined Area of High landscape Value (AHLV)(Swale Level), as does most of Hernhill parish lying to the south of Thanet Way, although some parts here are designated as a Kent Level AHLV.
- 1.2 The site itself is partly fronted by an existing native hedge, with established orchards to the rear, and there are a number of existing residential properties on the opposite side of the lane. The application site measures 110 metres in width by 41m metres in depth at the western end and 35 metres at the eastern end. It slopes slightly down from east to west and from south to north, with long views possible across the site towards the north at its eastern end where there is no hedge.
- 1.3 The site is outside any established built-up area boundary and adjacent to, but not within, the Staplestreet conservation area, the boundary of which follows the road at this point and includes the properties opposite. To the east lies the junction of Staple Street and Church Hill, with The Three Horseshoes public house and Mount Ephraim beyond. The village church, primary school, village hall and the Red Lion public house are found on Church Hill, all within one mile.
- 1.4 There is a small convenience store, a post office, a further primary school and a petrol station in Boughton-under-Blean, again all within a mile of the site.

2. PROPOSAL

- 2.1 In 2015 the Rural Housing Enabler (RHE) Action with Communities in Rural Kent, carried out a housing needs survey, which identified a need for affordable housing in the parish of Hernhill. A need for twelve properties was identified (a later housing needs survey by the RHE carried out in 2019 confirmed the need as 11 dwellings). In April 2017, in conjunction with the Parish Council, the RHE identified eight possible sites for required housing. In May 2017 planning officers viewed these sites with the RHE and Parish Councillors, advising on the general suitability of each of these sites, with a focus on sites with best access to village facilities, and minimising need for private transport.
- 2.2 Of those sites deemed potentially suitable, the landowners of two of the most suitable sites were agreeable to selling their land. The site which is now the subject of this planning application was chosen of the two, as the other site had an issue with overhead cables which would hamper development. This site would provide the six homes required to meet fifty percent of the demand identified, plus two additional homes to facilitate the development.
- 2.3 The proposal as submitted is for the erection of eight dwellings, comprising six affordable homes and two open market homes, the latter paying towards the construction of the former via cross subsidy. The applicant has provided (on a confidential basis) detailed costings to show that even with the market housing the scheme will incur a significant financial loss, which they expect to fund from a combination of Homes England grant funding and their own funds.
- 2.4 The two open market homes would be 3 bedroom detached bungalows. The six affordable homes would be for affordable rent and comprise of the following: two 2 bedroom semi detached houses; one 2 bedroom semi detached bungalow; one 3 bedroom semi detached house; and two 1 bedroom flats.
- 2.5 Each of the open market bungalows would have a detached garage and two further off-road parking spaces. Each of the affordable properties would have two off-road parking spaces apart from the flats, which would have one space each. Four visitor parking spaces are also shown on the submitted site layout drawing. Each property would have a private amenity space, and cycle storage in the form of a shed.
- 2.6 The properties would be set back from the highway, behind the retained roadside hedge, with the access road running behind the hedge in front of the new dwellings, which would be arranged in a linear fashion. Access would be from Staple Street at the eastern end of the site (furthest from the crossroads), with the access road running in a westerly direction.
- 2.7 The properties are designed to complement local building styles, with a use of vernacular materials such as brick, white timber weatherboarding, tile hanging, and slate.
- 2.8 The proposal is accompanied by a Design and Access Statement; a Planning Statement; Ecological surveys; a Housing Needs Survey and Housing Cost Update (February 2020); Heritage statements; a Sustainable Drainage report; a Site Search summary; Statement of Community Involvement; a Transport Statement; a statement from the applicant, and one from the Parish Council; and a draft Section 106 Agreement.

- 2.9 The draft Section 106 Agreement seeks to ensure that the open market housing cannot be occupied without the affordable housing being provided, to regulate who qualifies for occupation of the affordable housing with a preference for those with local connections, and to safeguard the affordable housing against being used other than as affordable housing. This is still in draft form and will require some negotiation and amendment, but I have not attempted to do this yet pending Members' consideration of the application. However, the applicant is a leading specialist in this field with a strong track record and I see absolutely no reason to expect any problems in securing an acceptable agreement that meets the Council's planning policy objectives.

3. SUMMARY INFORMATION

| | Existing | Proposed | Change (+/-) |
|--------------------------|--------------------|--------------------|--------------------|
| Site Area (ha) | 4071m ² | 4071m ² | - |
| No. of Storeys | - | 1 or 2 | +1 or 2 |
| Net Floor Area | - | 658m ² | +658m ² |
| Parking Spaces | - | 18 | +18 |
| No. of Residential Units | - | 8 | +8 |
| No. of Affordable Units | - | 6 | +6 |

4. PLANNING CONSTRAINTS

Adjacent to Conservation Area Staplestreet

Outside established built-up area boundary

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Paragraphs 8 (Sustainable Development); 77 and 78 (Rural Housing); and 193 and 196 (Conservation Areas).
- 5.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Bearing Fruits): Policies ST1 (Sustainable Development); ST3 (Swale Settlement Strategy), CP3 (Delivering high quality homes), CP4 (Good Design), DM7 (Parking), DM9 (Rural Exceptions Housing), DM19 (Sustainable design and construction), DM21 (Water, flooding and drainage), DM24 (Conserving valued landscapes), DM26 (Rural lanes) and DM33 (Conservation Areas)
- 5.3 Of particular relevance to this case is policy DM9 (Rural Exceptions Housing) which reads, in full, as follows:

“Rural Exceptions Housing

Planning permission for affordable housing to meet local needs in rural areas will be granted provided:

1. *The site accords with Policy ST3 and/or is in a location where access to day to day services can be conveniently and easily achieved;*

2. *The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community;*
3. *A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*
 - a. *An up-to-date parish or village housing need assessment undertaken or carried out by a recognised and appropriate body;*
 - b. *A thorough site options appraisal; and*
 - c. *A prepared statement of community involvement that has sought to include the significant input of the Parish Council.*
4. *In addition, for schemes including unrestricted market houses/plots for sale, justification will be provided by the applicant:*
 - a. *To demonstrate that a scheme not relying on market housing has been considered and why it has been discounted or considered to be unviable; and*
 - b. *As to a number and types of housing proposed, which will be determined by the housing needs assessment and through an appraisal of viability to show the minimum provision of unrestricted market homes necessary to deliver a significantly greater proportion of local affordable houses for that site.*
5. *Proposals will be subject to a legal agreement that provides for the permanent control and management of any affordable housing to ensure its long term retention for local need."*

6. LOCAL REPRESENTATIONS

6.1 More than fifty letters of objection have been received from local residents. These objections may be summarised as follows:

- Only informed by the local paper that the site had been selected by the developer
- There are already hundreds of new houses being built on the edges of Faversham
- The site does not accord with policy ST3
- This is not an allocated site in the Local Plan
- Many previous applications have been refused within the parish stating that the infrequent bus service, lack of pavements and other public transport will mean a dependence upon travel by car
- The development does not satisfy the basic requirements of policy DM9
- Utilities for another eight houses will put an undue strain on the utility supply to existing properties
- The location of the drainage treatment plant on the front road side is questionable and will it smell
- Lack of parking within the proposed development that could impact pedestrian safety
- There are only 16 car parking spaces proposed as most households will have two cars, where will visitors park?
- The verge outside the proposed development currently has space for 6-8 cars used by residents, visitors and the local pub which will be lost if the development goes ahead

- The break in hedgerow for refuse collection could be used as a short cut by those living on the development
- Staplestreet is used as a rat run especially when there is an issue on the Thanet Way where traffic becomes chaotic and dangerous
- The road is often grid locked and emergency vehicles cannot get through at these times
- No footpaths or street lighting, with dangerous traffic at school times
- Car accidents have increased in the area
- Although there is no accident record numerous vehicle collisions have been witnessed
- Occupants with children will be unable to walk to the nearest playgrounds or playing fields as you could not walk with children down the busy, narrow and often overgrown footpath leading to Boughton
- There is only one local bus service which runs hourly until 6pm Monday to Friday which is under the threat of closure
- English Rural should look further into a site that achieves their goals
- The site is referred to as being the only one available within the village, this however does not make it a suitable and sustainable site for the young or old of the village and those with disabilities
- Single infill dwellings in the village envelope would have less impact
- Occupiers should be incorporated within the community rather than being stuck out on a limb
- A more modest proposal would best meet local needs and be welcomed and supported by residents of the parish
- There are no amenities in this small hamlet with occupants having to walk on unlit country lanes to reach Hernhill or Boughton
- It is questionable whether the housing is any more affordable than rented accommodation in nearby towns with more facilities
- Really affordable homes are council homes. Eco council homes would be a progressive solution
- The lane floods in two places
- The orchard at the back of the development gets sprayed every week in the growing season with weed killer which will affect new residents
- The proposal will destroy wonderful views, look out of place, and will not become available to anyone in our parish as they will not meet the requirements set out by the Swale Council points scheme
- The proposed site is on green belt agricultural land and its loss will alter the character of the area which is predominantly and historically fruit farming
- The area is prime agricultural growing land for fruit production and is part of the Hernhill and Boughton Fruit Belt as defined by the Swale Landscape Character Assessment
- The proposed site is immediately opposite a conservation area which will significantly alter the character and outlook
- When only 2.3% of the entire Borough is designated as a conservation area, why make a decision to blight one of them

- The development will affect the setting of listed properties, altering the architectural design and historical nature of the area and does not respect the listed properties in terms of massing and alignment
- The first view when driving into the village will be of the modern housing
- Brickwork should be in red stocks in Flemish bond
- Roof tiles should be natural slate or second hand clay tiles
- Whilst the developers claim that the design is in keeping with other properties in Staplestreet the overall build does not reflect materials such as Kent peg tiles
- The density of this proposal will greatly overshadow the existing housing especially as it has an elevated position
- The reduction in height of the hedging may affect the bats that have been witnessed there as well as birds, butterflies and insects
- The hedge lined verges of Staplestreet have been characteristic of the conservation area since photographic records began
- Due to the reduction of hedging and higher land the houses will overlook our property
- A development of this nature for local needs must have local support; it does not
- No consideration appears to have been given to land located at Dargate, The Fostall or Waterham
- The housing needs survey was conducted in 2015 and was misleading
- Public meetings were not advertised properly
- Parishioners feel let down by the Parish Council
- Parishioners were concerned by the lack of consultation with the community and delivered their own questionnaire to every household in the Parish
- The questions were openly shared with the Parish Council in 2018 who agreed to take the results into consideration, however these were later dismissed
- An offer of funding a new and unbiased survey of Parishioners was rejected
- Concerns of Parishioners were not taken into consideration at meetings
- Due to the failings of the Parish Council any recommendations from them in support of this planning process should be dismissed

A letter from a local resident co-ordinating a resident group of 25 households (The Hernhill Village Conservation Society) has been received and can be summarised as follows - points already raised in the local objections above have not been included:

- The Parish Council failed to engage and communicate with the community
- Concern about the lack of consultation lead to residents initiated their own questionnaire along with a petition of views - 146 people signed the petition, 144 against and 2 for it
- Out of 300 questionnaires delivered 62 responses were received
- 85% believed that Staplestreet was not the appropriate location
- 81% did not want to see affordable housing in just one location
- 63% wanted the homes integrated at various sites within the Parish
- At the Parish Council meeting to progress the scheme, the Chairman refused residents the opportunity to speak before the vote
- The 2015 Housing Needs Survey only gave a mandate to consult the community further and explore options

- The Parish Council has asserted that the development is important for families, young people and to stop the village dying, however both the 2015 and 2019 need surveys do not show even a majority representation of young people interested
- The 2019 survey only invited replies from potential applicants and shows most are in excess of 50, with only one family registering an interest
- The majority of respondents desired bungalows but yet only one affordable unit is a bungalow, thereby not reflecting the need or demographic on which this application is based
- In excess of 120 social houses are being built with supportive amenities towards Faversham
- The development will exacerbate water shedding and continually erode the natural banks nearby and further down Staplestreet causing further traffic hazards
- The site has fantastic open views towards the Thames estuary and the Isle of Sheppey which is not only appreciated by local residents but ramblers, cyclists and visitors that will be lost with the proposed build
- The introduction of a prominent line of properties will also destroy the traditional Kentish backdrop towards Boughton and Perry Wood
- Plots 1 and 2 now propose detached garages which will increase the building number profile and reduce gaps between buildings
- The access footpath to a refuge collection point will introduce an access alleyway dropping directly onto a derestricted narrow road with no footpath
- Plots 1 and 2 will overshadow Victoria Cottage opposite
- Tandem parking is not acceptable
- Plots 4 and 5 should have a hipped roof to soften its impact upon the streetscene
- Plots 7 and 8 should have traditional clay tile hanging to the 1st floor in keeping with the cottages and detached house opposite
- Developments of this nature should be progressed with sensitivity to provide a long term legacy for a village or hamlet

A letter from KH Town Planning on behalf of local residents comprising the Hernhill Village Conservation Society was submitted and can be summarised as follows:

- The Parish Council have not provided a strong community role
- No specific public meetings or consultations have been arranged by the Parish Council
- A lack of openness and transparency has meant that Freedom of Information requests have had to be made to obtain key information
- There is limited detailed consideration of the arguments for and against development and the impression given is that the applicant expects the application to find favour with the Borough Council and be approved
- The Design and Access Statement is limited and is clear that the site selection, number/form of units and the layout are all dictated by the applicant's set requirements with little or no compromise
- No acknowledgement has been given to the statutory duty and policy requirement to consider the impact on the conservation area and its setting

- The Transport Statement is silent on whether the proposals are a sustainable form of development having regard to the sites location, isolated position and the lack of immediate community facilities
- The site does not constitute a sustainable form of development and is contrary to both established national and local planning policies regarding development in the countryside
- The site does not lie within or adjacent to a defined village settlement but rather is in an area of open countryside
- An argument that a proposal involved local affordable housing does not necessarily override other planning considerations
- The information submitted with the application indicates that a total of eight sites were identified and considered in 2017. Of these, six were considered to have potential. Of the six sites, four were in more central locations, closer to facilities which exist in the parish
- This site was the most remote site identified from the centre/facilities
- The site identification process was carried out three years ago and has not been revisited
- An up to date process could establish other sites that are now possibilities and available
- The applicants case is that there is a housing need for 11 householders, however there is only 6 units proposed therefore the need identified by the applicants will not be completely met by the development
- The proposal does not accord with Local Plan policies ST3 or DM9
- The proposal has not been justified by the application information and evidence
- No open viability appraisal has been submitted to demonstrate why market housing has been included, or justify the number/size and type of unit
- No legal obligation has been submitted to demonstrate how the occupation and management of the development will be controlled to ensure long term retention of the housing for local needs
- The development would represent a crude encroachment into the field, open countryside and natural landscape
- The detailed design and appearance of the units is not unique to the vernacular of the area
- The proposal is not appropriate to the surroundings and would not conserve the landscape or local environment contrary to policies CP4, DM9 and DM24 of the Local Plan
- The resulting impact on the character and amenities of the designated rural lane and removal of hedgerow are contrary to policies DM26 and DM29 of the Local Plan
- The proposal would harm the setting and views into and out of the Conservation Area contrary to national heritage planning policies and policies CP4, CP8 and DM33 of the Local Plan

6.2 Since the submission of new layout drawings and statements from the applicant and the Parish Council, four further objections have been received, stating that the applicant has chosen to note positives from the consultation exercise and ignore the many negative comments received, and further criticising the manner in which the applicant and the Parish Council have conducted the matter during the planning process.

