

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 10 March 2022

Time: 7.00 pm

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

Membership:

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

Quorum = 6

Pages

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 on 9 March 2022.

Meeting Link: To be added.

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1. Emergency Evacuation Procedure

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

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

The Chairman will inform the meeting that:

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

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

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

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

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the [Minutes](#) of the Meeting held on 10 February 2022 (Minute Nos. 587 - 589) as a correct record.

4. Declarations of Interest

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

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

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

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

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

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

Part B reports for the Planning Committee to decide

5. Planning Working Group

To approve the Minutes of the Meeting held on 1 March 2022 (Minute Nos. to follow).

To consider the following applications:

- 20/505921/OUT Land at Highfield Road, Minster-on-Sea, Sheerness, ME12 3BA
- 21/502609/OUT Land to the East of Lynsted Lane, Lynsted, ME9 9QN

6. Report of the Head of Planning Services

5 - 120

To consider the attached report (Parts 2 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 9 March 2022.

Issued on Tuesday, 1 March 2022

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**

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

10 MARCH 2022

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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PLANNING COMMITTEE – 10 MARCH 2022**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO - 21/503441/FULL		
APPLICATION PROPOSAL Erection of dwelling of exceptional quality of design (Para 80e), new access and associated works.		
ADDRESS Walled Garden Mount Ephraim Staple Street Hernhill Faversham Kent ME13 9TX		
RECOMMENDATION - Grant SUBJECT TO receipt of a SAMMS tariff payment.		
REASON FOR REFERRAL TO COMMITTEE An application which the Head of Planning considers is sufficiently major or raises difficult questions of policy interpretation or unusual or difficult issues which warrants Member determination.		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Mr and Mrs Wallis AGENT Hughes Town Planning Consultancy Ltd
DECISION DUE DATE 13/09/21		PUBLICITY EXPIRY DATE 23/12/21

Planning History

None

1. DESCRIPTION OF SITE

- 1.1 The 0.7ha site is a vacant walled garden in an isolated rural location that was once associated with the Grade II listed Mount Ephraim House which is located 0.2km to the north west of the site on the opposite side of Staplestreet Road. The walled garden is a distinctive and important feature of the Staplestreet conservation area, which was designated in March 1992, with the application site lying close to the southeastern edge of the conservation area boundary. The walled garden lies just outside the parkland landscape of the grade II registered Mount Ephraim estate and within the immediate setting of this hugely important designated heritage asset. The very pleasing contrast between the parkland landscape and the markedly different hop and fruit growing area to the southwest effectively occurs at the junction of Staple Street.
- 1.2 This conservation area in turn lies wholly within a Area of High Landscape Value (Swale Level), reflecting the special landscape qualities of the rural landscape stretching from the north side of Boughton Street all the way up to Dargate, several kilometres to the northeast.
- 1.3 The parkland landscape around the estate home known as Mount Ephraim is grade II listed by Historic England and forms one of the Borough's four Registered Parks & Gardens, whilst the C19 estate home and associated Ha-Ha are grade II listed in their own right. The application site has no intervisibility with Mount Ephraim House and/or its

Ha-Ha due to a combination of mature tree cover associated with the historic parkland estate and the attractive undulating topography at this location. It does however lie directly opposite the historic redbrick wall which encloses the grade II registered parkland along its southern edge and frontage with Staplestreet Road. Staplestreet Road itself is designated as a rural lane because of its strong rural character across its entire length, including directly adjacent to the application site.

- 1.4 The site itself includes a former garden which is enclosed by a tall brick wall on all boundaries and adjoins Staplestreet Road to the north, with Mount Ephraim bungalow to the east and agricultural land to the south and west. The condition of the brickwork to the late Edwardian (c.1910) wall enclosing the application site is quite poor in many areas and this appears to be down to the inappropriate use of modern cement re-pointing.
- 1.5 The site currently includes a single storey brick building whose north east elevation forms part of the brick wall along the site's roadside boundary. Vehicular access is currently through a tall wooden gate directly onto Staplestreet Road and there are additional pedestrian gates along each wall.

2. PROPOSAL

- 2.1 Planning permission is sought for the erection of a single dwelling within the walled garden. The proposal consists of a single storey four bedroom unit constructed of brick, cladding and glazing. The new dwelling would be positioned in the north east quadrant of the walled garden with a series of ridged zinc roofs located adjacent to the existing high brick wall which surrounds the garden.
- 2.2 The proposal is overtly seeking approval contrary to Local Plan settlement policies in accordance with guidance in paragraph 80(e) of the NPPF regarding planning applications for isolated homes in the countryside, which reads as follows (omitting the irrelevant parts):

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

e) The design is of exceptional quality in that it:

Is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

- 2.3 It should first be noted that paragraph 79 of the NPPF has recently been amended and re-numbered as paragraph 80 albeit the application refers to the previous numbering. Members should note that the word innovative has been removed from paragraph 80(e) and that this is no longer a factor which might support such a scheme. The proposal has been through two independent Design Review Panels prior to submission. The report for the later review in 2021 is attached as an Appendix to this item.
- 2.4 The proposed dwelling itself would have four bedrooms all with ensuite, a home office, utility, boot room, w.c, kitchen, larder, dining room, family area, living area and a study.
- 2.5 In addition to the dwelling itself, the application proposes a green house and bike store adjacent to the existing brick built structure, and also a pool area.
- 2.6 A significant part of this proposal comprises landscaping enhancements which include:

- Formal columnar trees
 - Fruiting trees
 - Species rich wildflower meadow
 - Species rich seasonal wetland planting
 - Species rich grassland
 - Seasonal attenuation pond
 - Shallow swale
 - Pottage garden
 - Linear small tree planting
- 2.7 The external terraces would be finished with clay red brick in a colour to closely match the proposed dwelling and respond to the existing walled structure. This material would also surround the proposed pool area which would be screened by formal yew hedges.
- 2.8 A new vehicular access would be opened through the existing wall on its eastern side to provide a new access with better visibility splays that would lead to a parking and turning area finished in porous natural aggregate. Three cars are shown on the proposed drawings although it is clear that more could be accommodated on the site.
- 2.9 The existing single storey brick built structure would be re-purposed as a workshop and potting shed.
- 2.10 The application is supported by a great number of drawings and statements from which I draw the following points:

2.11 **Design and Access Statement**

- *“The development proposals are the result of a detailed and through analysis of the site and surrounding area, informed by expertise in the architectural, landscape, ecological, heritage and planning fields. The fundamental objective of the proposals was to design a new house for the site that is of exceptional quality and innovative in its nature of design, reflecting the highest standards in architecture whilst being sensitive to the defining characteristics of the local area, and making a significant enhancement to its immediate setting. In the consideration of the development proposals, the constituent parts that in combination derive this scheme of exceptional quality cannot be disaggregated. They must be understood, read and addressed as a whole.”*
- *“The reasons as to why planning permission should be granted, in accordance with the development plan and other material policy considerations can be summarised as follows:-*
 - i. *The design is considered to wholly comply with para 80(e) of the NPPF in that it is truly outstanding or innovative, reflects the highest standards in architecture, and would help to raise the standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the area.*
 - ii. *Additional support for the principle of the development is set out in criterion (b) of paragraph 80 which also permits new isolated dwellings in the countryside where the development would represent the optimal viable use of a heritage asset.*
 - iii. *The proposal would result in the delivery of sustainable development and therefore, in accordance with Paragraph 11 of the NPPF, permission should be granted, subject to all other material considerations being satisfied. The*

proposal is considered to accord with the Local Policy in respect of these material considerations.

- iv. The proposal is considered to comply with Paragraph 174 of the NPPF in terms of its protection and enhancement of an Area of High Landscape Value and would deliver a significant enhancement to its setting through the creation of a house of exceptional quality reflecting horticultural buildings, conservation and restoration of the walled garden, landscape design referencing the historic regular four quartered subdivision of the walled garden, and an enhancement to the character and appearance of the Conservation Area and to the setting of the Mount Ephraim House and its Registered Park and Garden, of which the site was once a part.*
- v. The proposal would secure the retention and future conservation of a non-designated heritage asset that is in decline and better reveal the significance of the walled garden.*
- vi. The proposal would deliver significant gains for biodiversity and ecology through a scheme of ecological mitigation and enhancement.*
- vii. The proposed development would be truly outstanding in terms of its design, materiality and environmental sensitivity and is of the highest architectural standard, as well as being of innovative design – with reference to both the quality of the design process along with the outcome and its integrated use of sustainable features.*
- viii. The traffic movements generated by the development can be accommodated without detriment to highway safety and the proposal includes adequate car parking provision and the retention of the important historic wall frontage and gated access along Staplestreet Road.*
- ix. The proposal would deliver a betterment in terms of surface water run-off rates from the site through a SuDS scheme.*
- x. The proposal would enhance the character and appearance of the landscape setting to Mount Emphraim Bungalow in views from Staplestreet Road, and in turn the character of the Rural Lane.*
- xi. Other issues raised have been assessed and there are not any which would warrant refusal of the application, or which cannot be satisfactorily controlled by condition.”*

2.12 Design Proposal (Part 5: Energy)

- Investment in building envelope efficiency will allow the building to need and use less energy throughout the year
- A proposed minimum 300mm wall and roof insulation will trap heat within the building
- High air tightness level
- High performance triple glazed windows
- Mechanical Ventilation Heat Recovery (MVHR) system will be incorporated into the design which will recover over 90% of the heat from the stale air

- Dwelling has been designed so the majority of glazing faces from east to west picking up on the morning, midday and evening sun to maximise solar gains
- On the south elevation, high summer sun is controlled by the roof overhanging to reduce gains and prevent the building overheating
- High thermal mass will provide resilience to outside temperature fluctuations
- The most appropriate primary renewable technologies for the proposed dwelling are biomass and solar
- The predicted percentage reduction in emissions is 133% better than the target emission rate

2.13 **Heritage Statement (Canterbury Archaeological Trust)**

- The proposed development presents little or no harm to the setting and intelligibility of heritage assets nearby and would fit within an already ongoing process of residential development of post-medieval agricultural buildings and landscape. Where the proposed changes do potentially affect the setting, mitigation can be achieved by the use of design and building materials that reflect those already in use in the environs, or characteristic of them, thus maintaining the intelligibility, and arguably adding to the character, of the setting. The use of careful planting will also be beneficial.
- In response to a consultation response from Swale Borough Council, which expressed the view that the walled garden should be considered a non-designated heritage asset in terms of its contribution to the historic landscape and the conservation area, and treated accordingly, we need to draw a clear distinction between viewing and valuing the walled garden generally as a significant landscape feature, and viewing the early twentieth-century wall that forms it as, per se, a significant heritage asset to be preserved in entirety and at all costs. The proposed changes will clearly have some impact on the fabric of the wall, through the removal of a section in order to create a safe vehicular entrance. The significance of the wall as a heritage asset in itself should not be overstated, however. Such a wall would scarcely if at all qualify for listing or designating further per se. Impact to its fabric can be mitigated by recording of the fabric, providing more information about the structure, and the process will also provide materials for the repair of damaged sections of brickwork elsewhere in the remaining walls. Any areas of wall needing removal should be recorded (photographic record by an archaeologist) prior to and during careful deconstruction.
- From the point of view of historic landscape and conservation area, our view is that the proposed new access through the wall, constructed in keeping with its early twentieth-century style, in no way denigrates the contribution of the entire walled garden to the wider landscape. Quite to the contrary, in fact, improved access to and therefore continued value and use of the walled garden (already modified over the years, after all), will help to secure its place in the local scene into the future.

2.14 **Archaeological Desk Based Study**

- There is a chance that extant archaeological features, artefacts or ecofacts may be disturbed or destroyed by groundworks. The destruction of preserved archaeology without proper record risks a major negative impact on the historic environment.

- In order to mitigate potential impacts on the archaeological record, a watching brief on all groundworks associated with the development is considered an appropriate safeguard. Ceasing of site groundworks to allow more extensive archaeological mitigation should be retained as an option, in liaison with the County Archaeologist, in the event of intact and significant remains being encountered.

2.15 **Landscape and Visual Impact Assessment**

- The proposal would fit with the scale of the landform by being low height and by following the contours of the hillside.
- The anticipated magnitude of the effect of the proposal upon topography and scale is considered to be Minor.
- The proposal would not harm or detract from any areas of natural habitat. Conversely the proposal ensures that the setting of the site enhances natural habitat resource through a number of measures including restoration of existing hedgerow, enhancement of grassland for species richness, new native hedgerows and a seasonal pond.
- The proposal introduces viable human activity and presence onto a site which would have been a focal point for horticultural activity serving Ephraim House. The proposal introduces a built structure of similar scale and proportions to greenhouses which existed on the site. The proposed landscape references elements within the registered parks and gardens at Ephraim House strengthening the cohesion between the proposal site and the origin of the walled garden.
- The decline and decay of the walled garden and its lack of viable use and management would be reversed. A small fruit orchard within the proposal would provide a conceptual connection with the surrounding orchards.
- The proposed development would emerge slightly above the perimeter wall which provides a high degree of visual enclosure when viewed from some locations. The proposed development would not interfere with the large houses that are visible on the skyline from certain view points.
- There are some southerly views on to the site from Bounds Lane from where the proposed dwelling, landscaped gardens and orchard would be visible.
- The effect of the proposal upon visual character is considered to be negligible.
- The proposal could result in slightly higher levels of human presence and activity which could be perceptible from the public right of way however the proposal would not significantly affect the perceptual and experiential qualities of the area as the site is bounded by a substantial brick wall which would screen the new residential use.

2.16 **Bat Survey**

- No bats found to be roosting within the existing building.
- If a bat is found during conversion of the existing building then all works to the building should cease until further advice is sought from a licenced bat ecologist.
- External artificial lighting will be implemented in accordance with the guidance issued by the Bat Conservation Trust and Institute of Lighting Professionals.
- New planting will include climbing plants and herbs.

2.17 Great Crested Newt Survey

- Desk Study indicates that it is very unlikely that this species are present within the development site.

2.18 Preliminary Ecological Appraisal

- Planting around the building will include native, flower rich species, including those that flower in the late and early seasons to enhance biodiversity.
- Inclusion of climbing plants will add sheltering opportunities for invertebrates and birds. Which can also produce nectar rich flowers for butterflies, bees and hoverflies and fruit for birds and small mammals.
- The inclusion of herbs will provide nectar for an array of invertebrate species, including bees, butterflies and moths.
- The inclusion of plants that produce scent at night will attract night flying invertebrates and as such will provide foraging opportunities for bats.

3. PLANNING CONSTRAINTS**3.1 Potential Archaeological Importance**

Conservation Area Staplestreet

4. POLICY AND CONSIDERATIONS**4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:**

ST1 (Delivering sustainable development within Swale)
 ST3 (The Swale settlement strategy)
 CP4 (Design)
 CP8 (Conserving and enhancing the historic environment)
 DM14 (General development criteria)
 DM19 (Sustainable design and construction)
 DM24 (Conserving and enhancing valued landscapes)
 DM26 (Rural lanes)
 DM30 (Enabling development for landscape and biodiversity enhancement)
 DM32 (Development involving listed buildings)
 DM33 (Development affecting a conservation area)
 DM35 (Historic parks and gardens)

4.2 Supplementary Planning Guidance (SPG) entitled “Parking Standards” (May 2020) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications. The recommended parking provision for this property is 3+ spaces.**4.3 The Council's Landscape Character and Biodiversity Appraisal (November 2011) sees the site set within the Hernhill and Boughton Fruit Belt which is described as:**

- *This is a distinctive, small-scale, enclosed landscape situated in the vicinity of Hernhill and Boughton under Blean, west of the Blean Woodland complex. Predominantly a fruit producing area, it also contains isolated hop gardens and small arable fields.*
- *It is an area of mixed geology that includes numerous fertile drift soils, which are deep, well drained and support a mosaic of productive orchards and some hops*

covering the distinctly folded topography. A strong but irregular field pattern, of small to medium-scale, is emphasised by the poplar windbreaks and mature hedgerows of mixed native species.