- 6.3 I have also received two more recent letters; one suggesting that the intended provision for electric vehicle charging points is not yet clear, and raising concern about the likely impact of additional parking and traffic from the site, and about how construction vehicles will access the site. The other says that the amended plans as submitted show No. 5 Staple Street inaccurately on the location of a previous Cesspool and not where it actually is on the other side of the road next to No.4 which misleads the extent of the current built properties on the side of the road of the proposed development. The nearest residence is at Forge Farmhouse. The writer also suggests that English Rural's statement of community involvement fails to recognise that the majority of residents (local and otherwise) are opposed to the development on the current site, and that the applicant's comment that 57% of Rural parishioners supported a small development of affordable houses, adding that this information is taken from a previous survey when the site was unknown and not from a more recent survey that reveals the majority of parishioners do not support the current location.
- 6.4 I have conveyed the concerns of local residents to the applicant, who has responded with the following summarised points:

Site Search Process

This followed the usual protocol and was carried out by the Rural Housing enabler from Action with Communities in Rural Kent, in partnership with the Parish Council, before English Rural became involved in the project. It is not usual to include the wider community in the site search procedure and this process has been followed by Swale Borough Council and its Parish Councils in all the local needs schemes developed the Borough in the last 15 years.

The RHE report on this site selection process is included as a supporting document with our planning application. The Parish Council and the RHE identified possible sites in the Parish and the RHE wrote to Landowners to ask if they would be interested in putting their site forward. I understand that Swale Planning Officers were involved in providing comments as to the suitability of each site.

At the time English Rural was invited by the Parish Council to work with them, there were only two sites on the 'shortlist'; both in Staple Street. As both Swale and the Parish Council did not have a preference between the two sites, English Rural was asked to carry out a feasibility study on both. Site 3 has an overhead electricity cable crossing the site and a well in the corner of the front boundary. The land slopes away and the impact on the surrounding landscape would have been more significant than Site 5, which was eventually selected.

Consultation Process

There have been two independent housing needs surveys commissioned and supported by Hernhill Parish Council and Swale Borough Council. The first of these in August 2015, would be considered as the first consultation with the community, seeking local residents views and comments, whilst also identifying a need for affordable housing from local people.

Progress of the local needs housing project was discussed and duly minuted at Parish

Council meetings, and the first community consultation event was held on 15 March 2018. Despite comments to the contrary, the event was well publicised by posters around the Parish, on the village website and Parish Magazine. The objective of the event was to display the preliminary plans and seek comments and views from the community, as is the usual practice at an early stage of a project. On the day itself, 37 residents registered attendance; some of these lived opposite the site and were upset that they had not previously been aware of the project. This was unfortunate but it was pointed out that the project had been discussed at Parish Council meetings open to the public, with discussions noted in the minutes.

Following the event, English Rural had further meetings and discussions with the Parish Council and the newly formed Hernhill Village Conservation Society which we understand was established at that time by a local resident who lives opposite the site. We listened to the Society's concerns around the design of the properties and access to the site, with the result that the plans were significantly amended over a period of months. A further public consultation event was held on 9 April 2019. The event was again advertised by poster and the village website. 45 residents registered attendance for this event, so just eight more than the first event, from which we can perhaps conclude that the original event was adequately advertised.

The Parish Council

In our view the Parish Council has followed the acknowledged route for delivering local needs housing. Parish Councillors have played a proactive role in ensuring specific design comments have been discussed and taken on board by English Rural wherever possible.

English Rural was first invited by Hernhill Parish Council to work with them in early 2016 and it is true that the original Chair and Clerk resigned around two years ago, although we understand that this was due to ill health and not for the reasons stated in some of the comments on the planning portal. Last year three new Councillors were elected to fill vacancies on the Parish Council. All three Councillors are from Staple Street and had all previously objected to our proposals. Although the new Councillors have been required to 'Declare an Interest' when the local needs housing project has been discussed, they sought a formal dispensation to take part in the discussions and to vote; this was granted by the Parish Council.

Following the consultation period for our planning application, a Parish Council meeting was arranged for 24 March 2020 to discuss the application and take a formal vote. Unfortunately because of lockdown restrictions, that meeting had to be cancelled. On the advice of National Association of Local Councils, the Parish Council then arranged an 'email vote' for 14 April. This forthcoming vote was publicised on the PC website and local people were encouraged to send in their comments for consideration by Councillors before the vote deadline. As you are aware the outcome of that vote was 3-3 with one abstention and because the Chairman has the casting vote, the result was to support the planning application. We note from the planning portal that this was considered 'unfair' by some respondents, even though this procedure is legally permitted and forms part of Parish Council rules.

We understand that concerns had been raised about the legality of the 14 April vote and that the Parish Council was advised by the Kent Association of Local Councils, that the meeting should take place in 'public'. A Zoom meeting was therefore arranged for 5 May and publicised accordingly. I was invited to speak at this meeting, as were those objecting to the planning application. Following extensive discussions and other comments from members of the public, a vote was taken and the result was 4-3 to support the application. Understandably the three opposing Councillors were those who had previously declared an interest. I don't know which Councillor, who had previously abstained, now decided to vote in support, or what changed their mind.

English Rural

English Rural is a not for profit, rural specialist housing association and also one of the leading advocates on affordable rural housing, with HRH Princess Anne as our Patron. As you may be aware, English Rural has been selected by Swale Borough Council as its preferred rural partner for the last 15 years and have 43 local needs homes in five villages in the Borough. Our unique approach involves forming a community-led local partnership to research, enable and deliver affordable homes. Our relationship with local partners such as Parish Councils, Rural Housing Enablers, Local Authorities, farmers and land-owners is crucial to our success. We are only ever invited in by a village and some areas have chosen to work with us multiple times over the years.

In conclusion, I appreciate there have been a significant number of objections submitted against the Parish Council regarding the transparency of the process. New local needs housing in rural areas is often an emotive subject and whilst we endeavour to engage with those objecting, there is often nothing that can be said or done that will change minds, apart from perhaps not building on a particular site. However as I say in my statement, experience has shown us that villages like Hernhill benefit significantly from retaining local households who would otherwise be priced out of their home community. Local people help to define and make a village what it is. Retaining local households, who often work locally or support local family networks, brings a broader social sustainability, *which helps to retain the very fabric of community life in rural areas*.

Members should note that the applicant's Site Search Summary; their Statement of Community Involvement, and a statement from the Parish Council are attached to this report as Appendices A, B and C.

The Parish Council has also recently submitted a detailed timeline of events leading up to the application from 2015 when the question of local needs housing was first raised, through the various Parish Council meetings and public events from 2016.

7. CONSULTATIONS

- 7.1 Hernhill Parish Council raises no objection to the proposal, but a statement from the Parish Council is included as Appendix C to this report.
- 7.2 Kent Highways and Transportation originally commented on the following areas:
 - Accepting the proposed 2.4m x 50m visibility splays
 - Suggesting a change to the precise location of the site access

- Agreeing that trip generation would not significantly affect the highway network
- Agreeing that adequate parking provision was being made
- Suggesting less use of tandem parking spaces
- Querying the parking provision for units 7 and 8 (the flats)
- Suggesting electric vehicle charging provision and cycle storage
- Raising the safety of pedestrians in an environment where a pavement is not appropriate.

7.3 The applicant responded with revised site drawings showing revisions and information as follows:

- Access way lengthened, with parking spaces (for units 7 & 8) moved northwards from the access point
- An undertaking to provide electric vehicle charging points
- Sheds for private cycle storage

7.4 Following receipt of this drawings and information, Kent Highways is now satisfied that the additional information provided addresses the concerns raised in its previous response, subject to conditions to include the matters covered by some of the conditions recommended below.

8. APPRAISAL

8.1 The main issues to consider in this case appear to be those of the principle of development; the impact on the character and setting of the Staplestreet conservation area; visual and residential amenity; highway safety; the loss of agricultural land; the suitability of the location; and the manner in which consultation and decision making was carried out by the applicant and the Parish Council. I will consider each of these in turn.

Principle of Development:

8.2 As noted above, the site is situated outside any built-up area boundary and adjacent to the Staplestreet conservation area. This is not an area where adopted Local Plan policies would usually support new residential development. However this proposal is for cross-funded rural exception affordable housing, where policy DM9 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 applies, making this a potential exception to normal rural restraint policies. The preamble to policy DM9 includes the following words;

'The Council, together with rural housing partners, recognises that in order to tackle these challenges, there is a need to increase affordable housing within rural areas and that a flexible approach to meeting local housing need is required. There is national planning policy support for departing from the previous policy approach to restrict sites solely to affordable housing, to allow some unrestricted market homes for sale, including plots for sale for local self build. This should help both to increase affordable housing completions and to allow for more mixed and sustainable rural

communities. In turn, this will provide the right housing to support stronger communities and to sustain rural areas in ways that respects their character.'

Policy DM9 states that planning permission for affordable housing to meet local needs in rural areas will be granted, provided that the proposal is in accordance with certain requirements. The present proposal is in accordance with those requirements, but to ensure that the properties remain available for local needs and to accept the inclusion of market housing a Section 106 Agreement will be necessary before any planning permission can be granted. As such, I consider the principle of development in this case to be acceptable.

The impact on the character and setting of the Staplestreet conservation area

- 8.3 The site is not within the conservation area, but I have had regard to the Council's statutory duty to consider the preservation or enhancement of its character. In my view the relevant test is set out in paragraph 196 of the NPPF where less than substantial harm must be weighed against any public benefit. In this case I see the limited harm to the character of the conservation area outweighed by the benefits of a scheme such as this, and I believe that the design and layout proposed goes as far as it reasonably can to compliment and enhance the character of the conservation area, not least in retaining the frontage hedgerow.

Visual and Residential Amenity:

- 8.4 The drawings submitted show a well-set out scheme, setting the development back from the road behind the frontage hedge, which will ensure minimum intrusion, whilst not isolating the new properties from those existing, thus allowing any potential new occupiers to be part of the established community. The retention of the frontage hedging in large part will also minimize the impact of the development on the character of the rural lane in accordance with the aims of policy DM26.
- 8.5 I am of the opinion that the layout and design of the proposed properties is also acceptable; being positioned in a linear fashion as found within existing properties at Staple Street, and of a design which, whilst not aping any particular style, is in a traditional style which will sit comfortably within the landscape. The use of vernacular materials here is also important, and I would contend that this development would appear as a well considered extension to the existing community.
- 8.6 The scale of the proposed buildings is also fairly modest. I note that residents living opposite are concerned over potential loss of views, but there is no right to a view under planning legislation. Whilst I understand the concerns raised by local residents, this is not a reason to refuse planning permission.

Highway safety:

- 8.7 I acknowledge the concerns raised by residents about access, parking and highway safety, but I have to set this against the expert advice of Kent Highways and Transportation. This advice has concluded that with refinements, the proposed development will not have a harmful effect on highway safety and convenience. As such,

taking this expert advice into consideration, I am not convinced that an additional eight dwellings will have an adverse effect on highway safety or the local road network.

Loss of Agricultural Land:

- 8.8 A number of local objectors have noted as a concern the loss of this agricultural land. A number have identified the land as 'Green Belt', but there is no Green Belt land within the Borough of Swale. In terms of loss of valuable agricultural land, I would contend that the area of land is fairly small, and its loss would not have a significantly detrimental effect in terms of agricultural use and productivity. I also note that the land behind the site will continue in agricultural use. As such, I am satisfied that the loss of the land for agricultural use will not be significant, and that the benefits of a scheme like this, which will almost inevitably result in loss of agricultural land wherever it might be realised, outweigh any harm in this regard.

The Suitability of the Location:

- 8.9 A number of local residents have noted that whilst they have no objection to the principle of the development, they are of the opinion that this particular site is unsuitable and that other sites should have been further explored. As is stated within the submitted site search details (see Appendix A), a number of sites were considered by the Parish Council, and this site was essentially the only one which was considered to be acceptable and where the landowner was agreeable to the act of selling the land. Whilst other sites were and have been considered, the application is for this particular site, and the Council must therefore consider whether or not this particular site is acceptable. The Council is not allowed to refuse this application on the basis that other sites (even if they were available) might be preferable; it must determine this application on its own merits.
- 8.10 This site, being located at the end of the existing settlement with existing properties opposite, means that the new properties would not be located out on a limb, or in an isolated position, but in a location whereby any potential occupiers would be part of the village community, enjoying the neighbourly qualities of the community and in turn making their own contribution to the community.

Consultation and conduct of the applicant and the Parish Council:

- 8.11 Some local residents have criticised the conduct of the applicant and the Parish Council in the bringing forward of this application. However, there are other avenues to deal with such concerns, and the matter before the Planning Committee is the merits of the planning application. In my view, the key question is whether or not the planning application has been brought forward in accordance with the criteria in policy DM9 as set out above, especially criteria 3 and 4. I consider that the way that the Parish Council has gone about the needs survey, site search and pre-application local consultation has been entirely in line with the expectations of the Borough Council, and that there is no reason for Members to give concerns over that process any significant weight. In terms of financial calculations, the applicant has taken a robust and established approach, and the proposal has been shown to be soundly based.

Other Matters:

- 8.12 I acknowledge the comments made with regard to service provision (electricity, water, etc.), but this is a small development but I consider that there is no reason to see this as an overriding problem. I would acknowledge that no location in Hernhill is ever going to be the most sustainable in the Borough, but I would argue that, in accordance with Policy DM9, it is as sustainable as it reasonably can be commensurate with available opportunities. The proposal must be seen for what it is, exception site rural housing, and to compare it to rejected proposals for open market housing which are not intended to meet a specific identified local housing need is to my mind wrong and misleading. The site search was confined to the parish, where all possibilities involve unlit rural lanes. The search considered and discounted sites in far less suitable and sustainable locations, and in my view this location within easy reach of a public house, and within a mile of the church, the village hall, a convenience store, a post office, a petrol station and two primary schools, is actually quite well placed, and is acceptable for a scheme to provide affordable village housing as an exception to established rural settlement policy, using a tried and tested methodology.
- 8.13 Members will note the inclusion of Condition (3) below. Members have previously requested that a planning condition requiring a carbon emissions reduction of 50% above Part L of Building Regulations be attached to all new residential development. I have discussed this matter with the applicant, and requested that they accept that pre-commencement planning condition, but they have responded as follows:

'Further to our conversation this morning regarding the suggested 50% improvement over Part L of the Building Regs. I have discussed with our architect who has checked the adopted local plan (July 2017) but could not find any reference to this requirement. There also appears to be no relevant supplementary planning guidance on this either?

Our Energy Consultant has confirmed that, particularly at this very late stage, such an uplift is actually unachievable. A 50% improvement is in excess of even the London Plan requirements. To create such an improvement would have to have been considered at the outset of the project as there would need to be a significant redesign of the dwellings, with a far thicker external envelope, possibly a reorientation of the dwellings and changes to external openings to maximise solar gain. Changes in the footprint could also have a detrimental impact on the site layout. These measures would also need to be paired with energy efficient technologies such as photovoltaic panels, mechanical ventilation systems and the like. This comes at a significant economic cost that would severely impact on the financial viability of this local needs scheme. It would also likely result in a detrimental impact on the appearance of the development, something that would not appeal to those who oppose the scheme and not something that we would wish to promote ourselves.

Our developments already exceed Building Regulations levels via the 'fabric first' approach we employ. We include very good standards of insulation and triple glazing throughout. We are willing to consider providing air source heat pumps to all properties, should these be financially viable and internal space permit.

I hope the Planning Committee can appreciate why we are unable to accept this suggested planning condition but be reassured that energy efficiency of the development will exceed Building Regulations whilst also providing affordable homes for local people in perpetuity.'

The applicant has also provided the following information;

'It has always been English Rural's ethos to take a Fabric First approach to each development, by using a Fabric First approach ERHA can achieve big improvements in energy performance over that required by Building Regulations and reduce the amount of energy needed/wasted to heat the homes. This ethos includes;

- Plenty of insulation: walls, floors and roofs are insulated to a standard significantly in excess of that required by Building Regulations*
 - High performance doors and windows: double or triple glazed, with minimal thermal breaks, filled with low-conductivity gas and/or having a low-E coating to minimise radiant heat loss from inside to out*
 - Excellent airtightness and careful attention to reduce thermal bridging (ie at junctions of building elements where heat can 'leak out')*
 - Excellent internal air quality: simple, effective and almost maintenance- free heat recovery ventilation fans in kitchens and bathrooms help to provide continuous all year-round ventilation and recover heat from the air normally lost through extraction*
- A "fabric-first" approach is a tried and tested way to reduce a dwelling's energy efficiency and CO2 emissions. This approach allows the building to do the work rather than relying solely on Renewable technologies to reduce the CO2 emissions.'*

These figures show the applicant's anticipated energy efficiency standards:

| Proposed Average U-values | | Minimum Standards | % Improvement over Part L |
|----------------------------------|------------------------------------|--------------------------------------|----------------------------------|
| Floor – | 0.11w/m2K | 0.25w/m2K | 56% |
| Walls – | 0.18w/m2K | 0.30w/m2K | 40% |
| Roof – | 0.11w/m2K | 0.20w/m2K | 45% |
| Windows – | 1.2w/m2K | 2.0w/m2K | 40% |
| Air Permeability - | 5.0m ³ /hm ² | 10. 0m ³ /hm ² | 50% |

8.14 Without the applicant's agreement The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 do not permit the Council to impose the new style 50% carbon emission reduction condition. According to The Government's published National Planning Practice Guidance, the Council's options in this situation are to:

- grant planning permission without the pre-commencement condition,

- seek written agreement to an alternative pre-commencement condition, or
- refuse to grant permission (if it considers that the disputed pre-commencement condition is necessary to make the development acceptable in planning terms).

A further alternative is not to seek to impose a pre-commencement condition at all, and I consider that this would be the best solution in this case to avoid loss of what I see as a very welcome development. I have therefore recommended a suitable alternative condition, and an informative, to secure the best possible sustainable construction specification commensurate with the applicant's intentions.

9. CONCLUSION

- 9.1 This development would provide six houses for affordable rent to local people and has been evolved in accordance with the requirements of a specific Local Plan policy which is intended to assist such provision where normal market housing would not be permitted. Members may recall a very similar recent application for six affordable houses, cross-funded by two market bungalows on Leaveland Corner (17/506151/FULL), which was approved for this reason.
- 9.2 I consider that the development as proposed is of a suitable design and layout, is wholly in accordance with the most pertinent Local Plan policy, and will bring a much welcome resource to the village.

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 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.

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 instance.

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.

This should be secured once the decision is made to grant planning permission but before the decision notice is issued.

- 10. RECOMMENDATION - GRANT** Subject to the following conditions, and the signing of a Section 106 Agreement and a SAMMS tariff 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 the following plans:

2585-101 Rev SK-A; 2585-102; 2585-103; 2585-104; 2585-105; 2585-106; 2585-107; 2585-108 Rev A and 10354-1801 Rev P1.

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

- (3) No development beyond the construction of foundations shall take place until details have been submitted to and approved 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 approved details shall be incorporated into the development.

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

- (4) The dwellings hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no dwelling hereby permitted 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

- (5) Prior to the occupation of any dwelling hereby permitted it shall be provided with an electric vehicle charging point in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of promoting sustainable forms of transport.

- (6) All external boarding shall be in timber featheredged weatherboarding, and no development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials, including external boarding, to be used in the construction of the development hereby approved have been submitted to and approved 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 surrounding area.

- (7) No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external joinery work 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 surrounding area.

- (8) No occupation of any dwelling hereby permitted shall commence until all planting, seeding and turfing specified in the approved landscape details shown on approved drawing 20-02-11 have been completed, unless an alternative

implementation period has first been approved by the Local Planning Authority.

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

- (9) 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.

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

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

Reason: In the interests of residential amenity.

- (11) No development beyond the construction of foundations shall take place until a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority, which shall include the following:
- (a) Parking and turning areas for construction and delivery vehicles and site personnel
 - (b) Timing of deliveries
 - (c) Provision of wheel washing facilities

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

- (12) The new access road shown on approved drawing 2585-101 Rev SK-A shall be completed before the first occupation of any dwelling hereby permitted.

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

- (13) The new access road shall incorporate measures to prevent the discharge of surface water onto the highway.

Reason: In the interests of highway safety and convenience.

- (14) The new access road shall incorporate a bound surface for the first 5 metres from the edge of the highway.

Reason: In the interests of highway safety and convenience.

- (15) Prior to the first occupation of any dwelling hereby permitted the visibility splays shown on approved drawing ref 2585-101 Rev SK-A shall be provided with no obstruction over 0.9 metres above carriageway level within the splays, and thereafter these areas shall permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety and convenience.

- (16) The areas shown on the submitted drawing 2585-101 Rev SK-A as car parking spaces 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 of cars is likely to lead to car parking inconvenient to other road users

- (17) The details shown on the submitted drawing 2585-108 Rev A as cycle storage shall be provided prior to occupation of the relevant dwelling.

Reason: In the interest of promoting sustainable forms of transport.

- (18) Prior to the first occupation of any dwelling hereby permitted pedestrian visibility splays of 2 m by 2m on either side of the refuse collection point, with no obstructions over 0.6m above carriageway level within the splays, and thereafter these areas shall permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety and convenience.

The Council's approach to the application

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

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.

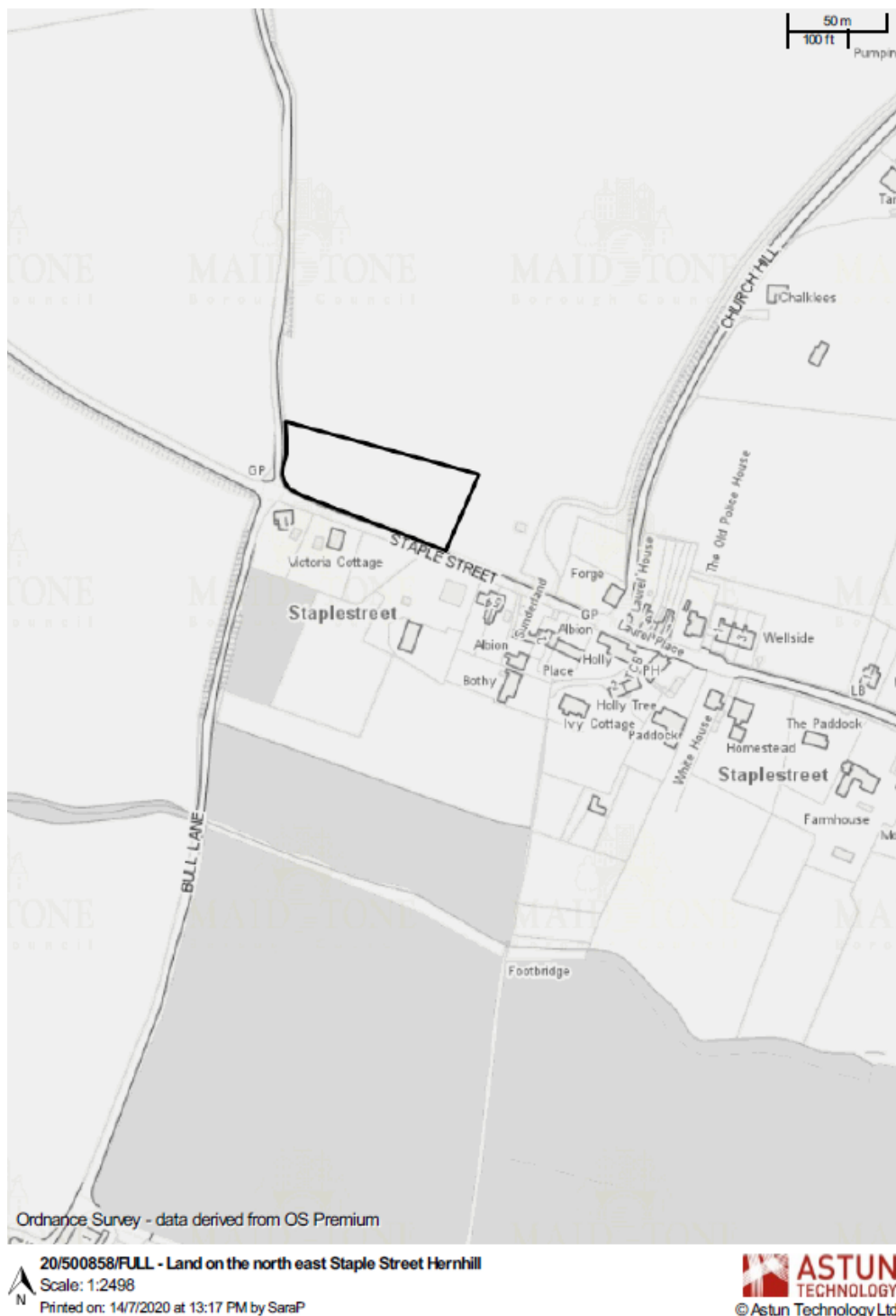
INFORMATIVES

- (1) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.
- (2) In relation to condition (3) the Local Planning Authority expects at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended). Examples of how the Council suggests that such a carbon reduction target can most easily be achieved is through the improvement of the U values and airtightness specification of the development, combined with the use of a heat pump (air source or ground source) instead of a conventional gas boiler, combined with a small solar thermal or photo voltaic installation. Whilst this may have additional initial costs we consider that at least some of this would

be off-set by a higher property value, as has been demonstrated on homes that achieve zero carbon.

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

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



APPENDIX A

**HERNHILL – LOCAL NEEDS HOUSING SITE SELECTION PROCESS**

Following the housing needs survey undertaken in 2015 in the parish of Hernhill, which identified a need for affordable housing for local people, the Rural Housing Enabler (RHE) worked with the Parish Council, supported by Swale Borough Council, to establish a project to find a suitable site for a local needs housing development

On 4th April 2017, the RHE undertook a desk-top site search with Parish Councillors; 8 sites were identified. The list of sites was sent to Swale Borough Council's (SBC) planning department and on the 13th May 2017, SBC Planning Officers, Parish Councillors and the RHE walked around the village to view the sites, after which Planning Officers made comments on suitability.

The total of eight sites were –

Site 1. Land opposite Cairo Lodge – the site was not recommended for development by SBC Planners as it would have an adverse effect on countryside in an unsustainable and isolated position.

Site 2. Land at Church Farm off Kays Lane – the site was considered as possibly acceptable for development by SBC Planners; sitting on the fringe of the core of the village, it would not appear incongruous or isolated. RHE enquiries to the landowner established that they did not wish to sell this site.

Site 3. Land opposite Three Horseshoes – the site was considered as possibly acceptable for development by SBC Planners; the loss of the field would be acceptable visually. RHE enquires to the landowner resulted in a meeting with the landowner, RHE and the Development Manager of English Rural Housing Association. The landowner agreed to sell.

Site 4. Land off Church Hill - the site was considered as possibly acceptable for development by SBC Planners; in a village centre location with residential use around it. However, the site would only accommodate three or four houses so was not pursued.

Site 5. Cherry orchard, Staplestreet – the site was considered as possibly acceptable for development by SBC Planners; on the edge of settlement location, development would not appear isolated or particularly intrusive. RHE enquiries to the landowner resulted in a meeting with the landowner, RHE and the Development Manager of English Rural Housing Association. The landowner agreed to sell.

Site 6. Land opposite village hall – the site was considered as possibly acceptable for development by SBC Planners; close to the school and village hall in a sustainable location, the site is visually prominent due to its location on a hill, requiring careful design so as not to have a jarring impact on the upon the landscape. Subsequent RHE enquiries to the landowner at first appeared positive and were followed by communication between the landowner and the Development Manger from English Rural Housing Association, but they ultimately did not agree to sell.

Site 7. Land off Crockham Lane – SBC Planners considered the site to possibly have potential for development but less favoured than others previously studied. The site is visually prominent, due to its position on a hill, especially when viewed from further down Crockham Lane. This site was not pursued as more favourable sites were found to be available following enquiries to landowners.

APPENDIX A

Site 8. Land near Black Oast, Butlers Hill – this site was not recommended for development by SBC Planners; a visually prominent site that would have an adverse effect on the countryside in an unsustainable, isolated position.

After assessing the suitability and/or availability of the sites, Sites 3 and 5 were both acceptable. Neither SBC Planners or the Parish Council had a preference over which of these sites should be developed. English Rural carried out a development viability appraisal on both sites. Site 3 has a water well located in the corner of the site and overhead electricity cable crossing the site. It was also considered developing this site would have a greater impact on the landscape. It was therefore agreed to progress with site 5.

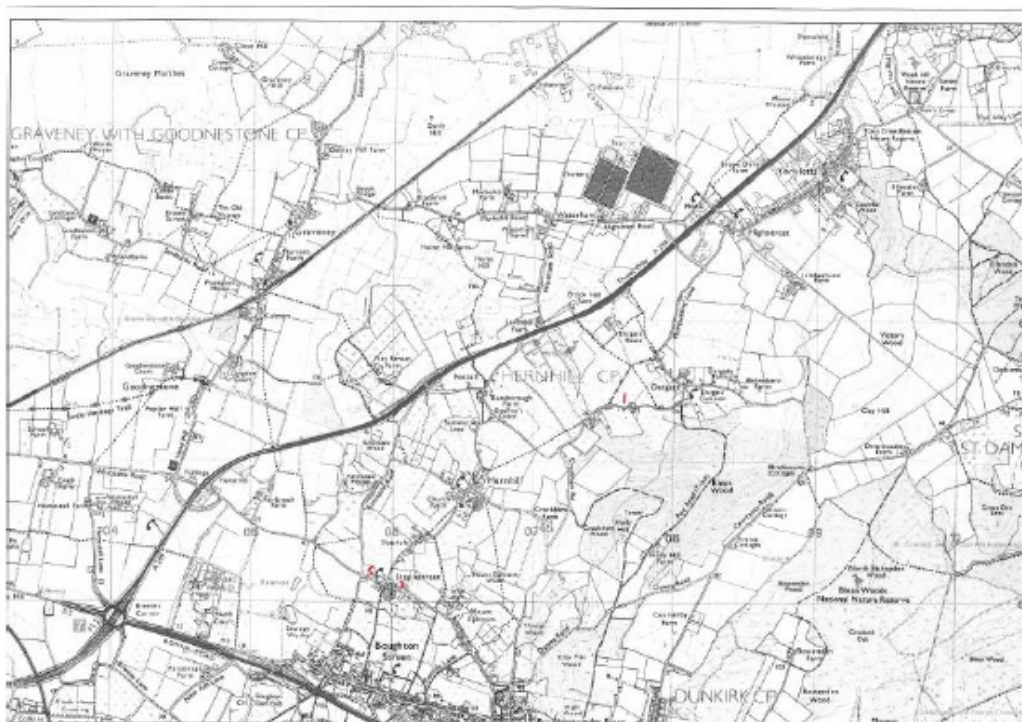
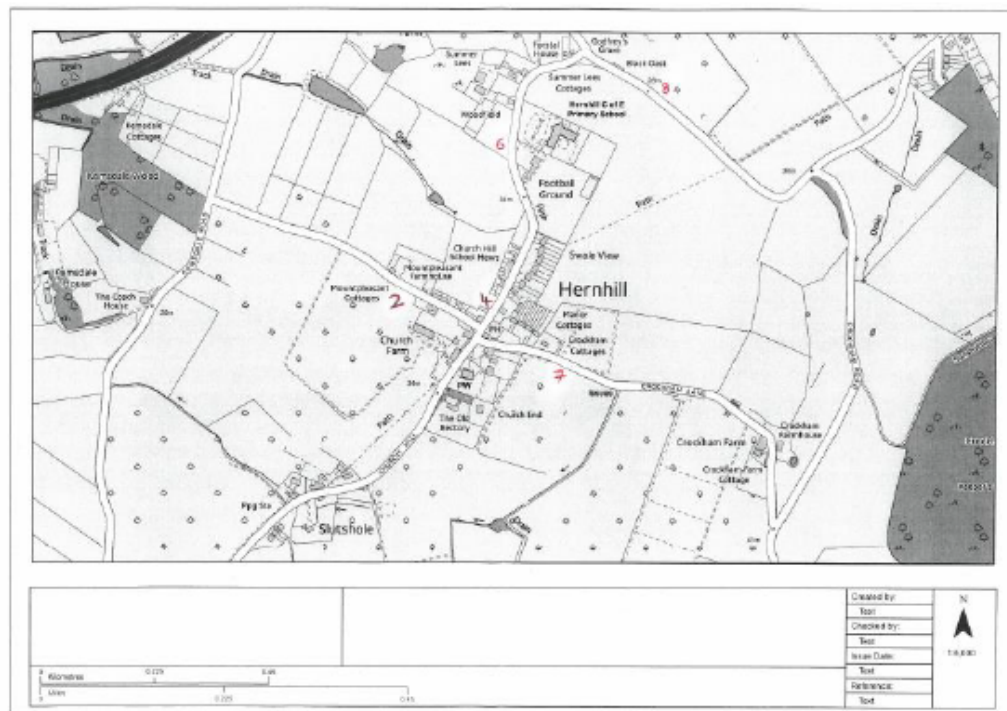
Tessa O'Sullivan
Rural and Community Housing Manager

Action with Communities in Rural Kent
The Old Granary
Penstock Hall Farm
East Brabourne TN25 5LL

tessa.osullivan@ruralkent.org.uk
01303 813790

28th January 2020

APPENDIX A



This page is intentionally left blank

APPENDIX B**STATEMENT OF COMMUNITY INVOLVEMENT**

In the formulation of this proposed scheme and the preparation of the planning application, regard has been had to the Swale Borough Council's (SBC) Statement of Community Involvement which encourages the engagement of the community in the planning process.