4.4 Guidelines for landscape restoration and creation include:

- *Conserve the intimate landscape character formed by the small-medium-scale field pattern with a strong network of shelterbelts and hedgerows, together with woodland, orchard and hop cover. Additionally, look for opportunities, in localised denuded areas, to reinstate such features.*
- *Conserve the distinctive landscape character formed at the boundaries with other character areas, such as where orchard and pasture meet, or form, the setting to the Blean wood complex, or where rising ground immediately adjoins the Graveney Dykes.*
- *Use local and vernacular materials appropriate to the location: for boundaries - red (almost predominantly) stock brick walls, estate iron railings, chestnut diamond spine or hedgerows, for roofs - Kent-peg tiles and occasional thatch or slate and corrugated sheeting on outbuildings and for building walls – weatherboarding, tile hanging, timber frame and plaster infill, flint, red or yellow stock brick and white/ rendered painted brick, some stone and flint. For new hedges and hedgerow trees - hawthorn, hazel, field maple, dog rose and dogwood. For mixed-woodland or other planting - pedunculate oak, hornbeam, hazel and birch, scattered oak standards in open fields. Additionally, within developed areas – yew, older fruit tree varieties and beech, box, privet, holly or yew hedging. Shelterbelts – poplar. Other – mixed fruit orchard, hop gardens.*

4.5 The National Planning Policy Framework (NPPF): Paragraphs 8, 11, 80, 174, 194, 197, 202 and 205.

4.6 In response to this clear Local Plan position which indicates that a new house would not normally be approved here, this application scheme has been submitted with paragraph 80(e) of the NPPF in mind. This sets two tests for the possible exception to the normal policy of resisting the development of new isolated dwellings. these are that:

The design is of exceptional quality in that it:

Is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

4.7 From research and a review of appeal decisions surrounding paragraph 80 house applications I conclude that there are a number of key points that should be borne in mind in assessing an application that aspires to be approved under the guidance of paragraph 80. These are:

- There are two strands to section e) of paragraph 80 and both must be satisfied. Outstanding design without accompanying landscape enhancement means that a scheme should not be approved under paragraph 80. Landscaping should not be seen as optional, or an afterthought.
- The first test in paragraph 80 e) of the Framework requires proposals to be truly outstanding.

- Paragraph 80 of the Framework is a material consideration that carries substantial weight but the starting point for the consideration of any proposal remains the adopted Development Plan. If a scheme is not exceptional the application should be determined in accordance with the Development Plan (Local Plan).
- Where a proposal does not comply with the locational policies of the Development Plan, for planning permission to be granted it must be shown to be of the exceptional quality required by paragraph 80 of the Framework and that this outweighs the conflict with the adopted plan.
- Paragraph 80 sets a high bar, and a favourable design review does not guarantee approval.
- Even if the building is not readily visible from public viewpoints, this does not reduce the need for the building to be of 'exceptional quality' in its intrinsic design if it is to be justified by paragraph 80.
- Materials used ought to be sympathetic to local character and history.
- Any new house reflecting the highest standards in architecture would be expected to fully maximise energy efficiency. Whilst excellent environmental build credentials are always a benefit, this does not in itself make a building one of exceptional quality, nor would it necessarily help raise the standards of design more generally in rural areas.
- The use of renewable energy systems would result in a low carbon home which would have sustainability benefits in terms of its own use of resources, but this does not necessarily show the use of ideas which are new or particularly original and creative.

5. LOCAL REPRESENTATIONS

5.1 The Faversham Society commented on the proposal as follows:

"This scheme is well-designed and of a high quality and will respect the principle of a garden building. In addition, the large walled garden which is an important feature in Staplestreet would be restored with planting which will contribute to biodiversity in the area and the boundary wall retained.

The Society recognises the quality of the work that has gone into this application and enthusiastically supports it. A lot of talented, well-informed effort has gone into the preparation of this most interesting and innovative proposal".

5.2 Five letters of support were received and can be summarised as follows:

- Fully supportive of the plans to build an eco-friendly and architecturally suitable house in the walled garden
- The plans look amazing and it seems an ideal way to ensure this beautiful space is used to its full potential
- As far as I can see there will be no impact on other local residents
- All for developing suitable plots of land to build new homes locally
- Would be a welcome addition to the Staplestreet streetscape and make good use of a vacant plot
- Exciting to see an application for an innovative, sustainable building in the village
- The development will ensure retention and protection of an historic structure
- The applicants/design team have developed an outstanding proposal that will add a unique family home to the existing collection of architecturally diverse properties along Staplestreet

- This will make a great use of a plot that has been crying out for something like this, and give the village/parish something that will be recognised as an asset in years to come

6. CONSULTATIONS

6.1 Hernhill Parish Council commented as follows:

“The Councillors voted to support the application, noting its innovative architectural design and its siting which will help preserve the prominent feature of the walled garden along Staple Street. The council was also appreciative of the landscape plan that should increase the biodiversity.”

6.2 Historic England did not wish to offer any comments.

6.3 Natural England is satisfied that subject to the appropriate financial contribution (SAMMs) the proposal will mitigate against the potential recreational impacts of the development on the SPA.

6.4 Kent Highways initially responded as follows:

- *The proposed access would be regarded as a betterment of the visibility that can be currently achieved at the existing access. However, further plans should be submitted which show the maximum achievable visibility in both directions from the proposed access. This should show that the splays cross land owned by the applicant or Kent County Council and do not cross third party land. To ensure the existing vehicle visibility is maintained, there should be no obstruction within the visibility splays over 0.9m above the carriageway level. The applicant should note that the existing access would need to be permanently stopped up, should this new access be approved.*
- *All dwellings with private off-street car parking should have an electric vehicle charging point installed and this should be shown on any further submitted plans.*

The planning agent then submitted an additional drawing 282_DO_PN_3004 which Kent Highways were reconsulted on. They responded as follows:

“Thank you for providing the further details and revised plans in relation to the above planning application. I am satisfied that the additional information provided addresses the concerns raised in my previous response. Consequently, I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority”

6.5 Kent County Council Ecology commented as follows:

“To mitigate against potential adverse effects on nocturnal wildlife, and in accordance with paragraph 180 of the National Planning Policy Framework 2019, we suggest that the Bat Conservation Trust’s ‘Guidance Note 8 Bats and Artificial Lighting’ is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats (and other nocturnal wildlife) is submitted to the local planning authority, as recommended in the ecology report, and secured via an attached condition with any planning permission.

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need

to be removed during the breeding season, mitigation measures need to be implemented during construction. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged

Under section 40 of the NERC Act (2006), and paragraph 180 of the NPPF (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, the implementation of enhancements for biodiversity should be encouraged.

With the proposed incorporation of wildflower meadow and wetland habitat establishment, the development can achieve meaningful net-gain. However, the species mix utilised must be native and managed in a specific (but minimal) way to ensure maximum biodiversity value.

To secure the implementation of the proposed enhancements, and associated management prescriptions, we advise that a condition is attached to any granted planning permission.”

6.6 The County Archaeological Officer has commented as follows, and has suggested two planning conditions, which are set out as condition (3) and (4) below at the foot of this item:

Thank you for consulting on the above proposed development of the Walled Garden at Stapestreet Road in Hernhill.

I note that the proposal includes an Archaeological Desk-Based Assessment (2019) and a Heritage Statement (2020) written by the Canterbury Archaeological Trust. I have reviewed both of these together with our own records.

In terms of archaeology predating historic maps, it is difficult to fully gauge potential in this area due to the lack of development led investigations or general archaeological research. There is a record of an Iron Age coin being found nearby, Watling Street follows the A2 to the south and the site lies on the slopes of a hill. A nearby hill has an earthwork shown on LiDAR plotting that may be a prehistoric monument.

In terms of the historical development of the site, the CAT study suggests that the area may have been enclosed from the 18th century. Certainly a property occurred adjacent from that time according to the Ordnance Surveyors drawings of the late 18th century. The Tithe Map of the 1840s which was not consulted by CAT shows that the present walled area forms part of a wider enclosed area. The apportionment identifies this as ‘Lower Hop Garden’ owned by a Mary Browning of Yew Tree Cottage and under cultivation by John Curling. I note that anecdotal evidence from the owners are that the Walled Garden itself was established in 1910 to serve Mount Ephraim. By the 1940s the site is shown on aerial photographs with subdivision of planting areas in its southern area and structures in the northern part. Most of the structures have since been demolished and cleared and the site laid to lawn. A brick building survives along wall and traces of the planting subdivision can be seen in lawn as parch marks on aerial photographs. CAT report that traces of former structures can be seen on the wall fabric.

I note that the proposals for the new dwelling include works that may affect the wall to form an access and I would suggest also to repair and clean where necessary. It would be appropriate as suggested to include in any permission a programme of historic building recording to record the fabric and features that may be affected.

With respect to buried archaeology, the background potential is not fully understood but groundworks could potentially affect early remains as suggested by the Trust. I would also suggest that there is potential for evidence of the early form of the garden and the planting to be buried within the site and visible in the wall fabric and that the development may impact on that. I would suggest that in any permission, provision is made for a programme of archaeological work rather than the watching brief suggested. The scope of such work would probably include targeted evaluation of the impact areas of the development.

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documents relating to 21/503441/FULL.

8. APPRAISAL

- 8.1 The Council's Local Plan Bearing Fruits 2031 states that development proposals will be supported in accordance with the settlement hierarchy which is set out in Policy ST3. This identifies settlements in descending order of sustainability. Locations in the open countryside are the lowest settlement tier and this site is therefore ranked at the bottom in terms of where the Council wishes to direct new homes and jobs. For locations such as this, policy ST3 states;

“At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”

Accordingly, it is very clear to me, and it is accepted by the applicants, that this site is not one which would normally be seen as suitable for a new house, not least because of its remote location and poor access to services other than by private car. As such, it is doubtful whether this proposal can be considered to be sustainable, however energy efficient it might be. I would not normally expect to recommend approval of a new dwelling in this location.

- 8.2 Whilst other material planning considerations, including the aforementioned adopted Local Plan policies and local planning guidance will apply, because the application site for development plan purposes, is located on land considered as countryside and in a relatively isolated, non-sustainable location, the primary consideration in reaching a decision on this application is considered to be that which is in fact specifically referenced by the applicant as being paragraph 80 of the National Planning Policy Framework (NPPF) and in particular criterion (e) of that guidance paragraph. The key question then is the extent to which the application scheme meets the tests of paragraph 80(e) of the NPPF. The question then is not whether the design is good, or attractive, or shows good energy efficiency, but whether it meets the high bar of exceptional architecture as set out in paragraph 80.
- 8.3 Paragraph 133 of the NPPF advises that in assessing application, local planning authorities should have regard to the outcome from design review processes, including

any recommendations made by design review panels, and this effectively provides us with a clear starting position in reaching a judgement on this matter.

- 8.4 The January 2021 Design Review Panel assessment of the proposal concluded inter-alia that:

Overall, the proposals work well in relation to their context; and the scale, height and massing are appropriate and also offer a strong visual response to the location. The important characteristics of the site and surroundings are clearly identified, also permeate into the design allowing the proposed dwelling and landscaping to make a positive contribution to the setting.

Notwithstanding the above, it is considered that the design proposals have not yet demonstrated that they have met all of the para 79 (e) [Sic] criteria, and there is felt to be a need to provide additional information and clarifications to be able to demonstrate compliance with the policy requirements. It is however considered that following further design development, that appropriately address the comments below [see relevant design considerations section below required to be addressed following 2nd design review meeting], the design does have the potential to meet the requirements of para 79 (e) of the NPPF.

- 8.5 The critical thing here in my view, is to only support such very specific policy exception type developments where they respond strongly and creatively to their specific landscape context and ultimately have the very clear potential to create something rather special that can be valued not only by their owners but by the wider community; and also have the scope to become a positive talking point, and something which could be recognised as being of real value in any future landscape appraisal of the area.
- 8.6 The improved relationship between the character of the walled garden and its landscape context is best appreciated via the landscape masterplan drawing which indicates graphically how the combined design of the dwelling and the enclosed garden landscaping reflects the strong linear and terraced form of the surrounding horticultural landscape whilst adding some attractive contrasting elements to appropriately make the space within the enclosing walls distinctive and visually delightful.
- 8.7 The relationship between the outdoor spaces and the internal living spaces of the house has been improved since the pre-application submission and similarly has been worked up in terms of the detailed design as can be seen in the landscape masterplan drawing. This shows a geometric external terrace design to the exterior of the principal living spaces which would complement the striking stepped roof design and heavily articulated walling design, whilst also being reflective of the linear forms shown in the planted areas.
- 8.8 The design review panel in January 2021 advised that regarding the relationship of the building to the existing garden walls on the east side and the narrowness of the external space, it is noted the distance between the house and the garden has been slightly increased, also the windows have been re-orientated. This is an improvement on the earlier proposal, and subject to detailed design of the external spaces, including sensitive lighting design, this issue is considered to be capable of satisfactory resolution. It is now clear that whilst the specifics of the type of surfacing and planting to be used in the space between the building and the wall will need to be provided and agreed as part of a detailed landscaping and lighting scheme, which could reasonably be required by one or more planning conditions to supplement the detail already shown in the landscape masterplan drawing, the design evolution in this respect nevertheless further serves to illustrate that this proposed development is capable of delivering a good outcome that would represent the highest standards of architecture.

- 8.9 The space bounded by the walled gardens is open in character in the evolved landscape design, allowing the historic walls, together with the existing horticultural buildings, to provide three-dimensional structure and enclosure. The stronger linear and flowing design of the landscaping allows the space within the enclosing walls to feel more contained by the new and existing building and walls, thus making the design read as more contextually sensitive in its overall form.
- 8.10 Small form perimeter trees and orchard trees are now included within the evolved landscape design. Whilst these would not reflect the geometric form of the new building in the layout at ground level in isolation, in combination with a parallel series of Yew hedges and the associated use of contemporary prairie planting of perennials and grasses creating a contrasting seasonal effect, they would achieve this aesthetically desirable outcome.
- 8.11 A full heritage assessment has now been provided as have detailed landscape and ecological proposals. Some information has also been provided in relation to restoration plans for the existing garden walls. Whilst this is lacking in adequate detail and in particular does not provide survey information illustrating the extent of the brickwork which requires organic growth removal, partial replacement (where there are spalled bricks) and/or re-pointing in an appropriate lime-based mortar mix, it nevertheless provides a good starting point and I am satisfied following discussions with the applicant's agent that this important element could reasonably and sensibly be dealt with by means of a planning condition. The additional information in this respect would help to inform a long-term conservation management plan for the historic walls and associated potting shed building, which in parallel, could also appropriately be dealt with by means of a planning condition. The reference to Historic England's guidance note on 'Repointing Brick and Stone Walls' is entirely appropriate. Given how fundamental the wall setting is to this proposal, the provision of a conservation management plan presents a real opportunity to help ensure that the wall is repaired and maintained appropriately such that this important feature in the landscape, which forms the very unique context for this proposal is conserved for future generations to enjoy. More detailed consideration of and associated reference to this document including the clear benefits of a condition survey would assist in drawing up the restoration plans and conservation management plan for these condition related submission, which are considered to be critical given that the wall provides arguably the most important element of the unique setting for the proposed development, and without the wall, it is highly questionable whether a scheme of this nature could be supported in principle, in overall planning terms. To that extent I have some doubt that creating a large new vehicular access within the otherwise unbroken wall is the best way to conserve the wall, and I really don't see an overriding argument that says vehicles need to enter the walled garden other than for occasional maintenance or for construction, when the existing entrance might be used on these very occasional basis. However, this matter does not outweigh my overall conclusions on the merits of the scheme.
- 8.12 The provision of a section drawing and related CGI's (computer generated images) shows clearly how the glasshouse-inspired stepped roof forms will appear and will effectively step downwards from northeast to southwest in a complementary/reflective manner to the existing garden walls.
- 8.13 Visuals showing the vertical lines of the joints between zinc sheets have been provided to more strongly reference the three-dimensional form and materiality of greenhouse roofs, thus appropriately reinforcing one of the key design precedents/influences for the scheme.
- 8.14 The design review panel in January 2021 advised that regarding ecology, it may be beneficial for native (wetland, pond and meadow) species to be used within the relevant

areas to maximise the benefit in biodiversity terms. In this respect I note that the County Council's Ecology Team considers that sufficient ecological information has been provided and that there is no objection to the granting of planning permission from an ecology perspective subject to the imposition of two specific planning conditions which are set out below.

- 8.15 The design review panel in January 2021 advised that there may be an opportunity to create additional wildlife habitats by inclusion of bat and bird boxes within the proposed building, also through creation of reptile/amphibian hibernacula within the site/adjacent area. These opportunities for biodiversity gain for the proposed development have been picked up on in the evolution of the landscaping proposals for the scheme.
- 8.16 The design review panel commented that external lighting should be carefully considered in order to avoid negatively impacting biodiversity, particularly bats. The County Council's Ecology Team has expressed the view that the imposition of a planning condition is appropriate to deal with this aspect of the detailed design, and in the circumstances, I share that view.
- 8.17 A principal concern from the outset was and remains the need to limit harmful change to the late Edwardian period walls enclosing the area for the proposed new dwelling. Following ongoing liaison between the applicant's design team and the Highway Authority, it is now accepted that the existing gated vehicular access is not suitable as the means of vehicular access to/from the application site in relation to the proposed new dwelling. In the circumstances, it is recommended that this existing access if effectively stopped up so that it cannot be legitimately used with the existing gates retained, but permanently locked shut. The existing pedestrian gate on the road frontage could in my view continue to be used subject to appropriate caution by occupants of the proposed dwelling and their visitors, and in respect of creating the new replacement vehicular access to the enclosed area, it is critical that this is carried out in a way which is respectful of the distinctive character and form of the existing wall and retains the strong sense of enclosure that the wall currently provides.
- 8.18 A CGI visualisation of the proposed vehicular access gate has been provided however, it is unclear from this exactly what type of facing material and detailed design is intended, and as such this is a design aspect which would need to be dealt with by means of a planning condition.
- 8.19 The proposal has been a long time in the making and appropriately has been afforded a lot of thought and associated input from the applicant, the design team, the independent design review panel, officers and key external consultees.
- 8.20 Whilst there are still a number of outstanding design issues/details to be resolved these are relatively modest matters that can be dealt with by condition and do not raise any doubt about the capacity for outstanding quality and energy efficiency from the scheme or its ability to enhance the local landscape character and in turn the Staplestreet conservation area and the setting of the adjacent Grade II listed Mount Ephraim Estate.

9. CONCLUSION

- 9.1 Given the above, it is clear to me that this proposal is truly outstanding, reflecting the highest standards in architecture and one which would help to raise standards of design more generally in the rural areas and would significantly enhance its immediate setting, as well as being sensitive to the defining characteristics of the local area.
- 9.2 The design evolution from an initial idea to the beautifully illustrated and clearly thought through set of submission documents now forming the application indicates that we now have a very special proposal, which for the first time in Swale represents an NPPF paragraph 80(e) scheme worthy of support without reservation.

10. **RECOMMENDATION** - GRANT Subject to receipt of a SAMMS payment and the following conditions:

CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with approved drawings 4.1 Site Plan, 4.11 Floor Plan, 282_DO_PN_3004, Proposed north & south elevation_Rev A, Proposed west & east elevation_Rev A.

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

- (3) Prior to commencement of development, the applicant, or their agents or successors in title, will secure the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

- (4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- (5) Before preparation of any groundworks and foundations a detailed landscaping scheme shall be submitted to and approved by the Local Planning Authority. This shall include detailed information relating to the following:

- (a) All external hard surfacing materials
- (b) Means of enclosure, including height, materials and alignment
- (c) Written planting specifications, including cultivation and other operations associated with plant and grass establishment
- (d) Schedules of plants and trees, noting species, planting sizes and proposed numbers / densities where appropriate

(e) Implementation timetables.

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

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

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

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

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

- (8) Notwithstanding the submitted drawings and other documentation, a Landscape and Ecological Management Plan (LEMP) following the principles set out in British Standard 42020:2013 Biodiversity — Code of Practice for planning and development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The content of the LEMP shall include the following:

- (a) Description and evaluation of the landscape and ecological features to be managed.
- (b) Ecological trends and constraints on site and wider environmental issues that might influence management and the likely effects of climate change.
- (c) Landscape and ecological aims and objectives of the management.
- (d) Appropriate management options for achieving aims and objectives.
- (e) Prescriptions for management actions for each identified habitat and feature covered.
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period) with recommendations for periodic review.
- (g) Details of the body or organization responsible for implementation of the plan and the resources both financial and personnel by which the LEMP will be implemented. This shall include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured post development with the management body(ies) responsible for its delivery.
- (h) Ongoing monitoring and remedial measures including regular review by accredited professionals including setting out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning landscape and biodiversity objectives of the originally approved scheme.

The approved plan shall thereafter be implemented in accordance with the approved details.

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

- (9) Prior to the commencement of development, a sample panel of the facing brickwork form to be used, together with a schedule and samples of the other external facing materials (including window frames and associated glazed sections) to be used, shall be made available on site for inspection by and approval by the Local Planning Authority. The approved materials and details shall thereafter be used in the implementation of the development.

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

- (10) Prior to the commencement of development, the following key construction details shall first have been submitted to and approved in writing by the Local Planning Authority:
- (a) 1:5 vertical section drawing showing the typical wall to roof junction detailing (including any rainwater goods and associated support brackets to be used);
 - (b) 1:5 vertical section drawing showing the typical detailing between the parallel, adjoining roof elements; and
 - (c) 1:5 vertical and plan section drawings showing the typical reveal detailing to the external windows and doors.

The approved key construction detailing shall thereafter be used in the implementation of the development.

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

- (11) Prior to the commencement of any relevant work, details of the design of new gate/opening in boundary wall, including that of the gates themselves and the construction and finishing of the new opening and any related piers or cappings shall be submitted and approved by the Local Planning Authority. Works shall proceed in accordance with the approved details.

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

- (12) Prior to the commencement of development, a scheme for the protection and phased restoration of the Edwardian period wall enclosing the bulk of the application site shall first have been submitted to and approved in writing by the Local Planning Authority. The details to be provided shall include a detailed schedule of work (based on a full condition survey provided by a conservation accredited building surveyor or architect), a timetable for the phased implementation of the approved restoration works, and details confirming the manner in which the existing Edwardian wall enclosure shall be protected during the construction of the new vehicular entrance. The wall protection and restoration scheme shall thereafter be implemented in accordance with the approved details.

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

- (13) Prior to the first occupation of the dwelling hereby permitted, a conservation management plan setting out how the late Edwardian enclosure wall and associated (physically adjoining) workshop/potting/storage shed building shall be

maintained and conserved as visually critical elements within the Staplestreet conservation area and to the setting of the new dwelling and the adjacent grade II registered park & garden of Mount Ephraim shall first have been submitted to and approved in writing by the Local Planning Authority. The wall and adjoining outbuilding shall thereafter be maintained and conserved in accordance with the approved details.

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

- (14) 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.

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

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

Reasons: In the interests of residential amenity.

- (16) The dwelling 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.

- (17) Prior to the first occupation of the dwelling hereby permitted and prior to the installation of the relevant lighting elements/light fittings, a lighting design plan for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and maintained as such thereafter.

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

- (18) Within six months of works commencing, details of how the development will enhance biodiversity shall be submitted to the Local Planning Authority. This will include details, including future management prescriptions, of the wildflower and wetland habitat creation. The approved details shall be implemented and

thereafter retained in accordance with the approved details.

Reason: In the interests of encouraging wildlife and biodiversity.

- (19) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the construction period. The Plan 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

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

- (20) No occupation of the dwelling hereby permitted shall commence until the new access as shown on approved drawing 282_DO_PN_3004 has been created, and the existing vehicular access has been permanently closed, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

- (22) No unbound material shall be used in the surface treatment of the new vehicular access within 5 metres of the highway.

Reason: In the interests of highway safety.

- (23) The visibility splays shown on approved drawing 282_DO_PN_3004 shall be provided prior to the first occupation of the dwelling hereby permitted with no obstructions over 0.9 metres above carriageway level within the splays, and these visibility splays shall thereafter permanently be kept clear of any such obstruction.

Reason: In the interests of highway safety.

- (24) The area shown on approved drawing 4.1 Site Plan 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 dwelling hereby permitted.

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

- (25) The cycle parking facility shown on approved drawing 4.11 Floor Plan shall be provided prior to the occupation of the dwelling hereby permitted.

Reason: To encourage the use of sustainable means of travel.

- (26) The dwelling hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and it shall not be occupied unless the notice 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.

- (27) The dwelling hereby permitted shall not be occupied until it has been provided with an electric vehicle charging point in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

- (28) The residential curtilage for the new dwelling hereby permitted, shall be confined to the area contained within the existing walls as shown on the proposed site plan.

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

- (29) Following the completion of the development hereby permitted no further buildings, structures or works, whether or not permitted by the provisions Classes A to H inclusive of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), shall be erected or undertaken on the site.

Reason: In the interests of conserving the character of the conservation area and to ensure that the quality of the development hereby permitted is not undermined by the exercise of permitted development rights and will continue to reflect the basis on which it has been permitted under NPPF paragraph 80(e) as a design of exceptional quality.

- (30) Notwithstanding the provisions of Part 2 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no gates, fences, walls or other means of enclosure shall be erected within the walled garden area except for the fencing/walling forming part of the approved landscaping scheme.

Reason: In the interests of conserving the character of the conservation area and to ensure that the quality of the development hereby permitted is not undermined by the exercise of permitted development rights and will continue to reflect the basis on which it has been permitted under NPPF paragraph 80(e) as a design of exceptional quality.

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 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 (normally 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 Agent has confirmed agreement to pay the SAMMs fee subject to the outcome of the Committee.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 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.

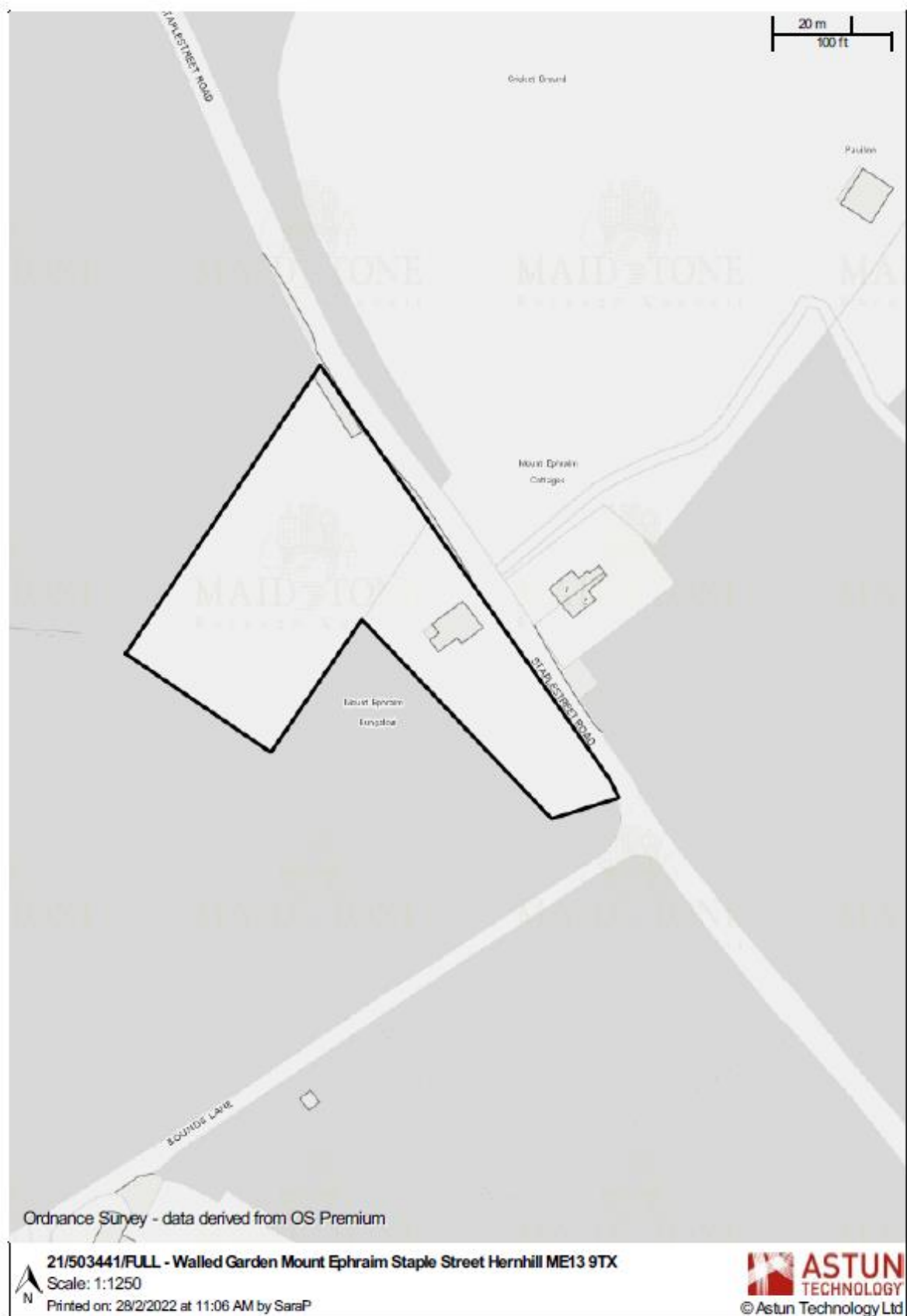
The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

INFORMATIVE

- (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.

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



APPENDIX A

The Design Review Panel

www.designreviewpanel.co.uk



Site	Land at Hemhill, Staplestreet Road, Hemhill, Kent ME13 9TX
Proposal	Paragraph 79 / 131 New Dwelling Set Within An Existing Walled Garden Associated with Mount Ephraim
Local Authority	Swale Borough Council
Applicant	Mr Greg Wallis
Agent	Hughes Planning
Architect	Hawkes Architecture
Landscape Architect	Squires Young Landscape Architecture
Review Date	4 th January 2021

This remote desktop review was booked by Hawkes Architecture. This is the second time The Design Review Panel has reviewed this scheme. A previous design review panel session that included a high resolution 360-degree photographic virtual site visit was carried out on the 13th May 2020. This feedback document should be read in conjunction with the previous feedback document issued.

The information submitted for review is considered to be extremely clear, comprehensive, and professional; this is welcomed by the Panel. It is felt that this comprehensive and professional presentation material is of benefit to the design review process. The Panel supports the multidisciplinary approach undertaken by the design team.

The Panel has been asked to comment on the proposals against the requirements of paragraph 79 (e) of the National Planning Policy Framework, (NPPF), which states: -

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: -

e) the design is of exceptional quality, in that it: -

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

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- *would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area."*

The large amount of work that has been undertaken to date is acknowledged, as is the high standard of design; however, the extremely high bar that is required to meet the criteria set out for paragraph 79(e) of the NPPF is also noted.

Paragraph 129 of the NPPF states: -

"Local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include workshops to engage the local community, design advice and review arrangements ... In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels."

Therefore, the Panel provides the following feedback: -

The design teams' responses to the feedback from the initial design review Panel session on 13th May 2020 is noted and welcomed; it is considered the design has improved significantly since the last design review panel session. It is felt to be helpful to review the proposals again at this stage of the design process.

Overall, the proposals work well in relation to their context; and the scale, height and massing are appropriate and also offer a strong visual response to the location. The important characteristics of the site and surroundings are clearly identified, also permeate into the design allowing the proposed dwelling and landscaping to make a positive contribution to the setting.

Notwithstanding the above, it is considered the design proposals have not yet demonstrated that they have met all of the para 79 (e) criteria, and there is felt to be a need to provide additional information and clarifications to be able to demonstrate compliance with the policy requirements. It is however considered that following further design development, that appropriately addresses the comments below, the design does have the potential to meet the requirements of para 79 (e) of the NPPF.

It is suggested it may be beneficial for any future presentation material or planning application to incorporate additional information regarding the project brief, also the applicant's specific aims and objectives.

Regarding the broad landscape strategy, it is considered The Swale Landscape Character Assessment and Guidelines have been used to good effect. Furthermore, the ten points of the broad landscape strategy are supported, although they should be fully reflected in the detailed proposals.