The project to develop this local needs housing scheme on a rural exception site in Hemhill began with the Parish Council supporting a Parish Housing Needs Survey in August 2015, undertaken by the Rural Housing Enabler (RHE) from Action with Communities in Rural Kent (ACRK) funded by Swale Borough Council (SBC). As well as identifying local housing need, the survey sought to capture the community's views on the merits of a small affordable housing development specifically to address the housing needs of the Parish; 57% of respondents supported the principle of such a development that would meet local housing need. The survey identified a need for twelve affordable homes.

The Rural Housing Enabler and planning officers at Swale Borough Council were involved in the search for a suitable site on which to build a local needs housing scheme and regular progress updates were given at PC meetings. Formal votes of continued support were minuted at PC meetings during the project.

Once a suitable site had been identified, English Rural prepared preliminary plans and the PC held an Information and Consultation Event on 15 March 2018.. The event was advertised in the Parish Magazine, the Village website and posters displayed in the Parish. At the event, coloured plans of the proposed preliminary layout and elevations of the properties were displayed. Information handouts were available giving details and history of the project. Hemhill Parish Councillors, the RHE and staff from English Rural were available to answer questions or discuss any concerns residents might have.

The event was attended by around 37 residents (who registered attendance) and they were invited to submit written comments about the proposal. Nineteen comments were received and forwarded to the Parish Council for discussion at a full Parish Council

APPENDIX B

meeting in April 2018. At this meeting Councillors voted to continue support a small local needs housing development in Staple Street.

Following the March consultation event, English Rural worked further with the Parish Council and Hernhill Village Conservation Society (HVCS) to mitigate the concerns raised regarding design and the access point to the development. A design team meeting was held with the Parish Council and HVCS to discuss revisions to the layout and the appropriate materials to be used. It was agreed that timber boarding and windows frames would be incorporated, together with such features as chimneys, arches over openings and a mix of roofing materials, to reflect the surrounding properties.

It was agreed that a further information event would be held, to display the revised plans on 9 April 2019. The event was well advertised locally and on the village website. Forty-Five people registered attendance at the event and 23 comments were received. The event was also an opportunity to launch the follow-up Housing Needs Survey, again carried out by the Rural Housing Enabler. Following the results of the survey, which identified a need for up to eleven homes, it was agreed that one of the two bedroom houses would be offered for shared ownership sale, with the remaining five properties for affordable rent.

All parties attended a Parish Council meeting on 16 July to discuss the outcome of the information event and the second housing needs survey. English Rural was asked to continue preparing the required reports and surveys to support a planning application.

APPENDIX C**Hernhill Parish Council Statement**

English Rural has been working with local Parish Councils in the Swale Borough for over 20 years, developing local needs affordable housing in the rural areas. We currently have 43 homes in five villages in the Borough. Importantly, all these homes have provided much needed affordable housing for local people, helping to ensure the future sustainability of these rural communities. There is always an overwhelming demand for our homes which continue to remain affordable for local people in perpetuity.

The English Rural planning application to be discussed tonight, is the result of a joint project with Hernhill Parish Council and has followed the well-established rural exception site process. Two independent housing needs surveys have been carried out by the Rural Housing Enabler at Action with Communities in Rural Kent. The results from the latest survey show a need for affordable rented or shared ownership homes from 11 households. These are people not only meeting the local connection criteria, but also having a proven housing need; unable to afford to rent or buy in their home village.

The site selection process was carried out by the Rural Housing Enabler, in partnership with the Parish Council and with advice from planning officers at Swale Borough Council.

Early in 2016, English Rural was invited by Hernhill Parish Council to work with them on the local needs housing project. We were asked to review the preferred sites which had arisen from site selection process. This was carried out carefully in accordance with established procedures and over the months and years that followed, we have continued to work closely with the Parish Council, from the early stages of preliminary sketches and layouts, to the fully-designed scheme we see today.

There have been two community consultation events and following these, we have attended further meetings with the Parish Council and Hernhill Village Conservation Society, to discuss the comments made by the wider community. We have endeavoured to respond to design and highways comments wherever possible and have made significant changes to address concerns or take due account of the observations or suggestions made.

We appreciate from the comments on the planning portal, that there are still some local concerns, particularly from people living near the site, who would, perhaps understandably, prefer not to see any development take place. However, experience has shown us that villages like Hernhill benefit significantly from retaining local households who would otherwise be priced out of their home community. Local people help to define and make a village what it is. Retaining local households, who often work locally or support local family networks, brings a broader social sustainability, which helps to retain the very fabric of community life in rural areas. In these difficult times

there is an argument that projects such as this one, aimed at bringing the community together, are needed more than ever.

This page is intentionally left blank

| | | | |
|---|---|---|-------------|
| 2.5 REFERENCE NO - 19/504375/FULL | | | |
| APPLICATION PROPOSAL Erection of building to house laboratory, equine stock and welfare unit and the erection of 3no. birthing stables. | | | |
| ADDRESS Bell Grove Stud Farm Halstow Lane Upchurch Sittingbourne Kent ME9 7AB | | | |
| RECOMMENDATION Grant planning permission subject to condition imposed below | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The applicant has submitted sufficient information to justify the erection of the additional buildings and their use for the purposes laid out in the application description. Having taken all material considerations into account, it is considered that subject to compliance with conditions appended below, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety. In resolving to grant permission, particular regard has been given to the following policies ST1, CP1, CP4, DM3, DM14, DM19 and DM21 of Bearing Fruits 2031. The Swale Borough Local Plan 2017. | | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council objection | | | |
| WARD Hartlip, Newington And Upchurch | PARISH/TOWN COUNCIL Upchurch | APPLICANT Mr T Simms AGENT Architectural Designs | |
| DECISION DUE DATE 02/12/19 | PUBLICITY EXPIRY DATE 12/11/19 | OFFICER SITE VISIT DATE 09/12/2019 | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/13/1563 | Variation of condition 4 of SW/10/0485 to allow unrestricted overnight use of caravan/mobile home by employees and customers of the stud farm. | Refused Permission | 21.02.2014 |
| <i>Reason for refusal: Insufficient evidence has been submitted to demonstrate that the dwelling can be justified on the grounds that it would support a rural business and that this rural business would benefit the rural economy to the extent that the harm to the rural environment would be outweighed.</i> | | | |
| 18/5003080/FULL | Variation to condition 4 of application SW/10/0485 (change of use from stabling for private use to commercial stud farming and livery) to allow unrestricted overnight use of an existing caravan/mobile home by the applicant, employees and customers of the stud farm. | Granted permission | 07.05.2019 |

Reason): The proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or highway safety.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located in open countryside on the northern side of Halstow Lane between Upchurch and Lower Halstow. It comprises a roughly rectangular parcel of land with a frontage width to Lower Halstow Lane of 75m, a depth of 180m and an area of approximately 1.35 ha. The site is in equine use as a commercial stud farm and livery. There are three stable blocks and a hayloft within a courtyard at the north-eastern corner of the site, to the west of which is an existing static caravan.
- 1.02 The southern part of the site is sub-divided by timber post and rail fencing to form a manege and a number of paddocks located on either side of a central driveway. The site is accessed from Lower Halstow Lane which is designated as a Rural Lane in the adopted Local Plan.
- 1.03 The surrounding area is rural in character. The site is bounded by a Travellers site to the west, open fields to the north and a riding school to the east. To the south of the site, on the opposite side of Lower Halstow Lane, is Lower Halstow cricket ground and open pasture.
- 1.04 The site lies within the Coastal Zone and the Strategic Gap between the Medway towns and Sittingbourne as designated in the Local Plan. The eastern fringe of the site lies in flood zones 2 & 3.

2.0 PROPOSAL

- 2.01 This application seeks full planning permission for the erection of 2 agricultural buildings on the site. One of the buildings will house laboratory facilities and act as a welfare unit for staff, clients and the vet etc. The laboratory building will measure 14.35m x 5.35m with a maximum pitched height of 5 metres. The materials proposed include facing brickwork, upvc windows and doors and concrete plain tiles for roof treatment.
- 2.02 Internally, the building would provide a reception and waiting area with the laboratory beyond. According to supporting documents, the laboratory is to assist the inseminator (DETHRA registered) in the collection and keeping of sperm and for necessary analysis to be undertaken. An equine stock is to be installed adjacent to the lab to restrain a mare in view of gynaecological tests, or to contain any other horse requiring treatment under safe conditions. The other part of the unit will provide washroom and restroom facilities.
- 2.03 As part of the proposal, the second building would be erected to house three birthing stables. This building would measure 11.6m x 5.3m with an overall height of 3.6m. The stables would have internal areas large enough to enable all round access, well ventilated and draught free spaces. Materials are detailed as timber weather boarding, slate tiling for the roof and timber doors and windows.
- 2.04 The proposed stable unit would have a pitched roof with low eaves and a roof overhung to emulate a traditional rural building. The finishing materials would also be of a traditional nature. The Office / laboratory building would have a slightly wider

floor area with brick for facing material. The applicant has submitted a planning statement and flood risk assessment which sets out the nature of the proposed uses for the office, laboratory and stables.

- 2.05 The stable has been sited so the existing access from Halstow Lane can be used. There is ample land around the proposed buildings for vehicular parking on site.

3.0 PLANNING CONSTRAINTS

Flood Zone – 2 / 3

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF):
Chapter 2 (Achieving sustainable development), Chapter 6 (Building a strong competitive economy), Chapter 14 (Meeting the challenges of climate change, flooding and coastal change), Chapter 15 (Conserving and enhancing the natural environment).
- 4.02 Development Plan: Bearing Fruits 2031:
ST1 (Delivering sustainable development in Swale), CP1 (Building a strong, competitive economy), CP 4 (Requiring good design), DM3 (The rural economy), DM6 (Managing transport demand and impact), DM 14 (General development criteria), DM 19 (Sustainable design and construction), DM 21 (Water, flooding and drainage), DM26 (Rural lanes), DM 31 (Agricultural land)
- 4.03 Supplementary Planning Documents:
Planning and development Guideline No. 7: The Erection of Stables and keeping of horses

5.0 LOCAL REPRESENTATIONS

- 5.01 Comments were received from both Upchurch and Lower Halstow Parish Councils, as follows:

Lower Halstow Parish Council wish to object to the above application on the grounds of increased traffic in a narrow country lane where the access and egress from the site is particularly difficult. They also comment that the separation between Upchurch and Lower Halstow is being eroded to the detriment of the countryside.

Upchurch Parish Council – ‘Councillors have considered the application and had no comment to make’

6.0 CONSULTATIONS

- 6.01 **KCC Highways**
The Highways Team has commented that having considered the development proposals and the effect on the highway network raise no objection on behalf of the local highway authority.
- 6.02 **Health and Safety Executive**
The application site and development falls within the vulnerable building consultation zone but falls outside of an inhabited building distance. The building is however not considered to be a vulnerable building and therefore the Team has not commented on the application.

- 6.03 Kent Police
No concern was raised with regards to potential crime at the site. Measures the applicant proposes to combat crime are deemed to be wholly appropriate from a designing out crime point of view.
- 6.04 Southern Water
No objection raised. The developer should be informed to make a formal application for a connection to a public sewer.
- 6.05 Swale Footpaths Group
There are public footpaths nearby but they will not be affected by the development.
- 6.06 Natural England
No objection raised. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 6.07 Environmental Health
No objections subject to the imposition of working hours condition.
- 6.08 The Council's Agricultural consultant
No objection raised.
The current proposals fit broadly in line with earlier stated intention on the grant of a previous application and appear to be necessary for the development of the specialist business concerned, and appropriately designed for the stated purposes.
- 6.09 Environment Agency
No comments as the site pose a low environmental risk. Informative for applicant has been appended
- 6.10 KCC Drainage
No comments as application fall outside of their remit as statutory consultees.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The application submission documents include a Planning Statement and Flood Risk Assessment.

8.0 APPRAISAL

- 8.01 The key issues in the determination of the application are:

- The principle of the development;
- The visual impact of the proposal on the local landscape;
- The resulting impact on the amenities of neighbouring occupiers;
- Highway matters;
- Flooding; and
- Other matters raised

9.0 Principle of Development

- 9.01 The keeping of horses is considered to be an appropriate use of land in the rural environment and routinely sits side by side with agricultural land in the countryside.

Policy DM 3 of the local plan is in support of boosting the rural economy and states that *'Planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area'*.

- 9.02 The premise of the development proposed has already been established as the site is in current use for the keeping and grazing of horses. In 2010, planning permission was granted for a change of use from private stabling to a commercial stud and livery (SW/10/0485), following which in December 2018 planning permission was granted at committee to allow unrestricted overnight use of a mobile home by employees and customers of the stud farm.
- 9.03 The current proposal to provide a laboratory is in line with upgrading on-site facilities at a scale which appropriate in the site context. The block plan of the 2019 permission under application ref: 18/503080/FULL presupposed the success of the unrestricted overnight use of the mobile home would result in the laboratory development. The Council's rural planning consultant has assessed the current submission and has concluded that the current proposals fit broadly in line with that earlier stated intention and appear to be necessary for the development of the specialist business concerned. The Consultant also adds the proposal is appropriately designed for the stated purposes.
- 9.04 Planning applications relating to equestrian use in the countryside are considered to be appropriate in principle where the proposals meet the criteria of relevant local policies and guidelines. I therefore consider there is no objection in principle to the development proposed subject to compliance with all other material planning considerations.

Visual Impact of the proposal on the local landscape

- 9.05 The SPG relating to the keeping and grazing of horses and states that 'planning permission will only be granted for stables if the buildings are of an attractive design and appropriate materials'. The guide goes on to say that this will almost always be that a pitched roof design is required. In response to this the proposed buildings have been designed with pitched roofs and the stable block incorporates an overhang on the front facing elevation.
- 9.06 The timber clad stable is considered to be of an appropriate design and material palette to minimise the impact on the landscape, and the proposed roof material enables a low pitch roof to diminish the bulk and massing of the building to the minimum practical for the proposed function. The laboratory is also of a scale and design which would be appropriate for the site
- 9.07 The buildings are set back by a considerable distance from Lower Halstow Road and as such, are considered to be sufficiently low level and modestly scaled to not be visually intrusive. The brick facing as proposed would emulate local development and as discussed above, the stabling unit would be in line with local guidance.
- 9.08 The layout and relationship of the proposed buildings with other existing structures on site keeps the active area clustered to the north of the site to avoid unnecessary spread of development within the open countryside. This is in line with local guidance on keeping structures well grouped in such locations. Overall, the scheme is considered to have been well thought out in terms of minimising visual impact, and would be of a suitable form and proportions which will be in keeping with the rural character of the locality.