Regarding the site strategies, the five key strategies for the walled garden are supported. The rationale behind the building location within the site is clearly explained regarding the proposed

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siting of the house within the walled garden, and this is supported. The Panel welcomes the inclusion of alternative siting options for the dwelling that explores the pros and cons of each option, and this demonstrates why the proposed siting represents the most suitable option.

It is felt the analysis of local character is well considered and appropriate.

The landscape context strategy is considered to be appropriate, and the eight points of the wider landscape proposals are all supported.

With the exception of the proposed topiary, (see comments below), the revised walled garden landscape design is supported, as is the incorporation of the subtle reference to historic quadrant pattern. It is felt the relationship between character of the walled garden and its landscape context is improved, and subject to appropriate development of detailed design is considered capable of delivering a good outcome.

It is also felt the relationship between the outdoor spaces and the internal living spaces of the house are also improved and similarly, subject to appropriate development of detailed design, are capable of delivering a good outcome that would represent the highest standards of architecture.

In response to the issue previously raised regarding the relationship of the building to the existing garden walls on the east side and the narrowness of the external space, it is noted the distance between the house and the garden wall has been slightly increased, also the windows have been re-oriented. This is an improvement on the earlier proposal, and subject to detailed design of the external spaces, including sensitive lighting design, this issue is considered to be capable of satisfactory resolution.

Regarding the sculptural topiary, it is considered the suggested purple beech formal topiary forms are inappropriate and are detrimental, not only to the landscape design but also to the integrity of the scheme as a whole. In contrast to the admirable subtlety of the design references to the historic quadrant patterns, the "strong sculptural topiary forms" proposed are considered to be harsh, insensitive and unnecessary. It is felt the topiary forms may appear as alien and jarring features and would detract from the character of the historic garden walls and the character and quality of the space they define.

The space bounded by the walled gardens will be changed by the introduction of the new dwelling, however it is suggested the remainder of the space may benefit from being kept generally open, allowing the historic walls, together with the existing horticultural buildings, to provide three-dimensional structure and enclosure.

In an effort of helpfulness, it is suggested that some perimeter trees and orchard trees as indicated in the broad landscape design would be appropriate and would not compete with the dominance of the walls as the principal vertical features. Reflecting the geometric form of the new building in the layout

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at ground level could be done in a subtle and appropriate manner, without introducing dominating sculptural forms. The images provided (views 4.6, 4.9 and 4.11) confirm that the proposed purple topiary appears incompatible with the character of the existing walls and with the qualities of the proposed new building.

It is suggested that the additional information listed below, (not yet seen by the Panel), should be produced and form part of any future presentation or planning application:-

- Full heritage assessment, (the reference to a 'Heritage Statement' in the documents suggests this may already be in preparation).
- Restoration plans for the existing garden walls.
- Long-term conservation management plan.
- Detailed landscape and ecological proposals.

In terms of the building design, the Panel continues to consider that the design team have developed a strong design concept, which appears both logical and an inevitable consequence of the supporting analysis. The repetition of low modular forms, which make reference to green houses and other agricultural buildings, is considered an appropriate and positive concept; the Panel continues to be supportive of the angular architectural forms that are reflective of the surrounding orchards.

Regarding the proposed roof design, the images of a card roof study are considered to be helpful in showing how the roof forms have evolved. It is felt the ridge lines that run diagonally across the rectangular volumes and sawtooth profile adds a dynamic feel, whilst retaining the repetitive nature noted in the contextual site analysis for both glasshouses and features within the local landscape. However, it is still unclear visually how the stepped roof forms will appear; that is to say some of the 3D images still seem to show these all at the same or a similar level, even though the existing garden walls are stepped. The proposed section gives a change in level between the top and bottom ridges, the extent of which is not apparent in the 3D images. It is suggested it would be beneficial for this aspect to be further considered and more clearly illustrated.

It appears from some of the visuals that the proposed roof finish has changed from slate to zinc which is supported. Whilst slate is identified as the predominant roofing material in the analysis document, the vertical lines of the joints between zinc sheets arguably relate more to greenhouse roofs, which are a clear precedent for the scheme.

Regarding ecology, the enhancements proposed continue to be supported. It is noted that the focus of the majority of the Landscape Plan within the walled garden is to provide a formal garden. However, the Panel welcomes the addition of an area of species-rich wetland planting, pond and meadow area. It is suggested it may be beneficial for native species to be used within this proposed area to maximise its benefit for biodiversity. The provision of ecological habitat enhancements in the wider area is also welcomed, as this may enable 'biodiversity net gain' to be achieved. In order to empirically prove that the walled garden and wider site would result in net gain, it is suggested a

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Biodiversity Metric, (DEFRA 2.0 or updated revision), may be beneficial in supporting any future planning application.

In an effort of helpfulness, it is suggested there may be an opportunity to create additional wildlife habitats by inclusion of bat and bird boxes within the proposed building, also through creation of reptile/amphibian hibernacula within the site/adjacent areas.

It is considered the design of any external lighting should be carefully considered in order to avoid negatively impacting biodiversity, particularly bats. It may be beneficial for details of the lighting design to be included within the proposals, ideally including LUX levels to empirically demonstrate that the design would not adversely impact biodiversity. Lighting design should consider lighting intensity, height and direction.

It is noted that dormice occur in the wider area, and it is suggested it may be beneficial for a dormouse survey to be produced if any hedgerow is to be affected during the construction, in order to ensure the development includes suitable mitigation to avoid harming this species.

SUMMARY OF RECOMMENDATIONS, *(to be read in conjunction with the above)*

In summary, the main conclusions of the Panel are: -

- The information submitted for review is clear, comprehensive, & professional.
- The design has improved significantly since the last design review panel session.
- It is helpful to review the design proposals again at this stage of the process.
- The design proposals have not yet demonstrated that they have met all of the para 79 (e) criteria.
- It is felt the design does have the potential to meet the requirements of para 79 (e) of the NPPF.
- Additional information regarding the project brief & the applicant's specific aims may be helpful.
- The 10 points of the broad landscape strategy are supported, although they should be fully reflected in the detailed proposals.
- The five key strategies for the walled garden are supported.
- The analysis of local character is well considered & appropriate.
- The landscape context strategy is considered to be appropriate & the eight points of the wider landscape proposals are all supported.
- Except for the proposed topiary, the revised walled garden landscape design is supported.
- The relationship between the outdoor spaces & the internal living spaces of the house are improved.
- The suggested purple beech formal topiary forms are inappropriate & are detrimental.
- Some perimeter trees & orchard trees may be appropriate.
- Additional information listed within the document above should be produced.

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- The design represents a strong logical concept.
- It is still felt to be unclear visually how the stepped roof forms will appear.
- The use of Zinc for the roof is supported.
- A Biodiversity Metric, (DEFRA 2.0 or updated revision), may be beneficial.
- There may be an opportunity to create additional wildlife habitats by inclusion of bat & bird boxes within the proposed building & through creation of reptile/amphibian hibernacula within the site/adjacent areas.
- It may be beneficial for details of the lighting design to be included within the proposals, including LUX levels.
- It may be beneficial for a dormouse survey to be produced.

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NOTES:

Please note that the content of this document is opinion and suggestion only, given by a Panel of volunteers, and this document does not constitute professional advice. Although the applicant, design team and Local Authority may be advised by the suggestions of The Design Review Panel there is no obligation to be bound by its suggestions. It is strongly recommended that all promoters use the relevant Local Authorities pre-application advice service prior to making a planning application. Further details are available on the Council's website. Neither The Design Review Panel nor any member of the Panel accept any liability from the Local Authority, applicant or any third party in regard to the design review panel process or the content of this document, directly or indirectly, or any advice or opinions given within that process. The feedback and comments given by the Panel and its members constitutes the members individual opinions, given as suggestions, in an effort of helpfulness and do not constitute professional advice. The local planning authority and the applicants are free to respond to those opinions, or not, as they choose. The Panel members are not qualified to advise on pollution or contamination of land and will not be liable for any losses incurred by the Local Authority or any third party in respect of pollution or contamination arising out of or in connection with pollution or contamination.

2.2 REFERENCE NO - 21/506401/FULL			
APPLICATION PROPOSAL Demolition of two conservatories. Alterations to fenestration including 4 no skylights to north and 1 no skylight to south elevations. Increase of cladding.			
ADDRESS New Barns Farm Box Lane Painters Forstal Faversham Kent ME13 0RU			
RECOMMENDATION – Grant subject to conditions			
REASON FOR REFERRAL TO COMMITTEE - Parish Council objection			
WARD East Downs		PARISH/TOWN COUNCIL Ospringe	APPLICANT Ms Kresse Wesling
DECISION DUE DATE 18/03/22		PUBLICITY EXPIRY DATE 11/02/22	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
21/502441/FULL	Demolition of 115 sq m of existing floorspace and erection of new commercial building for Elvis and Kresse with associated parking and wastewater treatment facility	Approved	03.08.2021
SW/91/0224	Erection of one and a half storey extension	Approved	07.05.1991
SW/88/0137	Extension to existing dormer	Approved	11.03.1988

1.0 DESCRIPTION OF SITE

- 1.01 The site is located within the countryside and within the Kent Downs Area of Outstanding Natural Beauty (AONB). It lies to the southwest of the nearby village of Painters Forstal with Eastling Road to the north and Stalisfield Road to the east, providing access to the Faversham, M2, A2, A251 and beyond.
- 1.02 The application site includes a simply designed bungalow and garden and a hard surfaced parking area. It is accessed from Box Lane behind extensive vegetation to the west. The applicant owns approximately 6ha of agricultural land (including a range of farm buildings) dropping down to the south and east; whilst to the north the land rises through open fields to the nearest residential properties on Eastling Road.
- 1.03 The bungalow in question sits to the northwest of the former main farmyard and its buildings and activities. Whilst farming activities will be continued on the site, planning permission 21/502441/FULL was recently granted for the demolition of some of the former agricultural buildings and for the erection of a new commercial building for the applicant's craft manufacturing business.

2.0 PROPOSAL

- 2.01 Planning permission is sought for replacement of the existing red concrete roof tiles with black profiled sheeting, and for the installation black timber cladding on all external walls, which are currently rendered.

- 2.02 These alterations form part of an extensive project of renovation works to the existing bungalow involving the removal of two conservatories located on the north and east elevations, the relocation of the front door from the west to the south elevation, the addition of sliding doors and new windows, the renovation of the existing flat roof dormers, the insertion of rooflights, and the installation of a heat pump. Not all these elements require specific approval as some can be carried out under Permitted Development rights.
- 2.03 The application is accompanied by supporting documentation which aims to explain how the proposed development is a response to the bungalow's existing and proposed setting, and it describes the design ethos and architectural and environmental principles underpinning the proposal.
- 2.04 The applicant has stated:

"Our plan is to reduce the size of the house while modernising it and dramatically improving its environmental performance with additional insulation, improved windows and replacing the heating fuel boiler with an air source heat pump."

"would like to harmonise the farmhouse and garage block with the rest of the compact farmyard. In the farmyard there are 3 types of materials in use, wood cladding, corrugated steel cladding and corrugated cement roofing. The house has some existing wood cladding, in black, which we intend to continue around the whole house and garage. The roof on the house and garage are concrete tiles (Redland 49s). For the sake of harmony we would like to use Eternit Profile 6 fibre cement roofing, as per the rest of the farm buildings."

Also adding:

"Renovate the farm house to create a modern and efficient family home using the existing structure."

Using low carbon materials, we will increase the insulation levels so that we can remove the need for the existing heating oil boiler and replace with a sustainable heat pump."

3.0 PLANNING CONSTRAINTS

- 3.01 Area of Outstanding Natural Beauty KENT DOWNS

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF)
Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

ST1 Delivering sustainable development
CP4 Requiring good design
DM14 General development criteria,
DM19 Sustainable Design and Construction,
DM24 Conserving and enhancing valued landscapes,
DM26 Rural lanes

Supplementary Planning Guidance (SPG): "Designing an Extension- A guide for householders"
Kent Downs Area of Outstanding Natural Beauty Management Plan

5.0 LOCAL REPRESENTATIONS

5.01 No response from local residents has been received.

6.0 CONSULTATIONS

6.01 Ospringe Parish Council commented as follows:

“we were concerned that some details of the proposals on the application form did not correspond with details found elsewhere in the paperwork, and in some cases were contradictory. We also could not find any detail of the proposed porch addition. We would like the details clarified and the contradictions resolved and would like then to comment further. In the meantime, and in relation to the details thus far provided, we are not in favour of the proposed re-roofing of the building being in black eternit profile 6 fibre cement as this has an industrial appearance which is not well suited to a residential building. We would prefer to see conventional roof tiles as per existing rather than industrial-style roofing. Moreover, from an environmental point of view – and we noted that the applicant is championing environmental gains which we support – it would be better to retain the existing roof tiles and supplement these if extra are needed for the proposed work on the building, rather than re-cover the whole roof in new materials. We also felt that the extensive black wall cladding would be unattractive.”

6.02 In relation to some of these comments I should clarify that the details as set out on the application form do refer to additional works. But the drawings and the description of the application do not, as the applicants decided not to pursue these, although the application form itself could not be changed (see more about this below).

6.03 The Parish Council's comments were forwarded to the applicant who provided additional information to expand upon the rationale for the design and environmental aspects of the proposal:

“We would like to thank the Parish Council for their consideration. We apologise that there are some documents on the Planning Portal which contradict the actual application. When we completed the application with Swale we unfortunately could not delete that initial set of documents from the Planning Portal.”

“The bungalow sits very much within a tight grouping of farm buildings, it doesn't have a separate residential identity. Instead of trying to make the bungalow dominate we are keen to let it disappear and be one of the barns. This disappearing act is also why we are reducing its size (removing 2 unsightly conservatories) and not increasing the footprint. Extending the black cladding, which we have very much taken from the buildings on site and the local vernacular, will also help the building to blend in. The roofing choice, as well, is to blend in with the other barn roofs (and the roof of the workshop that is in progress). There is a genuine opportunity for symmetry here which we don't want to miss. From a design perspective, we are primarily concerned with ensuring that we have a simple cohesive site, which means sticking to the existing pallet of materials - corrugated sheeting and black cladding are the dominant materials.”

“We also apologise if we were not clear about the existing roof. The tiles are not in good repair and will have to be replaced, what we would rather do is replace them in harmony with the other buildings rather than go for a 'like-for-like' replacement option which although would not require permission would let the buildings down.”

- 6.04 The Parish Council was made aware of these points, but I have since been informed that none of the Councillors wished to alter their initial views.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 21/506401/FULL

8.0 APPRAISAL

Principle of Development

- 8.01 This application is principally for two main elements (replacement roofing and addition of cladding) of a larger renovation project and the environmental upgrading of a dated and inefficient single storey residential property. Some other minor aspects are in fact Permitted Development so I am focussing on these two matters referred to above.
- 8.02 I consider that the removal of the existing red cement tiles would be of benefit to the property and the area generally. They are in a poor state, an outdated colour and given the overall masterplan of the site, the replacement black Eternit Profile 6 fibre cement roofing will match that approved elsewhere, and previously supported by the AONB unit, on the wider site. Additionally, the property, and the roof in particular is well screened from outside the site, given the established vegetation and the topography of the land.
- 8.03 I appreciate the distinction that is usually made between residential farmhouses and their associated agricultural buildings, but given the modern and simple nature of the bungalow I see no need to seek to maintain its current character. With the specific site circumstances including the close proximity of all the buildings here I consider that a case to support the changes proposed can be made.
- 8.04 The renovation of the property as proposed will lend it an affinity with the agricultural and commercial buildings already approved on the site and its appearance would be appropriate to its context. The use of predominantly black cladding on the elevations and roof is considered appropriate to the rural context, and the incorporation of sustainable design measures is welcomed.

Visual Impact

- 8.05 The property is largely contained in views from the wider landscape due to topography, existing vegetative screening along the south-eastern boundary of the site, and the proposed siting north of existing/approved new structures.
- 8.06 I note the view of the Parish Council that they consider the black cladding would be unattractive. However, this will be in line with the other buildings on the site and in the vicinity, and black timber cladding is not an unusual or inappropriate sight within the rural context.

Residential Amenity

- 8.07 The elements proposed here will not increase or alter the use of the residential property and as such will not impact on the residential amenity of any of the neighbours, particularly given the nearest property being some distance away

Highways

- 8.08 The elements proposed here will have no impact on existing vehicle movements from the site and as such will have no impact on highway safety or convenience.

Landscaping

- 8.09 Views of the farmhouse from outside the site are extensively screened by existing vegetation and the topography of the land and as such no additional landscaping is being proposed here. Ongoing management of the site and the proposed regenerative agricultural plan for the wider site is ongoing and not dependant on this application.

Other Matters

- 8.10 I note the comments from the Parish Council regarding their preference, from an environmental point of view, for the existing roof tiles to be retained however the applicant has confirmed that those existing are in a poor state and are required to be replaced. In an effort to increase the environmental credentials of the building they are therefore using this opportunity to increase the insulation levels.

9.0 CONCLUSION

- 9.01 This is a small-scale householder application for elements of a larger renovation project to a dated and inefficient property. Whilst the new roofing and cladding proposed will change the appearance of the property I consider they will enhance the appearance of the building generally with the added benefit of producing a more energy efficient building.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

- (2) The roofing and cladding materials to be used on the external surfaces hereby permitted shall be Eternit Profile 6 fibre cement in black and black stained timber weatherboarding.

Reason: In the interests of visual amenity and conserving the natural beauty of the Kent Downs Area of Outstanding Natural Beauty.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

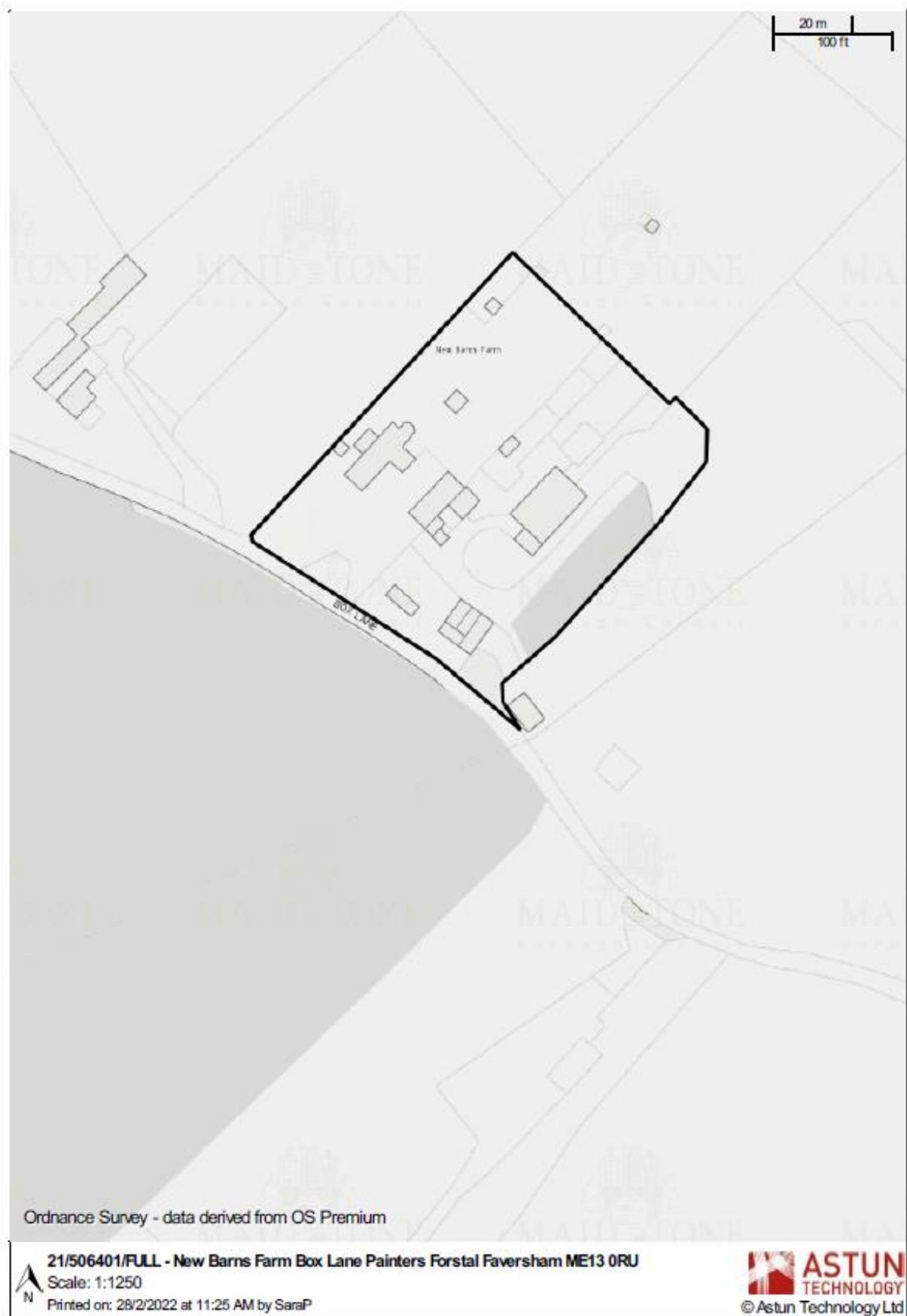
In this instance:

The application was acceptable as submitted and no further assistance was required.

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

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

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



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2.3 REFERENCE NO - 22/500111/FULL		
APPLICATION PROPOSAL Erection of part single, part two storey side extension, conversion of loft into habitable space with front and rear dormers and hip to gable roof alterations.		
ADDRESS 137 Sterling Road Tunstall Sittingbourne Kent ME10 1ST		
RECOMMENDATION – Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Woodstock	PARISH/TOWN COUNCIL Tunstall	APPLICANT Miss Sharon Wraight AGENT Woodstock Associates
DECISION DUE DATE 10/03/22		PUBLICITY EXPIRY DATE 07/02/22

Planning History

None

1.0 DESCRIPTION OF SITE

- 1.1 137 Sterling Road is a two bedroom semi-detached chalet bungalow with a single detached garage, and driveway providing tandem parking for two cars. The property is located within the Local Plan defined built up area boundary of Sittingbourne/Tunstall and is located on a wide corner plot. Currently, it has flat roofed dormer windows to the front (bedroom) side (landing) and rear (bathroom). To the rear is a good sized but tapering garden.

2.0 PROPOSAL

- 2.1 The application seeks planning permission for the erection of a large side extension, with new front and rear dormers and a new rooflight at the rear. The overall roof height of the property will be maintained, but significant internal and external changes are proposed. The scheme has been amended at my suggestion to overcome loss of privacy issues to a neighbour which is set at a right angle at the rear of the application property; and it is in this amended form that the report assesses the application.
- 2.2 The proposed two storey side extension in conjunction with internal alterations will create a four bedroom bungalow, with one of the bedrooms on the ground floor. At ground floor level the existing forward wing will be replicated, as has occurred elsewhere on this estate. The first floor will include two extra bedrooms and a shower room. Privacy to the neighbour at the rear will be safeguarded by the removal of an originally proposed rear dormer in the new extension and its replacement with a roof light in the rear roof slope with a cill height of 1.7m above internal floor level.
- 2.3 Facing materials will match the existing, and the applicant has clarified the existence of three parking spaces on the plot.

3. PLANNING CONSTRAINTS

3.1 None

4.0 POLICY AND CONSIDERATIONS

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

ST3 (The Swale settlement strategy)
CP4 (Design)
DM14 (General development criteria)
DM16 (Alterations and extensions)

4.2 The Council's Supplementary Planning Guidance (SPG) 'Designing an Extension – A Guide for Householders will also be a relevant consideration. Paragraph 5.0 of the SPG states:

Where a two storey side extension to a house is proposed in an area of mainly detached or semi detached housing, the Council is anxious to see that the area should not become 'terraced' in character, losing the sense of openness. Residents of such a street have the right to expect that the character should be retained. Houses should not be physically linked, especially at first floor level as the space between buildings is important in preserving the areas character and sense of openness. A gap of 2m between first floor extension and the side boundary is normally required.

Paragraph 5.5 states:

Dormers should be in proportion with the roof and only as large as necessary to allow light into the roof space. As a guide the dormer should be no deeper than half the depth of the roof slope and have square proportions or a vertical emphasis. They should normally have pitched roofs with tiles to match the main roof.

Paragraphs 6.0 and 6.1 provide the following advice:

Side windows should be avoided to reduce overlooking and mutual loss of privacy, although high level windows (with an internal sill height of at least 1.65m) may be acceptable. Obscured glazing to the toilet, bathroom and landing windows would overcome the problem. Windows to other ground floor rooms may be accepted if at least 2.4m from the side boundary and a screen fence or wall may be required to protect neighbour's privacy.

Windows to the rear should be at least 21m from the windows of other houses to the rear. Extensions which reduce such a distance will need to be carefully examined. It should be noted that the option of a high level window or high level rooflight as the only light and ventilation to a habitable room to overcome these problems is not normally accepted by the Council.

5.0 LOCAL REPRESENTATIONS

5.1 Four letters of objection from neighbours in Sterling Road were received when the application was first submitted, raising the following summarised concerns:

- Overshadowing and obstruction of streetlighting to neighbours' garage and parking area
- Overbearing and imposing extension almost doubling the size of the property, and bringing it closer to the road at the front
- Any extension should be set back and/or in side and rear garden area
- Loss of views and of sky
- Loss of natural daylight/sunlight and consequent affect on neighbours' heating bills
- Loss of privacy from new rear dormer window

NOTE: This dormer has now been deleted from the scheme

- Unappealing appearance out of character with other homes in the area, especially the wider front elevation and vertical side wall with chimney and vent pipes
- Noise and disruption during construction
- Parking and traffic disruption during construction
- Parking provision – the road is narrow and parking can be awkward at times
- New chimney is not a good idea, it will allow smoke and smells to enter open windows to the detriment of those with health issues. It may end up higher than is shown
- Single storey side extension suggested alternative by one neighbour
- Errors on application form, regarding whether the property can be seen from a public road
- Errors in drawings

NOTE: These were either misunderstandings or have now been corrected

- Party wall issues
- How long will the work take to be completed?

5.2 As the changes to the application have only reduced the likely impact of the works, resolved ambiguities in the drawings and clarified parking provision I have not re-notified neighbours; but some of the above points are no longer up to date.

6.0 CONSULTATIONS

6.1 Tunstall Parish Council has commented *“that councillors concerns regarding the scale and mass of the extension in this corner position and its impact on the street scene. The parish council asks that neighbours comments are taken into consideration”*.

7.0 APPRAISAL

7.1 The site is situated within the Local Plan defined built-up area boundary of Sittingbourne/Tunstall and as such the principle of the development is acceptable subject to the other relevant policy considerations outlined below. The main issues to consider in this case are those of the impact on the streetscene and any impact on the residential amenities of neighbours.

- 7.2 The area is characterised by semi-detached chalet bungalows, many of which have been altered or extended in various styles. This particular alteration continues the original form of the property and removes several flat roofed dormer windows. To that extent I see no harm arising to the overall character of the area. In fact, this design is far better than many past alterations locally.
- 7.3 Paragraph 5.0 of the Council's SPG entitled 'Designing an Extension – A Guide for Householders' states that '*Where a two storey side extension to a house is proposed in an area of mainly detached or semi detached housing, the Council is anxious to see that the area should not become terraced in character, losing the sense of openness.*' It goes on further to say '*A gap of 2m between a first floor extension and the side boundary is normally required.*' In this instance the property is on a wide corner plot so the 2m guidance is met, and there will remain a strong sense of openness between properties. I note that the extension will affect views from properties opposite, but these are of the sky, and cannot be safeguarded by the planning system.
- 7.4 I therefore focus on the possible impacts on neighbours' amenities. I see no concerns over overshadowing from the scale of the extension in view of the spacious nature of the plot and the distances to neighbours. There will be a significant change to the appearance of the property, but not one that I believe that the Council could refuse planning permission because of. However, the originally proposed new rear dormer window nearest to No. 135 would have provided an elevated view onto the patio area at the rear of No. 135. I therefore sought the deletion of this dormer, and now a high level rooflight is shown to provide secondary light to the rear of the new bedroom, overcoming this issue.
- 7.5 The property will enjoy adequate parking provision, and disruption during construction is not something that can be avoided. I see no objection in respect of these matters.
- 7.6 I note the comments made by the Parish Council but I believe the proposed development is of a modest scale in accordance with policy DM16, and that it would not be detrimental to the character of the immediate streetscene. There would be no significant sense of over dominance, or any unacceptable loss of outlook or overshadowing created as a result of this application to any of the properties in Sterling Road.

8.0 CONCLUSION

- 8.1 Having taken all the above into account, I consider the proposal to be well designed and of an appropriate scale, and I do not consider that it would have any significant impact on the surrounding neighbours.

9.0 RECOMMENDATION - Approve subject to the following conditions:

CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with approved drawings WR/21/165.03A, WR/21/165.04A and WR/21/165.05A.

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

- (3) The facing bricks and roofing materials to be used in the construction of the external surfaces of the proposed works hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of residential amenity and proper planning.

- (4) The rooflight in the new first floor bedroom shall have a cill height not less than 1.7m above finished internal floor level in that room.

Reason: To safeguard the privacy of neighbours.

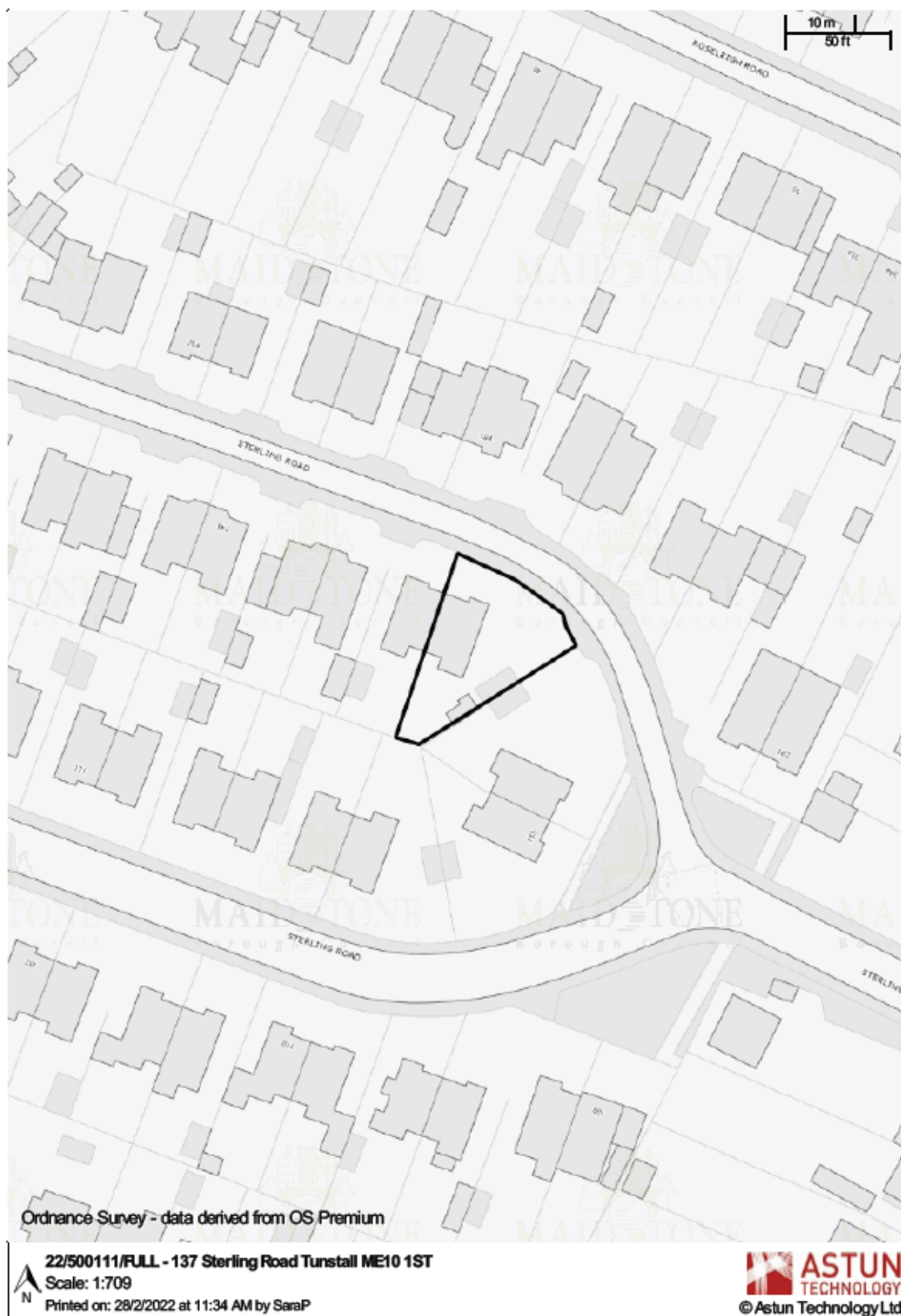
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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