Impact of the development on the amenities of neighbouring occupiers

- 9.09 A recent planning permission granted the use of a caravan stationed on-site for residential purposes. It is acknowledged that the proximity of this unit to the proposed stable and laboratory buildings may not be ideal setting for residential amenities. It is however worth noting that this caravan is an ancillary structure to the main function of the stud farm and planning permission was granted in May 2019 on that basis.
- 9.10 From the supporting documents of the application, it is mentioned that the owner of the farm and his family shall reside in the caravan during school term time and outside of these periods a farm hand would take residence. This indicates an ad hoc residential arrangement and occupiers would be very much aware of on-site conditions.
- 9.11 In the wider settings, the nearest residential property (i.e. a mobile home) is located some 60m to the south-west of the site at Jack Russel Place. Given this separation distance, it is not considered there would be negative impact. Overall, it is considered the development would have an acceptable impact on residential amenities of on-site occupiers and that of neighbours.

Highways

- 9.12 Halstow Lane is a designated Rural Lane and is a connecting route between Upchurch and Lower Halstow. The construction of the laboratory and additional stable block will undoubtedly result in some form of trip generation. As to whether this resultant impact will be negative on the local road network has been examined by KCC Highways Team who have raised no objection (see paragraph 6.01). In light of this, I conclude that there would be no detrimental impact on the public highway. The site occupies a large land area with ample space for parking and there are no planning reasons on highways grounds to warrant refusal of the application.

Flood Risk

- 9.13 Part of the site is within flood risk zones 2/3 however the Environment Agency (EA) has raised no objection to the proposal due to the proposal's low environmental risk. Horse keeping is not listed in the flood risk vulnerability classification; the EA has however requested for the applicant to contact them directly to seek further assessment and contact details have been included for the applicant's information.

Other Matters

- 9.14 The introduction of the 2 modest equestrian building is unlikely to impact negatively on the landscape; I do not consider that these buildings would erode the separation between the neighbouring settlements. The buildings are, in my view, of a scale which is proportionate to the site and in the wider landscape have a minimal visual impact on the area.

10.0 CONCLUSION

- 10.01 Having considered the relevant planning policies and comments from statutory consultees, I am of the view that the proposal would be acceptable in principle. I also consider that, due to the scale of the buildings, the proposal would have no significant detrimental impact on the character and appearance of the countryside and/or landscape.

- 10.02 The impact on residential amenities would be limited in my view and there would be no significant impact on biodiversity/ecology at the site or highway safety. I therefore recommend that planning permission is granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include:

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

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

- 2) The development hereby approved shall be carried out in accordance with the following drawings: 19/1720 and 19/1721.

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

- 3) The materials to be used in the construction of the external surfaces of the stables and laboratory hereby permitted shall be in complete accordance with information given on the application drawings.

Reason: In the interests of visual amenity.

- 4) The stable, farm office, laboratory and staff facilities hereby permitted shall be used for purposes ancillary to the use of Bell Grove Stud Farm, Halstow Lane, Upchurch and for no other purpose including any purpose within Class B1(a) or (b) of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended).

Reason: In the interests of ensuring that the building is associated with the equestrian use of the land.

- 5) No floodlighting, security lighting or external lighting (other than that described in the supporting information) shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

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

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

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

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

Reason: In the interests of residential amenity

INFORMATIVES

Environment Agency

The Environment Agency had no comments due to the location of the site, they however expect the applicant to contact them on 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>

Southern Water

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>

The Council's approach to this application:

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

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

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

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

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



This page is intentionally left blank

| | | |
|---|----------------------------|--|
| 2.6 REFERENCE NO - 19/505469/FULL | | |
| APPLICATION PROPOSAL Conversion of existing dwelling to create 2no. one bedroom flats with erection of single storey infill side extension. Demolition of existing garage and erection of 2no. one bedroom flats and 1no. cycle store. | | |
| ADDRESS 74 Unity Street Sittingbourne Kent ME10 1HX | | |
| RECOMMENDATION Grant subject to conditions | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The proposal is located within the built-up area boundary of Sittingbourne where the principle of infill development is generally supported. The size of the units are compliant with relevant policy and SPG and all units provide a good standard of accommodation. Whilst it is acknowledged that the proposal is car free, this is outweighed by the sustainable town centre location and the sites accessibility to bus and rail routes. No adverse impacts have been identified for the amenities of neighbouring properties. | | |
| REASON FOR REFERRAL TO COMMITTEE Application called into Planning Committee by Cllr Simon Clark | | |
| WARD Homewood | PARISH/TOWN COUNCIL | APPLICANT Mr Gerald Sait AGENT Woodstock Associates |
| DECISION DUE DATE 31/12/19 | | PUBLICITY EXPIRY DATE 02/03/20 |
| PLANNING HISTORY No planning history | | |

1. DESCRIPTION OF SITE

- 1.1 The subject site is located on the western side of Unity Street, a short distance from the junction with Connaught Road. It is roughly rectangular in shape and occupies an area of approximately 0.023 Ha.
- 1.2 The site itself comprises of 1 x two storey end of terrace dwelling and 1 x double fronted garage with access via a vehicle crossover leading directly from Unity Street. Unity Street is an unclassified residential access road which is located within Sittingbourne's Controlled Parking Zone (CPZ)
- 1.3 With regard to the surrounding development, the area is characterised by high density, low rise residential development. It is bounded to the north by rows of Victorian terraced houses. Immediately to the rear fronting Ufton Lane is a two storey detached house and immediately opposite the site is Park Road comprising of semi-detached dwellings.
- 1.4 The site is located within a highly sustainable town centre location within walking distance (maximum of 707m) of Sittingbourne High Street, Sittingbourne Train Station and Sittingbourne Bus Hub to the north.

2. PROPOSAL

- 2.1 Planning Permission is sought for the conversion of an existing dwelling to create 2 x one bedroom flats following the demolition of an existing single storey side extension; and the demolition of the existing single storey double garage to provide a two storey maisonette comprising of 2 x one bedroom flats.
- 2.2 The conversion of the existing property at No.74 would result in two flats, No's 1 & 2. Unit 1 would be located on the ground floor and comprise of one double bedroom, separate lounge, kitchen and bathroom. Access would be obtained direct from Unity Street and the unit would provide a total floor area of 55m².
- 2.3 Unit 2, also part of the conversion of No.74 would be located on the first floor comprising of one double bedroom, separate kitchen and bathroom. Access would be direct from Unity Street and the flat would provide a total floor area of 46m²
- 2.4 In addition to the conversion, the existing double garage would be demolished and replaced with a two storey residential building containing a further two units (Units 3 & 4). The development would have a width of 6.2m following the existing building line of the garage, and a length of 8.2m. There would be a single storey extension to the rear measuring 3.3m x 3.4m. The height and roof profile would replicate the built form of Unity Street with an eaves height of 5.5m reaching to 9m at the roofs apex.
- 2.5 Unit 3, would be located on the ground floor and comprise of one double bedroom, open plan lounge and kitchen and small shower room. It would provide 51m² of living space with access direct from Unity Street.
- 2.6 Unit 4 would provide a one bedroom duplex living arrangement. The open plan lounge and kitchen would be located on the first floor while the double bedroom and shower room would be located within the roofspace. Access would be from Unity Street and the flat would provide a floor area of 59m²
- 2.7 The site is located within a Controlled Parking Zone with restricted parking during working hours. No parking is proposed with this scheme, however the existing unit, No 74 Unity Street has two parking permits.
- 2.8 The scheme has been revised since the first submission. Amendments include removal of two front dormer windows, general reconfiguration of the units to provide sufficient floor space and the removal of a single storey side extension to no 74.

3. PLANNING CONSTRAINTS

- 3.1 Ground water source protection zone

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF): Paragraphs 8, 11, 117, 118, 124, 128, 130 and 131 are relevant.
- 4.2 National Planning Practice Guidance (NPPG)
- 4.3 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 DM14 | General development criteria |
| Policy DM19 | Sustainable design and construction |

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

4.5 SWC Draft Parking Standard 2019

5. LOCAL REPRESENTATIONS

5.1 In total 18 letters of objection were received. Summary of objections as follows:

- Overdevelopment
- Impact upon appearance of streetscene
- Loss of privacy due to overlooking from first floor windows
- Elevated noise levels due to communal amenity space
- Loss of light due to single storey rear extension
- Impact on highways as area is located within a controlled parking zone
- Parking congestion
- Loss of existing garages and associated vehicle parking spaces
- Highway safety/construction
- Hours of construction
- Air/dust
- Noise and disturbance
- Other matters - Lack of neighbour notification

6. CONSULTATIONS

6.1 Environmental Health raise no objection subject to conditions

Standard air quality planning conditions relating to the boiler emissions. Standard construction hours and dust suppression conditions to protect the amenity of neighbouring residential properties during the construction phase.

6.2 KCC Highways - scheme does not warrant the involvement of KCC

Suggested informative

6.3 Natural England raise no objection

Subject to SPA mitigation (SAMMS) payments being made

7. BACKGROUND PAPERS AND PLANS

7.1 SA/19/131/02 Existing floor plans

SA/19/131/03 Existing elevations

SA/19/131.01A Location and Block Plans

SA/19/131.04A Proposed Floor Plans

SA/19/131.05A Proposed Elevation and Section AA

8. APPRAISAL

- 8.1 The application site lies within the built up area of Sittingbourne where the principle of minor infill residential development is accepted. The main issues relate to the impact upon the character and appearance of the local area and the streetscape, together with the impact upon residential amenity, parking and highways safety, landscaping and matters relating to ecology.

Principle of development

- 8.2 The site is within an established built-up area boundary, in a residential area, and development here is in accordance with Policy ST3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017. As such, the principle of development here is acceptable.

Visual Impact

- 8.3 The principal objective of policy CP3 of the adopted local plan is to deliver a wide choice of high quality homes within the borough. The policy requires that residential densities are determined by the context and the defining characteristics of an area. Considering the demolition of the garage and subsequent residential replacement in terms of its scale and height, the building would appear as a logical addition generally reflective of the proportions of the adjacent neighbouring properties along Unity Street. The fenestration details, window and door proportions and choice of materials are also consistent with the appearance of the streetscene. The existing dwelling No 74 would be converted, however only minimal changes are proposed the external appearance of the building. As such, I am of the opinion that the built form of development here is appropriate to its setting and would not detract from the appearance of the area.

Residential Amenity

- 8.4 Turning to residential amenity, the rear building line of the garages would be extended to align with the main building line of No 78. which in my opinion would have minimal impact. A single storey rear element is proposed which would be set off of the shared boundary by 1.2m and which would have a height of 3m and a depth of 3.3m. Whilst I acknowledge the increase of development closer to the boundary, based on the separation distance and measurements I am of the opinion that it would have minimal impact on sunlight or increased overshadowing and a refusal could not be sustained in this regard.
- 8.5 With regard to the loss of privacy, the addition of a first floor level above the garage would give rise to overlooking opportunities onto the rear garden of No. 78. However, this type of overlooking is common within a terrace of this type and I do not consider it to be increased to a level that could sustain a refusal in this regard. Furthermore, given the nature of the existing development along the shared boundary the proposal would

not give rise to adverse amenity concerns to No. 72 over or beyond the existing situation and is therefore acceptable.

- 8.6 In relation to the suitability of the units for future residential use, Units 1 & 2 would require the conversion of an existing dwelling with an original floor area of 136.7m² which is of a size considered suitable for conversion. In terms of the new floorspace for units 1 & 2, SPG The Conversion of Buildings into Flats & Houses in Multiple Occupation is set out below:

| Unit No. | Number of bedrooms | Number of persons | Proposed | SPG Requirement | Compliant |
|----------|--------------------|-------------------|---------------------|------------------|-----------|
| Unit 1 | 1 bedroom | 2p | 55.83m ² | 29m ² | Yes |
| Unit 2 | 1 bedroom | 2p | 46.27m ² | 29m ² | Yes |

Units 3 & 4 are new build dwellings and therefore are required to be compliant with Departments for Communities and Local Government: Technical Housing Standards – Nationally described space standards as set out below:

| Unit No. | Number of bedrooms | Number of persons | Proposed | Standards Requirement | Compliant |
|----------|--------------------|-------------------|---------------------|-----------------------|-----------|
| Unit 3 | 1 bedroom | 2p | 51m ² | 50m ² | Yes |
| Unit 4 | 1 bedroom (duplex) | 2p | 59.76m ² | 58m ² | Yes |

- 8.7 Based on the information above all units are compliant with policy. Furthermore all units provide reasonable outlook, sunlight, ventilation and privacy and overall would provide a good standard of accommodation. I therefore have no concerns in this regard.

Highways and parking

- 8.8 Regarding parking provision it is noted that the proposal is for a car free development. In this instance, car free schemes are generally supported within highly sustainable town centre locations. The site is located within walking distance to the main high street of Sittingbourne Town Centre located 455m/0.28miles immediately north of the site, estimated at approximately 7 minutes average walking pace. Beyond the high street is Sittingbourne Train Station that provides local and national links at a distance of 707m/0.44miles from the site estimated at approximately 10mins average walking pace. The suitability of the site for car free development is further enhanced by the availability of the local bus network again within walking distance to 'Sittingbourne bus hub' which provides links with Faversham, Sheerness and Maidstone.
- 8.9 Notwithstanding the sustainable location, this area is characterised by high density Victorian terraced housing where off street parking was not a feature and the proposal presented is reflective of this character. The site is located within Sittingbourne controlled parking zone (CPZ) where street parking is restricted to parking permits. In this instance, the Swale Parking Draft Standard 2019 stipulates the 'maximum' provision

of 1 space per 1 to 2 bedroom unit within Town Centre locations. The existing property benefits from two existing permits and as such there is only a 'maximum' uplift requirement of a further two permits. One additional space would become available on the street on the area of the existing dropped curb, further reducing this to one permit. In this regard, I am of the opinion that as car parking is calculated on the 'maximum' provision as set on in the Supplementary Parking Document on parking and the area is located within a town centre location within close proximity to highly sustainable transport links, the lack of one permit can not reasonably be supported to a degree that would warrant a refusal in this instance, in my opinion.

- 8.10 In addition, I draw the Members attention to an Appeal (APP/V2255/A/11/2156675) on an adjacent road 'William Street' approximately 200m from the subject site. The proposal was for '*Demolish existing garage and erection of a 2 storey side extension and 1st floor rear extension to enable the conversion of property to four self-contained residential flats*'. (The similarity here is the lack of parking provision). In this regard the Planning inspector stated:

"I do not doubt the Council's assertion that there is a high level of parking demand in the area. It is also referred to by local residents. However, the development would provide additional dwellings in a sustainable, edge of town location, within walking distance of the shops, public amenities, services and public transport. In that context, it would not be essential for the occupiers of the flats to own a car, although it is likely that some will do so. The Council does not refer to any particular policy requirement for parking spaces. The appellant observes that Kent County Council's parking standards for an edge of town location do not set a minimum requirement. In the particular circumstances of this site, I do not find the absence of provision for dedicated vehicle parking to be conclusive or to amount to conflict with policy.....While the proposal is likely to have some effect on local residents in terms of ease of access to on-street parking close to their homes, that effect would not be sufficient for the development to be unacceptable."

Biodiversity and Sustainability issues

- 8.11 I note the energy efficiency measures proposed by the applicant, and further note that the applicant has agreed to the imposition of a pre-commencement condition requiring energy efficiency levels of 50% above Part L of Building Regulations, and in accordance with Policy DM19 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017. As such, I am confident that these issues have been successfully addressed and that this part of the proposal is acceptable.

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.

The site lies within 6km of the Swale SPA and a contribution is therefore required to mitigate the potential impacts of the development upon that protected area, in accordance with the Council's standing agreement with Natural England by means of developer contributions at the rate of £250.39 per dwelling which has been paid by the applicant.

9. CONCLUSION

- 9.1 The proposal is located within the built-up area boundary of Sittingbourne where the principle of infill development is generally supported. The size of the units are fully compliant with relevant policy and SPG and all units provide a good standard of accommodation. Whilst it is acknowledged that the proposal is car free, this is outweighed by the sustainable town centre location and the sites accessibility to bus and rail routes. No adverse impacts have been identified for the amenities of neighbouring properties.