2.4 REFERENCE NO - 21/506021/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for variation of condition 3 (to allow take-away to be open 7 days a week from 16:30 to 22:00) pursuant to SW/06/0575 for - Change of use from retail (Class A1) to take-away (Class A5).		
ADDRESS 21 Chaucer Road Sittingbourne Kent ME10 1EZ		
RECOMMENDATION – Grant subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
Whilst the later opening hours proposed by the applicant are not considered to be appropriate during the week, in accordance with the advice received from the Environmental Health team, it is considered that, subject to condition, a revision could be made to the current opening hours to allow for limited Sunday opening hours and later opening hours until 10pm on Friday and Saturday without resulting in excessive noise pollution, in accordance with the requirements of Policy DM14 of the Swale Local Plan 2017.		
REASON FOR REFERRAL TO COMMITTEE		
The application has been referred to the Planning Committee by Cllr Simon Clark owing to the concerns raised by local residents in relation to noise levels. Cllr Clark has also expressed concerns in relation to ongoing breaches of condition as the premises have been opening beyond 9pm and concerns relating to the conversion of a storage shed in the grounds of the property into living accommodation without planning consent.		
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Mr Kishore Dey AGENT Architectural Designs
DECISION DUE DATE 11/03/22		PUBLICITY EXPIRY DATE 06/01/22

PLANNING HISTORY

SW/06/0575

Change of use from retail (Class A1) to take-away (Class A5)

Approved Decision Date: 21.07.2006

SW/81/1247

Single storey extension

Approved Decision Date: 22.12.1981

1. DESCRIPTION OF SITE

- 1.1 The subject property is comprised of an end-terraced commercial unit with a self contained residential flat above. The commercial premises on the ground floor are currently being used as a take-away restaurant. The property forms part of a small purpose-built commercial shopping parade which provides a number of essential services to the residential properties in the surrounding roads. The parade contains two

other take-away restaurants, and other shops including a local convenience store/newsagents. The wider area is predominantly residential.

- 1.2 The property lies in an urban area, within the built-up area boundary of Sittingbourne.

2. PROPOSAL

- 2.1 The application proposal relates to the variation of condition 3 of application ref: SW/06/0575.
- 2.2 The applicant seeks to vary the current permitted opening hours to allow the premises to remain open 7 days a week from 16:30 to 22:00.

3. PLANNING CONSTRAINTS

- 3.1 None relevant to this application

4. POLICY AND CONSIDERATIONS

- 4.1 National Planning Policy Framework 2021
- 4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

DM1 Maintaining and enhancing the vitality of town centres and other areas
DM2 Proposals for main town centre uses
DM14 General development criteria

5. LOCAL REPRESENTATIONS

- 5.1 Three local representations have been received, objecting to the proposal on the following grounds:
- Potential resultant noise pollution from the operation of the take-away business over longer periods and disturbance from the associated deliveries.
 - Existing noise issues relating to staff not leaving the site in a timely manner

6. CONSULTATIONS

- 6.1 **Environmental Health Team** – Object to the principle of opening from 16.30-22.00 for seven days a week. However, they would support the principle of later opening hours on Friday and Saturday and the principle of opening on a Sunday as long as they were limited to be no later than 8pm.
- 6.2 **Ward Councillors** – Cllr Clark objects to the proposal owing to the concerns raised by local residents in relation to noise levels and concerns in relation to ongoing breaches of condition as referenced above.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Application papers for application 21/506021/FULL

8. APPRAISAL

- 8.1 Paragraph 031 of the NPPG on the Use of Planning Conditions states that ‘In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.’ On this basis, an assessment under section 73 should be focused on the changes sought.
- 8.2 The application seeks to vary condition 3 of planning permission SW/06/0575.
- 8.3 The original application, which was granted on 21st July 2006, permitted a change of use from retail (Class A1) to take-away use (Class A5), and the decision was subject to the following condition:

- 8.4 Condition 3:

‘The premises shall not be open to the public other than between the hours of 11.30am and 9pm from Monday-Saturday and not at any time on Sundays and Public Holidays.’

Reason ‘In the interests of residential amenity of local residents and in pursuance of policies S5 and G1 of the Swale Borough Local Plan.’

- 8.5 There have been changes to both National Planning Policy and to the Local Development Plan for Swale since the application was granted. Accordingly the proposed changes to the specified condition shall be assessed against the current NPPF and the current adopted local plan for Swale (Bearing Fruits 2031: The Swale Borough Local Plan 2017).
- 8.6 The condition was originally imposed to protect the amenities of local residents. Policy DM14 of the Local Plan states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties, including excessive noise or odour pollution.
- 8.7 The site is located at the end of a parade of shops with flats above the units. The site is also adjacent to residential dwellings to the north.
- 8.8 Two other take-away businesses appear to be operating within the parade. A fish and chips shop is being operated from 18 Chaucer Road (Chaucer Fish Bar, which is permitted to open between 15.30-20.30 from Monday-Saturday) and a Chinese take-away is operating from 27 Chaucer Road (Yummy Yummy Chinese take-away, which is permitted to open between 11.30am and 21.00 from Monday-Saturday).
- 8.9 It is acknowledged that allowing later opening hours will result in additional activity on the site after 9pm due to increased footfall from customers, delivery drivers and staff. In addition, it is likely that the later hours will impact when staff leave the premises after the take-away business has closed as some cleaning is usually required after hours. Given the nature of the business, a balance needs to be struck between reasonable operational needs and protection of residential amenity. The local representations received express concerns relating to the potential for undue noise and disturbance as a

result of any potential extended opening hours, including the issue of staff leaving the site later in the evening and deliveries being made late at night. I note that whilst the current condition restricts opening hours to members of the public, it does not prevent staff from working later.

8.10 I have consulted with the Environmental Health team, who have advised that they are aware of some recent complaints made by local residents living in nearby premises and they do not recommend allowing an extension to the opening hours from Monday-Thursday, when local residents are likely to be working. However, they consider that allowing the business to open later on Fridays and Saturdays would be acceptable as they consider that there is a greater tolerance for slightly later opening at the weekend and they acknowledge the difficulties of running a take-away food business which has to close at 9pm on weekends. They also do not object to the principle of allowing the premises to operate on a Sunday, provided that the opening hours are limited to be no later than 8pm.

8.11 In light of the advice from Environmental Health, I consider it would be reasonable to allow the takeaway to open until 10pm on a Friday and Saturday and until 8pm on a Sunday. These extended hours would provide economic benefits to the business and I do not consider that they would cause unacceptable harm to the amenities of surrounding residential properties. However, in allowing such a modification to the opening hours, I also consider it would also be reasonable to amend the condition to oblige the staff to leave the premises within an hour after closing time. The amended opening hours would be as follows -

Monday-Thursday – 11.30am-9pm (as per the existing planning permission)

Friday/Saturday – 11.30am-10pm

Sunday – 4.30pm-8pm

8.12 It is considered that amending the condition as proposed to limit the amount of time staff can remain at the premises after closing time should limit the potential for excessive noise pollution at anti-social times of day.

Parking/Highways

8.13 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.

8.14 As the take-away restaurant is already operating for six days a week and the proposed changes to the permitted opening hours allow for very limited increases to the hours of operation, it is considered that the proposed changes to the opening hours will not significantly impact the availability of parking in the area.

Other Matters

8.15 Some concerns have been raised by Cllr Clark in relation to an outbuilding in the rear garden and whether the building is being used to provide living accommodation without

planning permission. The issue is currently being investigated by the Planning Enforcement Team as a separate matter to this planning application.

9. CONCLUSION

- 9.1 Whilst the proposed changes to the permitted opening hours from Monday-Thursday are not considered to be acceptable, it is recommended that a variation to condition 3 should be allowed to permit later opening hours until 10pm on Friday and Saturday. It is also recommended that the business should be permitted to operate on a Sunday from 4.30pm until 8pm. I am satisfied that the potential concerns relating to noise pollution could be controlled via condition to ensure that staff leave the premises within a set timeframe.

10. RECOMMENDATION - GRANT, Subject to the following conditions.

CONDITIONS

- (1) The premises shall not be open to the public other than between the hours of 11.30am and 9pm from Monday-Thursday, between the hours of 11.30am and 10pm on Friday and Saturday and between the hours of 4.30pm and 8pm on Sundays and Public Holidays, and no staff shall be permitted in the premises any later than one hour after the above stated opening hours.

Reason: In the interests of preserving and protecting the amenity of local residents.

- (2) The mechanical ventilation system which has been installed pursuant to condition 2 of planning application ref: SW/06/0575 shall be maintained and operated in a manner which prevents the transmission of odours, fumes, noise and vibration to the neighbouring premises.

Reason: In the interests of preserving and protecting the amenity of local residents.

- (3) The use hereby permitted is limited to the ground floor only of the premises identified on the plans accompanying planning application ref: SW/06/0575.

Reason: For the avoidance of doubt and in the interests of preserving and protecting the amenity of local residents.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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



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2.5 REFERENCE NO - 21/506357/FULL		
APPLICATION PROPOSAL Proposed 1 year temporary permission for 2no. detached garages for use as residential accommodation during the construction of 2no. new dwellings, previously approved under application 20/505179/FULL.		
ADDRESS 116 Oak Lane Upchurch Kent ME9 7AY		
RECOMMENDATION Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE Parish Council Objection		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr T Tobutt & Mr K Moriarty AGENT Woodstock Associates
DECISION DUE DATE 26/01/22		PUBLICITY EXPIRY DATE 06/01/22

Planning History**20/505179/FULL**

Demolition of existing bungalow and construction of 2no. detached houses with detached garages and associated parking.

Approved Decision Date: 02.02.2021

20/501701/FULL

Minor material amendment to 16/506986/FULL (Demolition of no. 116 Oak Lane and construction of 2 no. three bedroom houses and 1 no. four bedroom with associated garages and parking.) to allow amendments to the proposed road widening and traffic calming measures.

Refused Decision Date: 26.10.2020

19/505292/FULL

Chalet Bungalow new rear extension to enlarge existing living room with new bedroom created (bedroom 3) within the roof structure, new front porch and detached garage. (Resubmission to 19/503318/FULL)

Approved Decision Date: 10.01.2020

19/503318/FULL

Chalet Bungalow new rear extension to enlarge existing living room with new bedroom (bedroom 2) within the roof structure, redesigned front roof structure with Dormer to allow the creation of new Bathroom/En-suite in bedroom 1 and new bedroom (Bedroom 4) with detached garage.

Refused Decision Date: 27.09.2019

16/506986/FULL

Demolition of no. 116 Oak Lane and construction of 2 no. three bedroom houses and 1 no. four bedroom with associated garages and parking.

Approved Decision Date: 22.11.2017

16/504900/FULL

Demolition of no. 116 Oak Lane, construction of 3 four-bedroom houses - one detached and a pair of semi-detached with integral garages.

Withdrawn Decision Date: 16.08.2016

1. DESCRIPTION OF SITE

- 1.1 The site previously comprised a small chalet bungalow situated on a corner plot bordered by Oak Lane and Wallbridge Lane, within the built-up area boundary of Upchurch. This bungalow has since been demolished and two dwellings are under construction in accordance with planning permission 20/505179/FULL. The scheme includes two detached garages which have already been constructed as part of the development.
- 1.2 The streetscene is characterised by residential dwellings of a mixed size and scale. Oak Lane primarily consists of pairs of semi-detached dwellings with some terrace dwellings and detached to the north of the site whereas Wallbridge Lane comprises of predominantly detached dwellings.

2. PROPOSAL

- 2.1 This application seeks a 1-year temporary planning permission for the use of the recently constructed detached garages as residential accommodation during the construction phase of the 2no. new dwellings approved under application 20/505179/FULL. The garages are to be occupied by the owners of each new dwelling under construction, which are self-build developments.
- 2.2 The external appearance of the garages would remain as approved under application 20/505179/FULL but internally the garage on Plot B would provide a bedroom, bathroom and store on the ground floor and a lounge and kitchen on the first floor. The garage on Plot A would provide a kitchen, lounge and bathroom on the ground floor with a bedroom and additional toilet on the first floor.

3. PLANNING CONSTRAINTS

- 3.1 None.

4. POLICY AND CONSIDERATIONS

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policy CP4 Requiring good design, Policy DM7 Vehicle Parking and Policy DM14 General development criteria Policy, DM16 Alterations and Extensions.
- 4.2 SBC Vehicle Parking Standards Supplementary Planning Document (SPD)

5. LOCAL REPRESENTATIONS

- 5.1 Two neighbour comments of support from separate residences have been received stating the following:
 - Would help maintain security of the site during the build.

- Acceptable as long as it is a temporary and not something that may then become permanent.
- It has no direct impact on residents.

5.2 The Parish Council have objected to the application, their comments are included below:

Councillors have considered the proposal noted that the application does not explain why this is needed. There is no indication as to how the permission will cease at the end of the period.

There is a S278 Agreement in the planning permission granted for 20/505179/FULL that no dwelling shall be occupied until the off-site highways works is completed:

"No dwelling shall be occupied until the off-site highways works indicated in drawing H-01 P7 have been completed in accordance with a timetable submitted to and approved in writing by the Local Planning Authority."

6. CONSULTATIONS

- 6.1 KCC Highways have no objection subject to the inclusion of a condition to ensure this is a temporary situation and the garages will then be retained after as per their approved use under application 20/505179/FULL.
- 6.2 Health and Safety Executive do not advise against granting permission.
- 6.3 Natural England offer their standard advice relating to new residential development and SAMMS contribution.

Due to the temporary nature of the development and the fact that occupation will cease once the dwellings are completed (and for which a SAMMS payment has already been secured), a SAMMS contribution is not required.

7. BACKGROUND PAPERS AND PLANS

- 7.1 Application papers and plans for 21/506357/FULL and 20/505179/FULL.

8. APPRAISAL

Background

- 8.1 The approved works are being carried out as self-build properties, and to fund the construction both parties have sold their previous homes.
- 8.2 The owner of plot A sold his former home very quickly and had to make a decision whether to bring a mobile home onto the site, but it was decided that to occupy the garage and the space above for the duration of the build would be more cost effective and be less visually detrimental on this confined site.
- 8.3 The owner of plot B has just sold his house and is intending to occupy the garage in the near future.

Principle of Development

- 8.4 The site benefits from planning permission for two dwellings and garages. The principle of this is not in question. It is sometimes the case, particularly with self-build projects, that the owner will live on the site, normally in a mobile home or caravan whilst carrying out the building work. Such temporary use does not normally require planning permission. In this instance, the owners have chosen to construct the detached garages to each property first, and seek to occupy these temporarily during the build process. In my opinion, such temporary occupation during the construction process can be held to be generally acceptable.

Visual Impact

- 8.5 The external appearance of the garages would not be altered, and they have been constructed externally in accordance with the approved plans. Internal changes include the addition of stud walls and the connection of utilities. It should be noted that the room above the garages was always intended to be in use as a studio.
- 8.6 Given that it is not uncommon for a mobile home to be situated on a site whilst a property is under construction, I consider that the use of the garage buildings for such temporary occupation would arguably avoid additional structures and clutter on this site, and does not cause any visual harm on the basis that the garages appear externally as per the approved plans.

Residential Amenity

- 8.7 The development proposes no additional external alterations to the garages, with the windows on the ground and first floor located in the positions previously approved. The first-floor windows serving both garages look towards the partially constructed dwellings as does the ground floor ground window on Plot A whereas the ground floor window on Plot B looks towards Plot A. I therefore have no concern about any harmful overlooking, whether temporary or not.
- 8.8 Each habitable room of the garage will be provided with a window with a sufficient outlook for the temporary nature of this accommodation. The ground floors of the garages will be lined internally with a demountable timber frame with insulation between and plasterboard to provide a reasonable standard of temporary accommodation. Given the nature of the proposal, I consider the proposal would provide a reasonable level of amenity for occupiers for a limited period.

Highways

- 8.9 The site is currently under construction and no formal temporary parking arrangements have been proposed however there is sufficient off-road parking to the front of each garage, as apparent from site photos. Once the construction is complete, the garages will revert back to the previous approved use as parking on the ground floor.
- 8.10 The Parish Council's comments are noted and compliance with planning conditions relating off site highways works would still be required before the permanent new dwellings can be occupied. KCC Highways have been consulted on this application

and raise no objection subject to the garages reverting to their previous use once the 1-year permission has lapsed.

9. CONCLUSION

- 9.1 This is a slightly unusual application. However, permitting these garages to be lived in as temporary accommodation for 1 year is considered acceptable on visual and residential amenity grounds, and in many ways preferable to bringing mobile homes or caravans onto the site for the same purposes. Conditions are included to ensure the use is temporary and for the construction phase only .

10. RECOMMENDATION - GRANT Subject to the following condition:

CONDITION

- (1) The temporary accommodation hereby permitted shall cease and the buildings shall be adapted to a garage and studio in accordance with the drawings and terms of planning permission 20/505179/FULL within either 1 year from the date of this permission or upon first occupation of the new dwellings permitted under 20/505179/FULL, whichever is sooner.

Reason: To reflect the temporary nature of the development and because the buildings are not appropriate for permanent retention as dwellings.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 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.

INFORMATIVE

- (1) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway

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

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



2.6 REFERENCE NO - 22/500289/FULL		
APPLICATION PROPOSAL Change of use of existing dwelling (C3 use class) to a 7 bed HMO (sui generis) including rear dormer loft extension, cycle storage and bin store (resubmission of 21/503563/FULL).		
ADDRESS 115 Park Road Sittingbourne Kent ME10 1EQ		
RECOMMENDATION Grant subject to conditions and receipt of SAMMS payment		
SUMMARY OF REASONS FOR RECOMMENDATION The property benefits from a Lawful Development Certificate for conversion to a six bedroom HMO and erection of a rear dormer window under permitted development, and as such this forms a fallback position that must be taken into account. The proposed increase from a six-bedroom HMO as is lawfully permitted to a seven-bedroom HMO as is proposed will not cause unacceptable harm to residential or visual amenities, or parking.		
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member		
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT S Bracey AGENT Pedersen Smith Architects
DECISION DUE DATE 17/03/22		PUBLICITY EXPIRY DATE 24/02/22

Planning History

21/505123/LAWPRO

Lawful Development Certificate (Proposed) for the change of use from single family dwelling (use class C3) to 6-bedroom House in Multiple Occupation (use class C4) including erection of rear dormer roof extension.

Approved Decision Date: 26.11.2021

21/503563/FULL

Change of use of existing dwelling (C3 use class) to a 7 bed HMO (sui generis) including rear dormer loft extension, cycle storage and bin store.

Refused Decision Date: 25.08.2021

Appeal In Progress

SW/93/0607

Single storey extension and alteration for registered disabled person

Approved Decision Date: 06.10.1993

1. DESCRIPTION OF SITE

- 1.1 115 Park Road is a two-storey end of terrace property located on the eastern side of Park Road. The dwelling has a small front garden and space at the side of the house to access the rear garden. The rear garden is some 25m deep by some 6m wide.

- 1.2 The house is set in an area of nineteenth century housing and, in common with neighbouring properties, has no on-site parking. On street parking is available; the locality is the subject of a residents' parking scheme.
- 1.3 Properties to both sides are occupied as single-family dwellings. The site is also located within an Area of High Townscape Value.
- 1.4 Planning permission has been previously sought for conversion of the dwelling to a seven-bedroom HMO and erection of rear dormer window under application 21/503563/FULL. The application was refused for the following reasons, and the applicant has lodged an appeal against this refusal, which is currently in progress.

(1) The proposal would create an intensive form of residential use which would be unsuitable to its setting which consists of an area where single family units predominate. The proposal would give rise to significant levels of activity over and above the current use. Overall level of disturbance for surrounding residents and demand for finite provision of on-street vehicle parking would increase unacceptably. As such, the proposed development would be contrary to Policies CP4, DM7 and DM14 of the adopted Swale Borough Local Plan (2017) and Swale Council's adopted SPG - The Conversion of Buildings into Flats & Houses in Multiple Occupation.

(2) The design of the proposed dormer to the rear roof slope would be detrimental to the appearance of the house and surrounding area within an Area of High Townscape Value by reason of the form, scale and bulk of the rear dormer which would be incongruous with the overall appearance and character of surrounding built form. As such the proposal would fail to represent good design, and would be contrary to Policies CP3, CP4, DM14 and DM36 of Bearing Fruits 2031 - The Swale Borough Local Plan, and the National Planning Policy Framework and Swale Council's adopted SPG - Designing an Extension, A Guide for Householders.

(3) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14, and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.

- 1.5 Since the refusal of this application, a Lawful Development Certificate was submitted (ref. 21/505123/LAWPRO) seeking confirmation that the conversion of the property to a six-bedroom HMO and erection of a rear dormer window would amount to permitted development. A certificate for this proposed development was granted in late 2021. Works to the interior of the property have begun, and the side window has been replaced with a larger one, as shown on the plans submitted as part of this application.

2. PROPOSAL

- 2.1 This application seeks planning permission for the conversion of the property to a seven-bedroom HMO, including the erection of a dormer window on the rear elevation and two rooflights on the front elevation to facilitate a loft conversion, and changes to the fenestration on the rear and side elevations of the property.
- 2.2 The conversion will provide three bedrooms (all with en-suites), a kitchen and dining/living room on the ground floor, three bedrooms (one with an en-suite) and a bathroom on the first floor and one bedroom (with an en-suite) within the loft space.
- 2.3 The proposed dormer window on the rear elevation will have a width of 4.9m, height of 2.8m and length of 3.6m. The drawing shows hanging tiles will be used that match the existing property. The existing window at the rear of the single storey extension at the property will be divided into two smaller windows, and the existing first floor window in the side elevation will be replaced with one of a larger scale.
- 2.4 The development remains the same as the proposal refused under application 21/503563/FULL, which is currently being appealed by the applicant. However, since this refusal, a Lawful Development Certificate has been granted under application 21/505123/LAWPRO for the conversion of the property to a six-bedroom HMO with a rear dormer window. This development therefore constitutes a fall-back permission that must be taken into account during the determination of this application – and which did not exist during consideration of the first application refused under 21/503563.
- 2.5 The development which benefits from a lawful development certificate incorporates a six bed HMO with two living room areas, one at ground floor level and one in the roof space within the proposed dormer loft conversion. Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for the change of use from a dwellinghouse to a small HMO (up to 6 persons) as permitted development and without the need for planning permission. Schedule 2, Part 1, Class B of the same Order similarly allows for the enlargement of a dwellinghouse through an addition to its roof as permitted development without the need for planning permission. The lawful development certificate as granted confirms that the change of use to a six person HMO and erection of the dormer window qualifies as permitted development. The current application is for a dormer window of the same design and size as can lawfully be constructed under the approved LDC, but seeks to change the loft area to an additional bedroom – resulting in a 7 bed HMO. It is this increase in the number of bedrooms that takes the scheme beyond permitted development parameters which allows a change of use from a dwellinghouse (use class C3) to a dwellinghouse used by not more than six persons as a house in multiple occupation (Use Class C4) without planning permission.

3. PLANNING CONSTRAINTS

- 3.1 Area of High Townscape Value

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: ST1, ST3, CP3, CP4, DM7, DM14, DM16, DM28 and DM36 of Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.3 Supplementary Planning Guidance (SPG): 'The Conversion of Buildings into Flats & Houses in Multiple Occupation' and 'Designing an Extension, A Guide for Householders'
- 4.4 Swale Borough Council Parking Standards Supplementary Planning Document (SPD)

5. LOCAL REPRESENTATIONS

- 5.1 18 objections have been received. A summary of the points raised in the objections is set out below:
 - Loss of privacy from dormer
 - Enlarging side window has impacted privacy, as existing small window was obscure glazed
 - Greater use will create noise and privacy concerns
 - Greater amount of refuse leading to smells and vermin
 - Would worsen excessive demand for on street parking – possibly up to 14 additional cars provided by the development
 - Only change from the refused application is the addition of cycle storage
 - Sewer system dates from 1880's and could not cope with greater use
 - Disruption from construction
 - Type of development not in keeping with area of family residences
 - Short term lets and general turnover could cause a problem
 - Concerns regarding values of and saleability of houses on the road
 - Bins on footway awaiting collection would cause an obstruction
 - Proposal out of character with this area of young families
 - Unsightly conversion not in keeping with Victorian design
 - Would cause an increased fire risk
 - Would overload supply of water and electricity
 - Living conditions of occupiers will be extremely poor
 - Will set a very dangerous precedent for further applications
 - This application raises the same issues as the refused one
 - Planning statement is insulting and libelous to local residents
 - The reference to various HMOs around the UK, including Brighton and Gloucester are not comparable to Sittingbourne or this dwelling
 - Work has already begun, including the removal of the chimney and changes to internal walls
- 5.2 The local Ward Member, Cllr Clark requested the application is called into Planning Committee.

6. CONSULTATIONS

- 6.1 Swale Housing Team – *“There are no objections from a housing point of view to the application, as the proposed indicated facilities shown on the planning application seem to support the use of the property as HMO, but the use of any property as a HMO with five or more unrelated people forming two or more households and sharing facilities will require the owner/ relevant person to apply for a mandatory HMO licence from the Private Sector Housing Team before it can be used by 5 or more people.”*

7. BACKGROUND PAPERS AND PLANS

- 7.1 Plans and documents relating to applications 22/500289/FULL, 21/505123/LAWPRO and 21/503563/FULL.

8. APPRAISAL

Principle of Development

- 8.1 The site lies within the built-up area boundary of Sittingbourne, and is within a sustainable urban location suitable for residential development. As such, the principle of development is generally accepted. The application will intensify the residential use of the site, through the creation of the seven-bedroom HMO, and the previous application at the site (ref. 21/503563/FULL) concluded that this intensification would be unsuitable to its setting which consists of an area where single family units predominate, leading to significant levels of activity over and above the current use. The overall level of disturbance for surrounding residents and demand for finite provision of on-street vehicle parking would also increase unacceptably.
- 8.2 As part of the refused planning application, reference was made to the Council's SPG entitled 'The Conversion of Buildings into Flats & Houses in Multiple Occupation', which sets out that properties with an original floorspace of less than 110 sqm are not suitable for conversion (the original floorspace of the property is 108 sqm). Furthermore, in an area where homes in single family occupation predominate, the Council would generally seek to retain the dwelling as a single-family unit.
- 8.3 For the reasons set out above, this proposal does not accord with the SPG, however since application 21/503563/FULL was refused, application 21/505123/LAWPRO was submitted and has determined that the conversion and extension of the property to a six-bedroom HMO can take place under permitted development. As such, this forms a fall-back position that must be taken into account and given significant weight in the determination of this application. As such, the fact the development does not comply with the SPG cannot form a reason for refusal in my view. The main consideration, taking into account the fall-back position of a 6 bed HMO, is therefore the impact of one additional bedroom within the HMO as proposed will have upon visual amenity, residential amenity and parking.

Visual Impact

- 8.4 When assessing the impact on visual amenities from the external changes proposed, I note the proposed flat roof dormer is contrary to the advice of the Council's SPG entitled 'Designing an Extension: A Guide for Householders'. The SPG sets out that dormers should be in proportion to the roof, usually being no deeper than half the depth of the roof slope and preferably with pitched roofs with tiles that match the main roof. The dormer proposed here has a flat roof and covers almost the entirety of the rear roof slope. The second reason for refusal under application 21/503563/FULL related to the poor design of the rear dormer window, the harmful impact this would have upon the property and wider area, and the conflict with the Council's SPG. However, notwithstanding the poor design of the dormer, application 21/505123/LAWPRO has subsequently determined that it amounts to permitted development. Taking into account the fact the dormer window can therefore be constructed without the need for planning permission and the weight that must be given to this, there is no reasonable planning purpose to continue to object to its design or to refuse on this basis.
- 8.5 The changes to the fenestration and proposed rooflights will sit comfortably on the property in my view and I have no concerns in this regard. The only difference between the scheme that benefits from a lawful development certificate and the current application is that the side facing first floor window is proposed to be clear glazed rather than obscure glazed. This has no wider visual impact and the impact on the neighbouring property is considered below.

Residential Amenity

- 8.6 The dormer window will increase the bulk of the roof slope, however due to the positioning of the neighbouring dwellings, which sit in line with the host property, I do not consider that the dormer will cause any harmful overbearing or overshadowing impacts. The rooflights on the front elevation and windows in the rear dormer will provide views similar to the existing windows, and as such I do not envisage any harmful overlooking will occur. The previous refusal did not cite overlooking as an issue and, significantly, the dormer window is in any case permitted development.
- 8.7 The first-floor window in the side elevation has been replaced with one of a larger size. This is required to be obscure glazed under the terms of the lawful development certificate, however this application seeks to permit the window as clear glazed. Concern has been raised by neighbours regarding potential overlooking from this window. However, the window which was previously located in the side elevation was clear glazed, and it faces onto the flank wall of the neighbouring property. I do not consider that views of the neighbouring property from the enlarged window will cause any overlooking. Even if this was the case, it would not be materially worse than the overlooking experienced from the window previously in place.
- 8.8 The intensification of the residential use has the potential to increase disturbance to neighbouring properties, and this was originally a major concern when considering the refused application. This related essentially to the pattern of activity within a HMO with 7 individuals leading independent lives and associated comings and goings, which would

be more intense and varied than a typical family. However, now it has been established that the property can be converted into a six-bedroom HMO without planning permission, this represents a material fallback that has to be given weight. The occupation of an additional room is unlikely to increase the level of activity at the property (whether internally or in the outdoor amenity area) to a discernible degree over and above the level associated with its occupation by up to six residents. The applicant has made reference to appeal decisions where Inspectors have considered the impact of a 7 bed HMO vs a 6 bed HMO and these conclude that the difference is marginal and not harmful. I would agree that it would be very difficult to identify demonstrable harm through an uplift in one additional bedroom.

- 8.9 With regard to the amenity for future occupiers of the development, I consider all rooms are appropriately sized, and are served by windows that will provide adequate natural light and ventilation. Access to the communal garden at the rear of the site is provided from the communal space on the ground floor, and the garden is of an acceptable scale to provide outdoor amenity space for the seven bedrooms.

Highways

- 8.10 The scheme provides no off-road parking, and therefore future occupiers would likely park in Park Road and other surrounding streets. Whilst the site is within walking distance of the centre of Sittingbourne and therefore is in a relatively sustainable location, it is fair to assume that the conversion of the property to a seven-bedroom HMO is likely to generate an increased demand for parking provision when compared to the current single household use of the property.
- 8.11 However, I must again pay regard to the fact the property can be converted to a six-bedroom HMO under permitted development, and that unacceptable highway impacts from one additional bedroom would be very difficult to justify. I acknowledge neighbours concerns regarding the impact of the development upon parking and agree that Park Road is located in an area of parking demand, however taking into account the development will result a maximum of one additional vehicle when compared to the LDC scheme, I do not believe this will cause unacceptable harm to highway safety and convenience in the surrounding area.
- 8.12 I note cycle storage is shown within the rear garden for four bicycles. I include a condition below to ensure this storage is provided prior to the occupation of the HMO.
- 8.13 Neighbours have suggested that up to fourteen additional cars could be parked in the surrounding area, if all seven bedrooms are occupied by couples. The agent has set out in the covering letter provided with this application that only seven people will occupy the HMO, and notes that a condition could be imposed to restrict the occupancy of the HMO to seven people. They reference an appeal decision where an Inspector imposed a similar occupancy condition. I believe that a seven person HMO would not cause unacceptable harm from a parking perspective, but do consider that if fourteen people occupied the HMO, this could cause an unacceptable increase to parking stress. As such, I believe it would be appropriate to limit the occupancy of the HMO to seven and include a relevant condition below.