10. RECOMMENDATION

GRANT Subject to the following conditions

CONDITIONS to include

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) No development shall take place other than in accordance with the following approved plans as amended: SA/19/131.01A Location and Block Plans, SA/19/131.04A Proposed Floor Plans SA/19/131.05A Proposed Elevation and Section AA

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

- (3) 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.

- (4) 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 a programme agreed in writing with the Local Planning Authority

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

- (5) 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 tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

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

Reason: In the interest of the amenities of occupiers of neighbouring properties.

- (7) The 2 new build dwellings (Units 3 and 4) hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- (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).

Reason: In the interests of water conservation and sustainability.

INFORMATIVES

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

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

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

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

The Council's approach to the application

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

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

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

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

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

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

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

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

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

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

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

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

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

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



| | | | |
|---|-------------------------------|--|---|
| 2.7 REFERENCE NO - 20/500339/FULL | | | |
| APPLICATION PROPOSAL Erection of an equine rehabilitation barn. | | | |
| ADDRESS Horse Gate Court Orchard Way Eastchurch Sheerness Kent ME12 4DS | | | |
| RECOMMENDATION Grant subject to conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed equine rehabilitation barn would support the rural economy and is considered to comply with relevant development plan policies and guidance for equestrian development. Having taken all material considerations into account, it is considered that subject to compliance with conditions appended below, the proposal would be in accordance with the development plan and would not cause unacceptable harm to the amenities of the area or prejudice highway safety. In resolving to grant permission, particular regard has been given to the following policies ST1, CP1, CP4, DM3, DM14 and DM21 of Bearing Fruits 2031. The Swale Borough Local Plan 2017. | | | |
| REASON FOR REFERRAL TO COMMITTEE Eastchurch Parish Council Objection | | | |
| WARD Sheppey East | PARISH/TOWN Eastchurch | COUNCIL | APPLICANT Mrs Lisa Marsuau AGENT DS Equine LTD |
| DECISION DUE DATE 31/07/2020 | | PUBLICITY EXPIRY DATE 18/05/20 | |

Planning History

17/500090/FULL

Pair of 3 bedroom semi-detached dwellings with associated parking spaces and a 4 bedroom house with double garage and parking all served by the propose extended highway.

Refused Decision Date: 13/03/2017

15/509875/FULL (Now 37 Orchard Way)

Erection of a three bedroom detached dwelling with associated parking and access to both the existing and proposed dwellings.

Approved 01/06/2016

15/505833/FULL

Application to regularise part of stables courtyard as constructed, completion of the stables courtyard and re-siting of outdoor manege with its associated lighting as previously approved under planning application SW/13/1548

Approved 13/01/2016

SW/13/1548

Erection of stables, menage, horse walker and lighting. Change of use for horse grazing.

Approved 16/04/2014

1. DESCRIPTION OF SITE

- 1.1 The application site is situated at far eastern end of Orchard Way, Eastchurch, and is situated outside the built up area of Eastchurch.
- 1.2 The site incorporates a residential dwelling (37 Orchard Way), equestrian stables and storage buildings, a concrete hardstanding area, sand school and paddocks, and is 4 hectares in size (9.8 acres). There is a grassed island with mid-sized trees falls within the site, situated in between the sites access track, and concrete hardstanding yard in the northern section of the site. Land to the south accommodates a shelter belt of trees and hedges with paddocks further south.
- 1.3 The site is currently in use for equestrian purposes as permitted by applications SW/13/1548 and 15/505833/FULL. When the initial change of use of the land for horse grazing was permitted under reference SW/13/1548 it included two fields and the site area was approximately 7.1ha or 17.5 acres. The western field adjacent to Range Road no longer forms part of the site and is in separate ownership.
- 1.4 There are currently 13 stables on the site, and the supporting information notes that there are 8 horses currently on site.
- 1.5 The site abuts Orchard Way to the west, an equestrian paddock to the south-west, open countryside to the east and south. There is hedgerow planting along the northern boundary, with the old light railway line to the north, and beyond this the garden areas of residential dwellings along Kent View Drive.
- 1.6 The applicant also rents nearby land for sheep grazing, utilising the site access for agricultural vehicles and therefore there is a degree of agricultural activities/equipment evident from the site visit.

2. PROPOSAL

- 2.1 The application seeks permission for the erection of an equine rehabilitation barn on the existing hardstanding courtyard on the site. The building would be situated 12 metres to the east of 37 Orchard Way and to the west of the stable buildings on site.
- 2.2 The building would be a rectangular shaped structure with a pitched roof. It would measure 31m x 12m, with a ridge height of 5m and eaves height of 2.9m. The building would be finished in a brick base, timber vertical walls and grey steel profile roof.
- 2.3 The building is proposed to be used as an equine rehabilitation barn. It would contain a therapy area with space for water treadmill and spa for horses and vets bays; office; salt room; water tank and filtration rooms; and stable block area with six stables, tack room and store/feed space.
- 2.4 The proposal would be a commercial addition to the existing site which is in private equestrian use. The application form notes the proposal would support two full time employees.
- 2.5 A parking and turning area with space for six cars is proposed to the south-west of the proposed building. The application form notes there is also provision on the site for 4 spaces for other vehicles such as horse trailers.

- 2.6 The applicant has provided the following information regarding the use of the facility;
“There are 13 stables on site and only 8 horses currently on site. It is important to know that none of the present stables would be used in relation to the Rehabilitation Barn for biosecurity reasons. So only the 6 stables within the Rehabilitation Barn would be used.

The operation of the facility will only be between 9am to 3pm Mon – Sat, as there is set up time and horse management for the horses staying on site. A typical stay for a horse could be anything from a week to few months, depending upon the injury. Therefore, there can only be 6 treatments a day which could be made up by any of the following daily options:

- a) 6 horses staying on site for a week or more, would mean no walk in treatments, therefore no vehicle movements.*
- b) 3 horses staying on site and 3 walk in treatments for the day, could be a maximum of 3 vehicle movements, ie 1 horse per vehicle or 1 vehicle movement ie 3 horses on the vehicle*
- c) 6 walk in treatments per day of individual horses therefore the maximum vehicle movements possible would be 6 vehicle movements.*

Therefore to average the possible vehicles movements on a weekly basis for the proposal, the maximum number per week would be 36 vehicle movements (based on C) or as per B – 18 vehicle movements per week.

It is anticipated that a vet visit for a long stay horse to be once a week, however this would depend on the number of horses staying on the site.”

3. SUMMARY INFORMATION

| | Proposed |
|------------------------------|---------------------------------|
| Site Area (ha) | 4 |
| Approximate Ridge Height (m) | 5m |
| Approximate Eaves Height (m) | 2.9m |
| Approximate Width (m) | 12m |
| Approximate Length (m) | 31m |
| No. of Storeys | 1 |
| Net Floor Area | 372m ² |
| Parking Spaces | 6 car parking + 4 large vehicle |

4. PLANNING CONSTRAINTS

- 4.1 Outside the settlement boundary of Eastchurch

5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF): Chapter 2 (Achieving sustainable development), Chapter 6 (Building a strong competitive economy), Chapter 15 (Conserving and enhancing the natural environment).

- 5.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017: CP1 (Building an strong competitive economy); CP4 (Design); DM3 (The rural economy); DM7 (Vehicle Parking); DM14 (General development criteria); DM19 (sustainable design and construction); DM21 (water flooding and drainage); DM24 (landscape impacts); DM27 (The keeping and grazing of horses) and DM29 (woodlands, trees and hedges).
- 5.3 Supplementary Planning Guidance: The Erection of Stables and Keeping of Horses
- 5.4 Supplementary Planning Document: Swale Landscape Character and Biodiversity Appraisal (2011)

6. LOCAL REPRESENTATIONS

- 6.1 6 letters of objection have been received from local residents and their comments are summarised below;
- Increased noise and disturbance- from traffic; deliveries, horse/sheep movements to the site
 - Existing noise disturbance from traffic and people coming and going to the site
 - Traffic – from existing use and proposed stables
 - Existing road is not suitable for additional traffic such as horse trailers or tractors. It is unlit, single lane in width and in a poor condition
 - Harmful smell from manure burning
 - Existing commercial businesses are being undertaken including livery, contrary to private use planning consent
 - Insufficient space for grazing
 - Original planning was for 7 horses (1 per acre) there are already 14 stables, 1 barn, tack rooms and 10 horses
 - Existing building did not have a licence for several years.
- 6.2 15 letters of support have been received and their comments are summarised below
- There is a need for such an equine rehabilitation facility in East Kent, no other nearby facilities offer this. For example nearby Nottcutts equine clinic does not offer this service
 - Water treadmills, salt water therapy, hot and cold water treatments for tendons and muscle problems, plus many more rehabilitation needs. Nottcutts fully support this application as it will free up stables for more serious cases
 - Local equestrian rehabilitation centres are vital to support the well being of sport horses, horses with injuries and used for general fitness and to minimise injuries and stress in all horses.
 - Proposal will speed up horses' recovery
 - All horses on rehabilitation will not need grazing as they will be there for rehabilitation not a holiday or on livery.
 - Increased job and training opportunities
 - Benefit to the local community from offering schools, children disabled and vulnerable people to be able to come and visit the site on agricultural days
 - Existing use does not disturb residents (no. 35 Orchard Way)

- Existing neighbour enjoys looking over at the horses and stables
- The site does not burn manure, this is from the field leading off Range Road which is in separate ownership
- Horses are often transported in small lorries (no larger than local delivery vans), rather than HGV's and at low speeds which will prevent significant wear and tear to the access road.
- The site is also a working farm as land is rented to graze sheep. During lambing extra vehicle movements may occur to attend to the sheep.

7. CONSULTATIONS

7.1 Eastchurch Parish Council object for the following reasons;

22/04/2020: "The Planning Committee of Eastchurch Parish Council objects to this application and wishes to make the following comments:

'Original planning conditions SW/13/1548 state: (10) The use of the site for the keeping of horses/ponies hereby permitted shall not exceed a density of one horse or pony per acre of available grazing land

(11) No burning of straw or manure shall take place within the site.

(12) With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, stable buildings (other than those hereby approved and as shown on drawing number 2257/3/A), mobile homes, vehicles or trailers shall take place on the site.

(13) The stables hereby permitted shall only be used for the stabling of horses or ponies for private use and for no other purpose, including any commercial use.'

Subsequent planning conditions in 15/505833/FULL reiterate: '6. No burning of straw or manure shall take place on the site. Reason: In the interests of local amenity.

7. With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site. Reason: In the interests of visual amenity.

8. The stables hereby permitted shall only be used for the stabling of horses or ponies for private use and for no other purpose, including any commercial use

Officer Appraisal: The site can easily accommodate the 13 stables/horses proposed based on the SPG ratio of 1 horse per acre due to the large site area within the blue line.'

There is need for clarity on the site area. Since the original application the field has been divided in to two separately owned areas. The front area now known as Split Field is not part of this application. This has direct impact on the amount of stabling that is permitted on the remaining area known as Horse Gate Court. This has not been addressed by this application but instead wishes to see an increase by nearly 50% of the maximum amount of animals that can be held in the stables, whilst there has been a decrease of 40+% on the available grazing and open areas. 37 Orchard Way is a house built within the existing garden of 35 Orchard Way. This was never a part of the original applications. If this property is to be designated as residential for staff for the stables, then this should be incorporated in to the plan.

In both previous applications it has been stated that the stables are for private use only and not on a commercial basis. It is alleged that the stables are used for the private stabling of their animals by other horse owners for remuneration. This is evidenced by comments from neighbours to the application and should be dealt with by Planning Enforcement before any application is considered.

Southern Water strongly opposes the proposed salt water treatment works and separate planning applications would need to be made regarding connection to an existing public sewer.

KCC Flood Risk assessment requires a stringent condition imposed on surface flood water. Orchard Way is privately owned (by the applicant) and is in a poor state of repair. No attempts have been made to improve this road despite requests from the householders over the years. This again is evidenced in some of the comments to the application. Any further increase on traffic whether by HGV or horse boxes will only contribute to the deterioration of the thoroughfare for existing residents.

The application sees the location of the rehabilitation block in front of the existing stables and so would be close to the entrance of at Orchard Way. The original applications sought to locate any buildings towards the rear of the property in order to protect the rural aspect as it was outside of any the development areas for Eastchurch. The original stable building was designed to be in keeping with its rural designation. The proposed building is more industrial in aspect and it's siting so close to Orchard Way and visibility from Range Road would damage the visual amenity.

The proposal mentions intent to provide opportunities for schools and disabled users. These are not material considerations and so have been discounted.

The proposal is for a commercial addition to the stables which would be against conditions previously imposed. Previous conditions have been imposed to protect this area from commerciality and to protect existing residents visual and living amenity.

Any revision to these conditions or additional planning permission given on a commercial application would negate those protections."

14/05/2020: Thank you for the notification of the applicant's response (*set out below*) to the comments made. These comments have been noted but the objections made by the Planning Committee of Eastchurch Parish Council still remain.

Officer Note: The applicant has provided additional information in response to the comments made by Eastchurch Parish Council on 22/04/2020;

- *The grazing land stipulations on existing planning consent are strictly adhered to, furthermore horses/ponies attending the proposed rehabilitation centre would not be out for grazing, as they would be here for rehabilitation and would be on stable rest so the grazing land would not need to be taken into consideration*
- *No burning of straw or manure is undertaken, this is kept within the land owned/rented and spread across that land as a natural fertiliser.*
- *The condition regarding private use has also been strictly adhered to, and the Parish Council are welcome to visit the site.*

- *Regarding land ownership and field boundaries; This land was divided up before the application was submitted by a fence, due to a matrimonial separation, however this as of yet hasn't been finalised and legally at this moment in time the title deeds remain the same. I would like to clarify that I rent a further 63 acres of land adjacent to my own which I also use for grazing, but my own land is still sufficient enough for grazing the amount of horses I have.*
- *37 Orchard Way was granted planning permission which has been adhered to. It is my private residence and has full planning permission for such use, it is not for residential staff of the rehabilitation centre.*
- *These stables are solely for my private use and are no means commercial in any way.*
- *Southern Water is not strongly opposed to the application, but merely request it goes onto main drainage.*
- *I do own the road, which is a private road and the highways agency [local adopted roads are the responsibility of KCC Highways and Transportation] have no objections. There are legal covenants along Orchard Road for residents to pay towards the upkeep of the road. Improvements have been made to the road last year, including infilling potholes. Range Road is now in separate ownership, and is in a state of disrepair.*
- *The planning has been designed to situate the rehabilitation centre away from the stables and within the concreted land where it would be out of view from anyone other than me. It is at the end of a road where no one else lives except for me.*
- *HGVs would not be recommended to transport horses, as the horses are moved easier and more comfortable in smaller vans no bigger than delivery vans to residents on a daily basis, so they would not cause damage to the road. Highways didn't object.*
- *Community uses: This is a way of including the wider community to see what happens and how the treatments benefit the animals, I don't think this should be disregarded. This is an opportunity for all schools, disabled and special needs, plus more, that are being invited free of charge, to learn agriculture/farming/horsemanship and caring for horses; sheep and all their needs.*
- *Commercial addition: Over the years things change and views change therefore planning applications can be made to change from the original plans to allow development and growth.*

7.2 Environment Agency note they have no comments to make on the application as it falls outside their remit as a statutory planning consultee (19/03/2020)

7.3 Southern Water raise no objection subject to an informative (08/04/2020).

The comments provided by Southern Water note that they would not support the proposals for septic tank or private treatment plant, as indicated on the application form under the section for foul sewage. Southern Water have outlined that *"The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent: A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements*

documents which has now been published and is available to read on our website via the following link southernwater.co.uk/infrastructure-charges

As such, the informative above will be included.

- 7.4 KCC Flood and Water Management raise no objection subject to conditions (09/04/2020)

The comments note that KCC have no objections to the drainage proposal, and welcome the proposal for installing a rainwater harvesting tank to intercept and remove water from the system. A verification report condition regarding the surface water drainage system is recommended as a condition.

- 7.5 KCC Ecology raise no objection subject to conditions (02/04/2020)

KCC Ecology advise that the proposed development has limited potential to result in significant ecological impacts. This view was taken because the proposed development footprint area is within an area of hard-standing. A condition seeking ecological enhancements and an informative regarding breeding birds are recommended

- 7.6 KCC Highways and Transportation raise no objection (25/03/2020) and planning conditions are not requested.

- 7.7 MKIP Environmental Health raise no objection subject to a standard construction hours condition (01/05/2020)

- 7.8 Kent Police raise no objection (09/04/2020)

- 7.9 SBC Climate Change Officer raises no objection subject to a BREEAM condition (13/07/2020)

8. BACKGROUND PAPERS AND PLANS

- 8.1 Site Location Plan; Existing and Proposed Block Plan; Ground Floor Plan; Roof Plan; Elevations; Design and Access Statement; Flood Risk Assessment; Additional supporting information in response to Eastchurch Parish Council Comments

9. APPRAISAL

Principle of Development

- 9.1 Local plan policy DM 27 states that 'Planning permission will only be granted for development involving the use of land for the keeping or grazing of horses and ponies in connection with riding or other on-agricultural purposes, if they are of high quality design and of a scale and intensity that is acceptable in landscape character, biodiversity, amenity and highways terms'.
- 9.2 The keeping of horses is considered to be an appropriate use of land in the rural environment and routinely sits side by side with agricultural land in the countryside. Policy DM 3 of the local plan is in support of boosting the rural economy and states that *'Planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area'*.

- 9.3 The principle of the equestrian development proposed has already been established as the site is in current use for the keeping and grazing of horses. Previous consents under references SW/13/1548 and 15/505833/FULL including stable buildings, sand school and use of the site for the grazing of horses, and the consent are for private use.
- 9.4 The proposal is for the addition of an equestrian rehabilitation building which would introduce a small scale commercial use to the site. The building includes the provision of water therapy facilities, vet facilities and sufficient space for horses to be on stable rest. The supporting information notes that rehabilitation for horses is an increasing part of the equine industry for example competition horses in show jumping, dressage and eventing, and that the proposed facility has the support from Newnham Court Equine in Maidstone. It is considered that the proposed equestrian facility would complement the existing equestrian use of the site and support the aim of policy DM3 for sustainable growth of business in rural areas.
- 9.5 The adopted SPG on the Keeping of Horses recommends grazing to be available on the basis of 1 acre per horse. There are currently 13 stables on the application site resulting in 1.3 horses per acre if the stables are fully occupied, however the supporting information outlines there are currently 8 horses on site which provides a figure of 0.8 horses per acre. The proposal would result in an additional 6 stables, resulting in a total of 19 stables on the site which would result in 2 horses per acre (rounded up from 1.9). Therefore the provision of additional stables would result in the number of horses per acre exceeding this guidance. However the proposal is for rehabilitation and the submission explains that horses would be on 'stable rest', rather than grazing on the site. Therefore it is considered the site is of a suitable size to support the proposed rehabilitation building.
- 9.6 Planning applications relating to equestrian use in the countryside are considered to be appropriate in principle where the proposals meet the criteria of relevant local policies and guidelines set out in the SPG. It is therefore considered that there is no objection in principle to the development proposed subject to compliance with all other material planning considerations. A condition will be attached to the permission limiting the use of the building for equine rehabilitation and welfare of horses to prevent an unrestricted commercial building.

Visual Impact

- 9.7 The adopted SPG on the Keeping of Horses outlines that 'planning permission will only be granted for stables if the buildings are of an attractive design and appropriate materials'. The guidance notes that a pitched roof is required and recommends that in a rural setting dark stained timber and either dark grey or dark green roof would be suitable. The building would be finished in brick base, timber walls and a grey steel profile roof, which are considered to be suitable subject to a materials condition seeking the finish and colour of materials to be used, including a dark staining for timber. The existing stable building is finished in dark stained timber with a grey roof, and therefore the materials indicated would compliment the existing built form on site, and the materials condition will ensure a suitable finish and quality for the additional building.

- 9.8 The proposal is for a simple rectangular building with a pitched roof which accords with the guidance. The ridge of the building would be 5m, and approximately 0.5m taller than the existing stable buildings on the site and therefore is considered to be of an appropriate height. The building would have a functional and utilitarian appearance and with an agricultural appearance, and is of a scale and form which is considered to be suitable for the site.
- 9.9 The proposed building would be situated between existing buildings on site, between the dwelling and existing stable buildings. It is considered that this is a suitable location which will prevent further sprawl into the open countryside. Furthermore it would be situated on an existing area of hardstanding, and prevents the need for additional hardstanding further away from existing built form within the locality. This is line with the guidance in the adopted SPG on the Keeping of Horses which recommends the grouping of structures.
- 9.10 The site is an existing working site, with established landscaping evident from the site visit, including a hedgerow along the northern boundary, a grassed island with mid-sized trees to the south of the building, and existing shelter belt to the south of the southern boundary. As such due to existing landscaping and the proposals siting between existing buildings it would not appear unduly prominent or detract from the character of the area, and a condition requiring further landscape planting is not considered to be necessary.
- 9.11 A tree protection condition is included to ensure that the trees to the south of the proposed building are protected during construction. The proposed building will be situated on an existing area of hardstanding and would not require any further hardstanding to be constructed closer to these trees, taking this into account and separation distance it is not considered the proposal would have a harmful impact on existing trees.
- 9.12 Overall, the proposal is considered to have been well thought out in terms of minimising visual impact, and would be of a suitable form and proportions which will be in keeping with the rural character of the locality.

Residential Amenity

- 9.13 The closest neighbouring properties is 35 Orchard Way which is situated 21m to the west of the proposal, and the detached dwelling at no. 37 Orchard Way (within the site) is situated in between this neighbour and the proposed dwelling. Taking into account the separation distance and position of no. 37 Orchard Way the proposal would not result in significant harm to the residential amenities of this neighbouring property. There are also residential dwellings to the north of the site (and north of the old light railway) at The Rest and Bright's Lodge which are over 80m away. Taking into account the separation distance and existing screening it is not considered the proposal would cause significant harm to the residential amenities of these neighbours.
- 9.14 Neighbouring objections have raised concerns regarding increased noise and disturbance from traffic; deliveries and movements to and from the site. The site is situated at the end of a residential road (Orchard Way) and the proposal would introduce a small scale commercial element to the existing equestrian and agricultural uses accessed via the site. Whilst there would be increased movements to the site, the scale

of the proposed rehabilitation facility is modest with six stables and therefore it is not considered the introduction of this use would result in significant harm to nearby residential properties. It should be noted that Environmental Health have not raised concerns regarding noise impact from the development, nor requested an hours of use condition for the site.

Highways

9.15 The proposal will result in an increase in trip generation to and from the site. As set out in paragraph 2.6 the applicant has provided information regarding the use of the facility noting that only 6 stables would be used for the rehabilitation facility, and there would be no crossover with existing stables due to biosecurity reasons. This would result in a maximum of 6 horses treated on a daily basis, and that a typical stay for an injured horse would be between a week to a few months. The supporting information sets out three options for daily movements to the site;

- a) *6 horses staying on site for a week or more, would mean no walk in treatments, therefore no vehicle movements*
- b) *3 horses staying on site and 3 walk in treatments for the day, could be a maximum of 3 vehicle movements, ie 1 horse per vehicle or 1 vehicle movement ie 3 horses on the vehicle*
- c) *6 walk in treatments per day of individual horses therefore the maximum vehicle movements possible would be 6 vehicle movement*

9.16 Therefore it is anticipated that maximum number per week would be 36 vehicle movements (based on c) or as per b – 18 vehicle movements per week from the proposed development. Furthermore it is anticipated that a vet visit for a long stay horse to be once a week, however this would depend on the number of horses staying on the site

9.17 In terms of the impact on the local highway network, taking into account the above it is not considered that the proposed development would have a significant impact on the local highway network. The proposal would have a limited number of stables with the facility providing long term care reducing the overall vehicle movements. The proposal has been examined by KCC Highways and Transportation Team who have raised no objection to the proposed development.

9.18 The site is on a private road, and neighbouring objections have raised concern regarding the condition of the road and surface. The road (Orchard Way) already serves the existing equestrian use and residential dwellings along Orchard Way and therefore it is considered the access would be suitable for the additional building and associated trip generation.

9.19 It is considered there will be sufficient space on the site for car parking, and suitable parking and turning areas for larger vehicles such as horse trailers. As such, it is considered there are no planning reasons on highways grounds to warrant refusal of the application

Drainage

- 9.20 With regard to surface water drainage, KCC Drainage outlined they raised no objection to the application subject to further details sought via condition for the verification report pertaining to the surface water drainage system. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.

Sustainable design and construction

- 9.21 Sustainable design and construction Policy DM 19 states that all new non-residential developments will aim to achieve BREEAM 'Good' standard or equivalent as a minimum. All new non-residential developments over 1,000 sq m gross floor area should aim to achieve the BREEAM "Very Good" standard or equivalent as a minimum. The proposal will result in 372m² of non-residential floorspace, as such the proposed development will need to achieve BREEAM "Good" standard and this is set out within condition 8. Subject to appropriate details being sought this condition it is considered the proposal will meet the aims of Policy DM19 regarding sustainable design and construction.

Other Matters

- 9.22 In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. KCC Ecology have advised that the provision of bird nest boxes (for species such as House Martin or House Sparrow) would be suitable for the site. As such details of a scheme of biodiversity enhancements including the provision of bird boxes will be sought via condition to enhance biodiversity within the site.
- 9.23 Natural England raise no objection to the proposed development, as the proposal is not for residential development there is no trigger to provide a SAMMS payment on the scheme.
- 9.24 Neighbouring objections have raised concerns regarding the burning of manure on the site. During the visit to the site there was evidence of small manure heaps within the site, and a larger manure heap on land used for sheep grazing, but no evidence of burning. The applicant noted that the manure is either spread on the land as fertiliser or sold and that no burning has taken place on this site. There are existing conditions on the site which prevent the burning of straw or manure of the site, and Environmental Health officers have not sought further conditions regarding storage of waste. It is considered that any potential conflict with existing planning conditions can adequately be controlled through the enforcement process.

10. CONCLUSION

- 10.1 Having taken into account the relevant planning policies and consultation comments, it is considered that the proposed equine rehabilitation barn would support the rural economy and would be acceptable in principle. It is also considered that the scale and form of the building is acceptable and would have no significant detrimental impact on the character and appearance of the countryside and/or landscape.
- 10.2 The proposed building is considered to be an acceptable addition to the site which would sit comfortably within the site and would maintain the visual amenities of the area. The

impact on residential amenities would not result in significant harm, nor would there be any significant impact on highway safety or biodiversity/ecology. Therefore it is recommended that planning permission should be granted subject to conditions.

11. RECOMMENDATION

GRANT Subject to the following conditions

CONDITIONS to include

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following drawings:

Site Location Plan, drawing no. A.01
Proposed Block Plan, drawing no. A.03
Ground Floor Plan, drawing no. A.04
Roof Plan, drawing no. A.05
Elevations, drawing no. A.06

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

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

Reason: In the interest of visual amenity.

- 4) The building and facilities hereby permitted shall be used solely for the purposes of equine rehabilitation and welfare of horses as part of the equestrian facilities at Horse Gate Court, and shall not be used as a riding school, stud farm nor for horse shows or other commercial uses.

Reason: In the interests of ensuring that the building is associated with the equestrian use of the land in pursuance of policies ST 1, CP1 and DM 27 of the Swale Borough Local Plan 2017.

- 5) The area shown on the Proposed Block Plan (drawing A.03) as vehicle loading/unloading, turning space and parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the commencement of the use hereby permitted.

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

- 6) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of 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.

- 7) Within three months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. The development shall then be completed strictly in accordance with the approved details.

Reason: In the interests of reptile habitat and biodiversity

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

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

- 9) All trees to be retained (including those on the central grassed island) must be protected by suitable fencing or barriers of a height not less than 1.2m in accordance with the current edition of BS 5837 'Trees in Relation to Design, Demolition and Construction' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

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

- 10) No additional external storage of materials or items of any type of external structure including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site.

Reason: In the interests of visual amenity.

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

Reason: In the interests of residential amenity.

INFORMATIVES

Southern Water:

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. A formal application for connection to the public sewerage system is required in order to service this development. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link southernwater.co.uk/infrastructure-charge

Breeding Birds:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present

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 – 23 JULY 2020**PART 3**

Report of the Head of Planning

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

| | | |
|---|--|--|
| 3.1 REFERENCE NO - 19/501551/FULL | | |
| APPLICATION PROPOSAL Erection of a building to be used as a forge workshop and associated hardstanding | | |
| ADDRESS 122 Scrapsgate Road Minster-on-sea Sheerness Kent ME12 2DJ | | |
| RECOMMENDATION Refuse | | |
| SUMMARY OF REASONS FOR REFUSAL The proposed development is located in a rural area, made up of equestrian and agricultural uses and the introduction of a new forge in this location where it has not been demonstrated that it is necessary for the needs of rural communities or that there are no other sites available is unacceptable. | | |
| REASON FOR REFERRAL TO COMMITTEE Parish Council support | | |
| WARD Minster Cliffs | PARISH/TOWN COUNCIL Minster-On-Sea | APPLICANT Mr B Pugh AGENT The Rural Planning Practice |
| DECISION DUE DATE 11/07/19 | PUBLICITY EXPIRY DATE 28/06/19 | |

Planning History

SW/09/0620

(Remove existing garage, stable & outbuilding) To construct new garage stores & cloakroom on same site at above approved building including solar panel of south facing roof.

Grant of Conditional PP Decision Date: 07.09.2009

SW/09/0531

Lawful Development Certificate for proposed pond in paddock to rear.

Refused Decision Date: 17.08.2009

SW/08/0518

Remove existing garden, stable and outbuilding rebuild new garage, stable tack room and store.

Grant of Conditional PP Decision Date: 30.07.2008

SW/07/0921

Rear extension and internal alterations for disabled person.

Grant of Conditional PP Decision Date: 08.10.2007

SW/85/0944

Erection of bungalow

Approved Decision Date: 15.01.1986

SW/85/0136

Outline application for a single residence

Approved Decision Date: 18.04.1985

1. DESCRIPTION OF SITE

- 1.1 The application site lies outside the built up area boundary of Minster and consists of a detached dwelling occupied by the applicant and stables located to the rear of the site. There is a clear distinction between the residential curtilage associated with 122 Scrapsgate Road and the equestrian land to the rear. The site is accessed from Scrapsgate Road and lies in approximately 4 acres of pasture used for horse grazing.
- 1.2 The surrounding area is predominantly equestrian and agricultural land with residential properties to the east. To the north lies a playing field which has an emergency access to the site. To the south lies a disused forge. There is well established hedge planting to the north and west of the site.
- 1.3 There is an existing stable building located at the application site which measures 6m x 6m with a ridge height of 2.6m and eaves height of 2.2m.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of a steel building to be used as a forge by the applicant who lives at 122 Scrapsgate Road and is a trained farrier, specialising in remedial farriery. The applicant currently operates at the site using a temporary forge in the stable building.
- 2.2 The proposed steel building resembles a general purpose agricultural building/workshop with a flue situated on a concrete base. The proposed building will measure 6m x 8m and will have an eaves height of 2.5m and 3m ridge height. It would be located immediately to the west of the existing stable building. The pitched roof will be covered in grey profiled steel sheets. The walls will be covered with steel sheets in dark green with translucent rooflights. The front of the proposed building faces east. One steel roller shutter door will be installed to the front elevation and two metal access doors on the south and west elevation for air circulation.
- 2.3 The planning statement confirms that clients will not visit the site as the business operates on a mobile basis and visits clients directly. A small forge is used to make adjustments on site. The forge will be used by the applicant for approximately 16 hours a week.

3. PLANNING CONSTRAINTS

- 3.1 Flood Zone 3

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF)
- 4.2 National Planning Practice Guidance (NPPG)
- 4.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017

| | |
|-------------|------------------------------------|
| Policy ST1 | Delivering Sustainable Development |
| Policy CP4 | Requiring Good Design |
| Policy DM3 | The Rural Economy |
| Policy DM7 | Vehicle Parking |
| Policy DM14 | General Development Criteria |
| Policy DM21 | Water, Flooding and Drainage |
| Policy DM31 | Agricultural Land |

5. LOCAL REPRESENTATIONS

- 5.1 This application was advertised by site notice and neighbour consultation.
- 5.2 1 objection from 1 property was received, raising the following issues (summarised):
 - Risk of the building becoming a residential dwelling
 - Concerns that if the development is allowed it would be change into something different

6. CONSULTATIONS

- 6.1 Environmental Health Manager – raises concerns regarding potential impact on surrounding residential properties.

“The proposed development site is in a predominantly residential area and I have some concerns about the introduction of B2 use in this location – the building proposed is not substantial in structure and unlikely to offer good noise attenuation properties. The application does not detail the hours of operation although the applicant states that the use will be restricted to 16hrs per week, I am unclear as to how this could be conditioned.

As this application stands at present I would be reluctant to recommend approval due to potential nuisance for the surrounding residential properties.”

- 6.2 KCC Highways - scheme does not warrant the involvement of KCC

Suggested Informative

- 6.3 Environment Agency raise no objection
- 6.4 Natural England raise no objection
- 6.5 Minster Parish Council support the application stating:

“Minster-on-Sea Parish Council fully supports this application. The suggestion that the ‘farrier’s forge’ is a heavy industrial unit is wrong. The applicant has agreed to the Parish Council’s suggestion to incorporate noise insulation in the design and this is welcomed. As such Minster-on-Sea Parish Council fully supports the proposal which in its view keeps alive an ancient craft in what it regards as an ideal location.”

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documents relating to application 19/501551/FULL.

8. APPRAISAL

The key considerations in the assessment of this application are the principle of development in a rural location, the impact on the character and appearance of the countryside and any potential impacts on residential amenity.

Principle of Development

- 8.1 The application site lies outside of any defined built up area boundary and therefore within designated countryside. Policy DM3 seeks to protect and enhance the rural economy. All proposals in rural locations must first consider the appropriate re-use of existing buildings or the development of other previously developed land, unless such sites are not available or it is demonstrated that a particular location is necessary to support the needs of rural communities or the active and sustainable management of the countryside.
- 8.2 The proposed forge is to be used as a farrier business. A farrier is a specialist in equine hoof care and uses blacksmith skills. The applicant specialises in remedial farriery and uses a traditional coke forge to make orthopaedic handmade horse shoes. The applicant intends to make this business their full time occupation and states that a dedicated forge building is now required to produce horse shoes on the scale and quality required.
- 8.3 The applicant currently uses a temporary forge in the existing stables but this is stated as being impractical in the planning statement as the stables cannot be used regularly for farrier work as they are needed for the horses. The proposed building is therefore sought to provide a purpose built forge and space for the applicant to work. There is an argument that this particular rural location may be necessary and appropriate for the proposed type of use as the forge is used for the making of specialist horseshoes and the land is predominantly equestrian however, the planning statement details that the farrier will travel to her clients to fit the horse shoes with no clients visiting the site. I can therefore see no specific need for the forge to be at this rural location. It has not been demonstrated that the forge could not be located on a more appropriate site within the built up area boundary and would seem that the reason for citing the forge in this location is primarily for the convenience of the applicant who lives at 122 Scrapsgate Road. This in itself is not a reason to grant planning permission and does not accord with Policy DM3.
- 8.4 There has been discussion throughout the application as to whether the proposed use should be considered a B2 use or Sui Generis. Blacksmiths fall under use class B2 but the agent considers that blacksmith and farrier work are distinct in that the nature of making specialist horseshoes does not require intensive time using the forge and therefore the proposal should be considered a Sui Generis use. The agent has provided one committee report from Wiltshire which considers the use class of a forge by a farrier to be Sui Generis. I take the approach that given the nature of the work and the potential creation of noise and fumes that the application should be considered

under use Class B2, unless demonstrated otherwise. I do not agree that this is a sui generis use. Regardless of this, even if the use class is considered to be Sui Generis, the same argument holds. There is no reason, nor any compelling justification for this use to be carried out in this location, and it has still not been demonstrated that other more appropriate sites have been considered and therefore the application still fails.

- 8.5 A working forge was once located to the south of the site, however the agent confirms that this has since been converted into a stables for a riding school and is no longer used as such. Although this confirms that there was once a forge near this locality, the use of the forge stopped in 2005 and it is unclear as to whether the forge in this location was used in the same way as now being proposed. I therefore consider that the presence of a disused forge building to the south of the site should be given limited weight.
- 8.6 The proposed building would be located on agricultural Grade 4 land. This is not considered to be the most versatile land which includes Grades 1-3 and therefore I do not consider it unacceptable for the land to be used for something other than agriculture.
- 8.7 For the reasons set out above, I consider that the proposal is unacceptable as a matter of principle, and does not accord with Policy DM3.

Visual Impact

- 8.8 The proposal would be situated outside of the built up area boundary and therefore the impact on the character and appearance of the countryside must be carefully considered. Policy DM3 states that for new buildings and ancillary facilities, the design and context will need to be sympathetic to the rural location and appropriate to their context. In this case the proposed building is not of notable design and has a rather harsh, industrial appearance. I note however that the application building has a relatively small footprint, and is only of single storey in height. Views of the site from public viewpoints will be limited due to its location to the rear of the site and the established hedging running along the northern boundary and it is of a similar scale to the existing wooden stables on the site. I therefore do not consider that the building will appear excessively prominent in the location.
- 8.9 The building has been designed this way to serve a functional purpose and whilst the materials proposed are not desirable I do not consider the design significantly harmful to the character and appearance of the countryside and therefore believe that on balance the proposal is acceptable from a design perspective.

Residential Amenity

- 8.10 Concerns have been expressed by the Environmental Health Manager regarding the potential impact that the proposal will have on surrounding residential dwellings. The building is not considered to be substantial in structure and unlikely to offer good noise attenuation properties. The potential impact on surrounding residential dwellings must therefore be carefully considered. The proposed forge would be situated 150m from the nearest residential dwelling and Environmental Health have confirmed that they have received no noise or disturbance complaints relating to the use of the temporary forge.

It must be assumed however that the use of the proposed forge will be more frequent than the usage of the existing temporary forge, as there would not be a restriction on its usage caused by the stabling of horses.

- 8.11 The agent has confirmed, as per the request of the Parish Council, that sound insulation measures can be incorporated into the design however no plans or details regarding this have been submitted for assessment. The agent has stated that the forge is not expected to be used excessively with a suggestion of approximately 16 hours a week but has not specified hours of use. If I had been minded to recommend approval I consider that the hours of use of the forge would need to be restricted via condition and a full proposed scheme of sound insulation measures would also need to be provided.

Flood Risk

- 8.12 The application site lies in Flood Zone 3 but the proposal is considered as a less vulnerable form of development and the Environment Agency raise no objection.

Highways

- 8.13 Clients will not visit the site as the business operates on a mobile basis and the applicant visits clients directly. The applicant already lives on the site and therefore I do not consider there will be a significant increase in vehicle movements.

Other Matters

- 8.14 I note concerns raised from a neighbour regarding future uses of the building, however I do not consider that this would be a justified reason for refusal as we could control the site via condition and enforcement action if required.

9. CONCLUSION

- 9.1 The proposed development is located in a rural area, made up of equestrian and agricultural uses and the introduction of a new forge in this location where it has not been demonstrated that it is necessary for the needs of rural communities or that there are no other sites available is unacceptable.

10. RECOMMENDATION

REFUSE for the following reasons:

- (1) The proposed development is located in a rural area, made up of equestrian and agricultural uses and the introduction of a new forge in this location where it has not been demonstrated that it is necessary for the needs of rural communities or that there are no other sites available is unacceptable. The development would therefore be contrary to policies DM3 and DM14 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'.

The Council's approach to the application

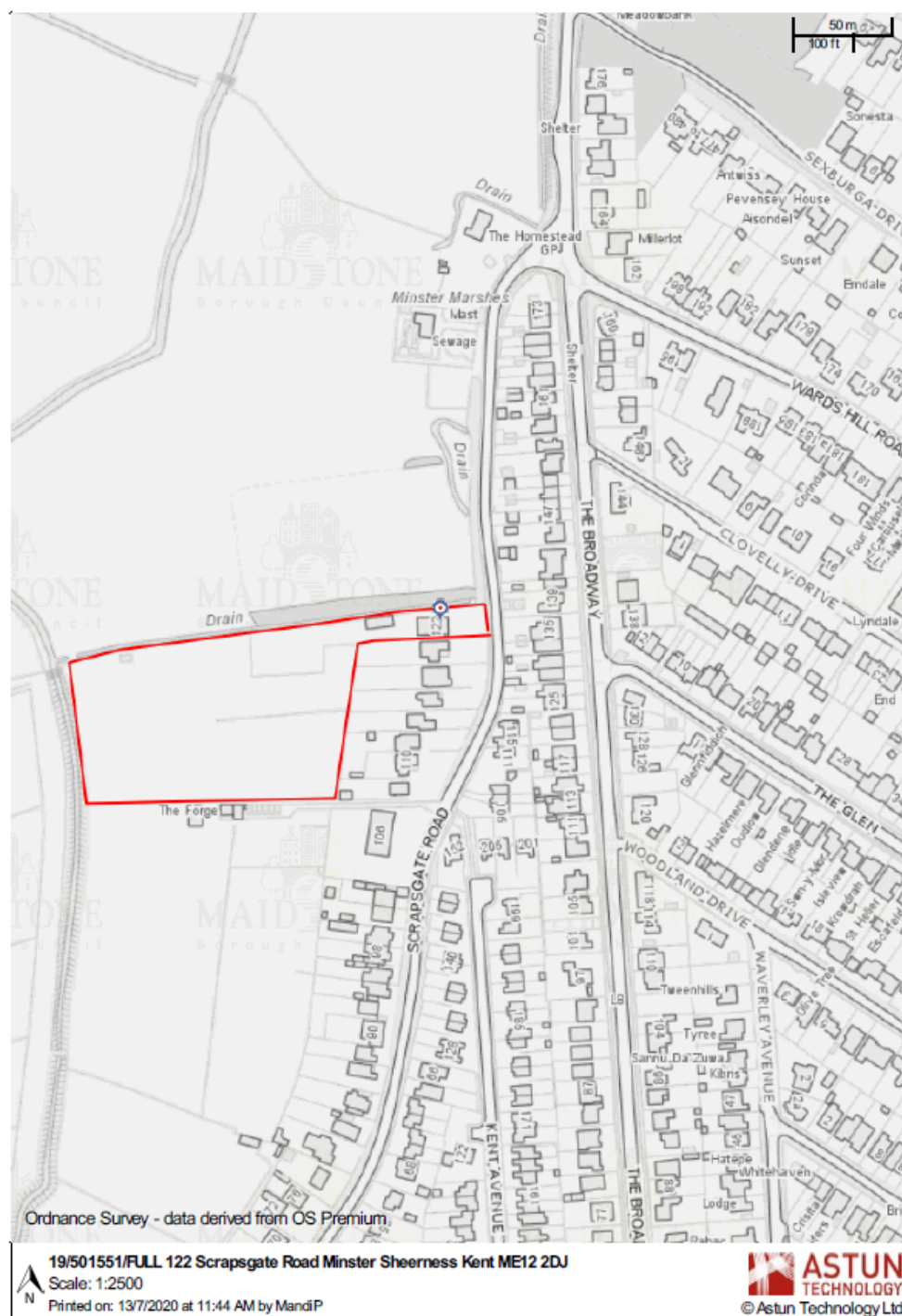
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, 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 – 23 JULY 2020

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – 35 Hartlip Hill, Hartlip**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Despite the fact that the development would significantly exceed the maximum sizes set out in the Council's longstanding design guidance, the Inspector concluded that given the individual site circumstances including the angle of view from adjoining dwellings, separation distances and changes in land levels, that the development was acceptable.

This page is intentionally left blank



Appeal Decision

Site visit made on 30 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/V2255/D/19/3237548

35 Hartlip Hill, Sittingbourne, Kent ME9 7NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Daniel Parker against the decision of Swale Borough Council.
 - The application Ref 19/502505/FULL, dated 7 May 2019, was refused by notice dated 1 July 2019.
 - The development proposed is a single storey side extension, two storey rear extension and front dormer extension.
-

Decision

1. The appeal is allowed, and planning permission is granted for a single storey side extension, two storey rear extension and front dormer extension at 35 Hartlip Hill, Sittingbourne, Kent ME9 7NZ in accordance with the terms of the application, Ref 19/502505/FULL, dated 7 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: "Site Plan" and "Proposed Plans and Elevations".
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the plan "Proposed Plans and Elevations".

Main Issue

2. The main issue is the effect of the proposal on the living conditions of occupiers of adjoining dwellings.

Reasons

3. The appeal relates to a detached, two storey dwelling located on the southern side of the road. It forms part of a ribbon of development along this stretch of the A2 outside of built up settlement boundaries. There is variety in the size, design and siting of neighbouring dwellings.
4. The proposed two storey rear extension would extend across the full width of the house replacing a conservatory. According to the plans, its depth would be 4m to both floors, with two hipped pitched roofs over with a central valley.

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

Appeal Decision APP/V2255/D/19/3237548

5. To the east of the site is 33 Hartlip Hill, a detached two storey house with a single storey side extension up to the boundary with no.35, and a high boundary wall and a pergola with climbing plants beyond this. The rear wall to no.33 is set beyond that of no.35 by about 0.3m; this would reduce the apparent depth of the two storey rear extension to about 3.7m. At first floor level at no.33 there is a rear facing bedroom window that has a small return section on the flank wall facing no.33. There is a separation of about 3m to the common boundary and of about 5m between the dwellings. Given this separation and the southerly orientation, the proposed two storey extension would not appear unduly oppressive or overbearing from the first floor window, notwithstanding its depth and mass. The presence of the boundary wall, pergola and climbing plants would also constrain views towards the extension from ground floor windows at no.33, thereby limiting its impact on living conditions.
6. To the west is 37 Hartlip Hill, a detached bungalow, enlarged by a ground floor rear extension with full height double doors, and a first floor rear dormer. There is a considerable stagger in the siting of the dwellings with no.37 located closer to the road. It is also on higher ground. The proposed single storey side extension would fill the gap between the side elevation to no.35 and the boundary with no.37 and would have a shallow pitched roof. Its height would not be substantially greater than that of the present boundary fence. Having regard to the raised land levels and separation distances, the massing of the side extension would have a negligible impact on living conditions at no.37.
7. The two storey rear extension would be about 2m from the side boundary to no.37 and some 8m from the rear window to its extension. The Council refers to a projection of roughly 13m, but this relates to the main rear elevation which is largely screened by no.37's own extension. The proposed two storey rear extension would be positioned approximately on a 45 degree splay in outlook from the rear extension and dormer windows at no.37. Considering this angle of view, the separation distances and changes in land levels, the two storey extension would not appear oppressive or overbearing.
8. The extensions' size would be greater than generally encouraged by Policy DM11 of "Bearing Fruits 2013", the Swale Borough Local Plan (2017) (SBLP), relating to extensions to rural dwellings, and by the Council's Supplementary Planning Guidance "Designing an Extension". But in view of the site circumstances I have described, there would be no significant conflict with Policies CP4, DM14 and DM16 of the SBLP which collectively seek to ensure that the design and siting of extensions are appropriate to their context in respect to materials, scale, height and massing and in protecting residential amenity.

Conclusion

9. The effect of the proposal on the living conditions of occupiers of adjoining dwellings would be acceptable. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to conditions relating to the life span of the permission, specifying the approved plans and requiring the use of matching materials.

Rory MacLeod

INSPECTOR