SAMMS Payment

- 8.14 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development, there is no scope to provide on-site mitigation and therefore off-site mitigation is required by means of developer contributions at the rate of £253.83 per additional room. Three additional bedrooms are proposed here, and therefore a total fee of £761.49 is required. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle.

Other Matters

- 8.15 The above sections of the appraisal have addressed the majority of the concerns raised by neighbours, but the remaining ones will be addressed here. The potential impact to the value of neighbouring properties is not a planning matter and as such cannot be taken into account here.
- 8.16 Neighbours have also reviewed the three appeals which the agent refers to in their cover letter, and have raised concerns that they are not comparable to the scheme proposed here. The three appeal decisions all relate to seven and eight bedroom HMOs which were granted approval at appeal, in Worcester, Gloucester and Brighton. I do note that these cities are not directly comparable in scale to Sittingbourne, and may be located in more densely populated areas where HMOs are more common. Nonetheless, for the reasons set out above I believe a seven-bedroom HMO in this location will be acceptable when taking into account the property can be converted into a six-bedroom HMO under permitted development.
- 8.17 Members should also note that if permission is granted, then the current appeal would be withdrawn. However, if they were to refuse planning permission then the appeal would continue. In my opinion, it would be very difficult for the Council to continue to oppose the development based on the fallback position that has since been established through granting the lawful development certificate, and which will carry significant weight. This would bring a greater risk of costs through the appeal process, which should be acknowledged.

9. CONCLUSION

- 9.1 Since the previous planning application at the site for a seven-bedroom HMO and rear dormer was refused, the council has determined through issuing a lawful development certificate that the change of use of the property to a six-bedroom HMO and erection of a rear dormer window would amount to permitted development. This therefore forms a fall-back position that must be given significant weight in the determination of this application, and having reviewed the scheme on this basis, I do not consider that the addition of one more bedroom within the property could be held to cause unacceptable harm to visual or residential amenities, nor will it result in a harmful increase in on-street parking. As such, I recommend planning permission is granted.

- 10. RECOMMENDATION – GRANT** Subject to receipt of a SAMMS payment and the following conditions:

CONDITIONS

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

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

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 168-01 Rev A, 168-04 Rev B and 168-05 Rev A.

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

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

Reason: In the interests of visual amenity.

- (4) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:
- Monday to Friday 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 interest of residential amenity.

- (5) The bin and cycle storage shown on the approved plan shall be provided prior to the first occupation of the development hereby approved.

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

- (6) The House in Multiple Occupation hereby approved shall not be occupied by more than 7 residents at any time.

Reason: In the interests of residential amenity and to ensure the development does not result in an excessive increase in on-street parking.

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 dwellings are 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 will be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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



2.7 REFERENCE NO - 19/505263/FULL			
APPLICATION PROPOSAL			
Retrospective application for siting of a portacabin for residential use of the site by a gypsy/traveller, in association with existing smallholding and equine facilities.			
ADDRESS Kaynes Farm Breach Lane Upchurch Kent ME9 7PE			
RECOMMENDATION – That planning permission is Granted for a temporary period of five years, subject to receipt of the appropriate SAMMS payment.			
SUMMARY OF REASONS FOR RECOMMENDATION			
The site is in a location where residential use would not normally be permitted. However the Council considers on the grounds of the applicant's personal circumstances, age and status as a cultural Gypsy who has now permanently ceased to travel, that it is reasonable to allow a temporary and personal permission, taking into account the lack of policy provision within the current local plan for persons who identify under such need. Refusal of this application may lead to a roadside existence and therefore the granting of a temporary and personal permission is considered reasonable in this instance.			
REASON FOR REFERRAL TO COMMITTEE			
Call in by Cllr Palmer and Parish Council objection			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Upchurch	COUNCIL	APPLICANT Mr James Hills AGENT Architectural Designs
DECISION DUE DATE 18/12/19		PUBLICITY EXPIRY DATE 29/11/21	
RELEVANT PLANNING HISTORY			
App No.	Description	Decision	Date
18/503381/FULL	Retrospective application for stationing of a mobile home.	Refused	17.10.2018
SW/13/0964	PP granted for four loose boxes, barn, tack room, ménage, muck heap and one horse trailer.	Application permitted	27.09.2013
SW/11/0653	Change of use for keeping and grazing of horses, and erection of 1.2m high fence	Application permitted	23.08.2011
SW/07/0687	Change of use to vehicle parking with associated access road and landscaping	Refused	08.08.2007
SW/04/0920	Retrospective PP granted for new gateway	Application permitted	10.09.2004
SW/03/0462	Erection of agricultural storage barn and improvements to access	Refused	06.06.2003

1. DESCRIPTION OF SITE

- 1.1 The application site is situated on the west side of Breach Lane, immediately to the north of the railway line. The site is broadly rectangular in shape and measures 63m north to south and has a depth of approx.. 70m. The site forms part of a larger holding of approx. 1.5 Hectares which extends to the west adjacent to the railway line.
- 1.2 To the front of the site and adjacent to Breach Lane is a portacabin which is occupied by the applicant as his living accommodation, and a small metal/wood building with Heras fencing around it which appears to serve as a chicken coop and run. A collection of buildings / structures run along the southern boundary with the railway line, incorporating a U-shaped timber stable block, a storage container / outbuilding, and a slightly larger structure (both labelled as “piggery” on the submitted block plans).
- 1.3 Vehicle access from Breach Lane is reached from the northern part of the frontage with space to pull a car off the highway and access the site via a metal 5-bar gate. There is some reasonable hedgerow planting along the frontage, and more established planting along the boundary with the railway line. The wider holding is mostly open grass land but has recently been subdivided by a 1.8m high close boarded timber fence.
- 1.4 In terms of surrounding development, on the opposite side (east) of Breach Lane there is a motor repair garage comprising of a large industrial building set back from the road side with a hardstanding and associated parking area to the front forecourt. There is overspill car parking along this section of Breach Lane. The site is bounded by the railway line to the south, beyond which is a line of housing fronting the A2. However this is not visible from the site due to the raised railway embankment. To the north, with the exception of a neighbouring stable block to the northwest, the area is predominantly open countryside.
- 1.5 The settlement boundary of Newington is approx 0.75km to the east.

2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for the stationing of a portacabin for residential use for a cultural traveller in association with use of the wider site as a smallholding including a piggery and equestrian use (which already benefits from permission under Ref: SW/11/0653).
- 2.2 The occupant lives in the portacabin, measuring roughly 12m x 4m, positioned in the south-eastern corner of the site. The original stable block is retained and a smaller outbuilding immediately adjacent to the stable block is currently in use as the piggery.
- 2.3 The application follows a previous refusal at the site, planning reference 18/503381/FULL dated 17th October 2018. However this decision was made solely on the basis that there was no justification for a residential unit based on the needs of the smallholding. The application did not include any case based on Gypsy / Traveller needs. The application was refused on the following grounds:

1) The application fails to demonstrate a functional agricultural need for a dwelling on the site. The stationing of a static caravan for residential use would therefore be harmful to the character, appearance, and wider amenity value of the countryside

in a manner contrary to the aims of policies ST1, ST3, CP3 and DM12 of the adopted Swale Borough Local Plan 2017; and the advice of paragraphs 11, 12, 79 of the National Planning Policy Framework.

- 2.4 This current application has now been made on the basis of both the agricultural need for a residential unit and the gypsy/traveller status of the applicant. In respect of the latter, the application includes information that the applicant comes from a Gypsy / Traveller background, and has travelled most of his life mainly seeking employment on farms in the local and wider Kent area. He married another Traveller and his adult daughter has married into another Traveller family. He has ceased travelling mainly due to age and would like to be more settled.
- 2.5 In respect of the agricultural need, the smallholding operates with some 80 pigs, 20+ geese, 50+ chicken and 10 ducks, as well as stables. The application states that with 4-5 pigs farrowing at any one time and constant supervision of both the equine horses and livestock required, there is a need for a residential unit. Around 200 pigs have been bred and sold in 15 months prior to submission of the application. The application also states that prior to living on the site (November 2017), it was subject to crime and break-ins, and that tools, equipment and livestock were stolen.

3. PLANNING CONSTRAINTS

- 3.1 Located in the countryside outside of the build-up area boundaries.

4. POLICY AND CONSIDERATIONS

National Planning Policy Framework

- 4.1 I consider the relevant paragraphs of the NPPF to be as follows –
- 4.2 Paragraph 8 defines the three strands of sustainable development, incorporating economic, social and environmental objectives.
- 4.3 Paragraph 11 sets a presumption in favour of sustainable development. For decision taking, it states that development should be approved if in accordance with an up to date development plan. Where there are no relevant development plan policies or those most important for determining an application are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 4.4 Paragraphs 61 and 62 set out that to determine the minimum number of homes required, policies should be informed by housing needs assessments, and the size, type and tenure of housing needed for different groups should be assessed and reflected in planning policies – including travellers.
- 4.5 Paragraph 78 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

- 4.6 Paragraph 79 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 4.7 In relation to conserving and enhancing the natural environment, paragraph 174 of the NPPF states that decisions should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside.

Planning Policy for Traveller Sites – Department for Communities and Local Government (2015)

- 4.8 The PPTS sets out that the Government's aims in respect of traveller sites are:
- a. that local planning authorities should make their own assessment of need for the purposes of planning
 - b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
 - c. to encourage local planning authorities to plan for sites over a reasonable timescale
 - d. that plan-making and decision-taking should protect Green Belt from inappropriate development
 - e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
 - f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
 - g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies
 - h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply

- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
 - j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
 - k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)
- 4.9 Policy C of the PPTS states : *Sites in rural areas and the countryside - When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.*
- 4.10 Policy F of the PPTS states: *Mixed use traveller Sites – Local planning authorities should consider, wherever possible, including traveller sites suitable for mixed residential and business uses, having regard to the safety and amenity of the occupants and neighbouring residents. Local planning authorities should consider the scope for identifying separate sites for residential and for business purposes in close proximity to one another if mixed sites are not practical.*
- 4.11 Paragraph 23 states, *“Applications should be assessed and determined in accordance with presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.”*
- 4.12 Paragraph 24 states: *Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*
- a) the existing level of local provision and need for sites*
 - b) the availability (or lack) of alternative accommodation for the applicants*
 - c) other personal circumstances of the applicant*
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
 - e) that they should determine applications for sites from any travellers and not just those with local connections*
- 4.13 Paragraph 25 states: *Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.*
- 4.14 Paragraph 26 states: *When considering applications, local planning authorities should attach weight to the following matters:*
- a) effective use of previously developed (brownfield), untidy or derelict land*
 - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*

c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

4.15 Paragraph 27 states: *If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.*

4.16 Paragraph 28 states: *Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:*

a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise

b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events)

c) limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

4.17 The definition of gypsies and travellers was amended in the re-issued PPTS (2015) to remove the words “or permanently” from after the word “temporarily” in the following definition;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.”

4.18 This is important in the context of the application under consideration. The application has been made on the basis that the applicant has ceased travelling due to age. The above definition no longer applies to a Gypsy / Traveller that has permanently ceased travelling. However the NPPF (para 62) requires planning policies to meet a range of different housing needs for different groups, which would include Gypsies who have permanently ceased to travel. This is considered in more detail below.

The SBC Gypsy and Traveller Accommodation Assessment 2018 (GTAA)

4.19 The GTAA comprises the latest available evidence to identify the needs of Gypsies and Travellers in the Borough. The GTAA identifies the forecast pitch requirements for Gypsies and Travellers that meet the definition in the PPTS, but also provides an analysis of need for those who do not meet the PPTS definition but still identify as cultural Gypsies and Travellers. The GTAA identifies that in the period to 2037/38, there is evidence of a cultural need for 68 additional pitches, 51 of which would be for travellers that meet the PPTS definition.

- 4.20 This data therefore provides evidence of need for 17 additional pitches for households who do not meet the PPTS definition but still identify as Gypsies or Travellers.

The Swale Borough Local Plan – Bearing Fruits 2031

- 4.21 The Council's current Local Plan was formally adopted in July 2017, almost two years after the latest iteration of PPTS. At that time the Local Plan Inspector accepted that the Council did not need to allocate potential sites in a development plan document. Rather, the Council's open and positive attitude to the provision of private traveller sites meant that the Council was encouraged to adopt a "windfall" based approach to private site provision, testing sites according to Policy DM10 criteria.
- 4.22 Since adoption of the Local Plan, an updated Gypsy and Traveller Accommodation Assessment has been produced – as set out above. This identified a revised cultural need during the period 2017-2038 for 68 new pitches, of which 51 would meet the PPTS need. To date, 28 pitches have been granted planning permission, equating to 55% of the identified PPTS need, and based on the criteria-based approach under Policy DM10.
- 4.23 However, whilst the adopted local plan makes provision under Policy DM10 for Gypsies and Travellers that fall under the PPTS definition, this policy does not cover those cultural Gypsies and Travellers who no longer travel and do not meet the PPTS definition - and which applies to the applicant in this instance. The local plan does not cater for this need.
- 4.24 Other relevant local plan policies are ST3 (Swale Settlement Strategy), ST5 (Sittingbourne Area Strategy), CP3 (delivering a wide choice of homes), DM6 (transport), DM7 (Parking), DM14 (general development criteria), DM24 (landscapes), DM28 (biodiversity), DM31 (agricultural land).
- 4.25 The Human Rights Act 1998 Article 8: Respect for your private and family life, and home
- 4.26 The Equality Act 2010

5. LOCAL REPRESENTATIONS

- 5.1 Call in request received from Councillor Palmer
- 5.2 Hartlip Parish Council- Objection (28.11.2019)

Although the site in this application falls within the Parish Of Upchurch, Hartlip Parish Council (HPC) wishes to object to it in the strongest possible terms as it does affect a number of residents living on Hartlip Hill. Those residents have had to put up with a large amount of anti-social behaviour during recent months with an excessive number of bonfires on site and trial bikes being ridden across the site.

A new dwelling would not be acceptable in this open countryside location so a portacabin of very poor design and visual amenity should not either. The visual amenities of the countryside should be protected and HPC does not consider the 'business/crime' case which has been put forward to be an overriding justification for

a poor quality form of development that is harmful to the appearance and character of the countryside. This is a very weak application which should be rejected.

5.3 Two separate neighbour consultations were undertaken, the first on 28th October 2019 and a second on 15th November 2021. A site notice was also displayed at the site on 4th November 2021 with an expiry date of 25th November 2021.

5.4 In response to the public consultation the Council received five letters. Of these, three letters were in support of the application and two respondents objected to the application.

5.5 Reasons in support (summarised):

- Age of applicant in his 80's/still working/should be allowed some comfort
- The site is surrounded by a railway line, a motor repair workshop and horse stables.
- There is no one affected residentially.
- Been a resident on site for two years
- Area maintained and trees growing – good for the environment

5.6 Reason for objection (summarised):

- Noise – due to motor bikes
- Fires – close to the railway
- Tipping of household waste

6. CONSULTATIONS

6.1 Upchurch Parish Council – Objection (22.11.2019) updated (06.01.2020)

Following a site visit, Upchurch Parish Council objects to this application. The Parish Council does not feel that the justification for a residential portacabin being sited on this land for the reasons of business and crime problem has been met. The visual impact on the open countryside is unwarranted and the visual amenities of the countryside should be protected.

Neighbours have complained about bonfires and material being brought to site and burnt, as well as repeated nuisance from trial/quad bikes.

6.2 Natural England – No objection, subject to SAMMS Payment and Appropriate Assessment (18.11.2021)

6.3 Rural Planning Ltd consultant - *The application submissions include a number of copied pig movement sheets which suggest a relatively small degree of activity between 2017 and 2019, and receipts for the purchase of 35 or so various poultry in October/November 2018 only. There is nothing submitted to support the higher level of activity described in paras 1.16 to 1.21 of the Planning Statement (dated October 2019).*

As previously, there are no supporting financial accounts or budgets. Any production would appear to have been no more than a part-time venture, and insufficient to meet the usual tests of essential agricultural need for on-site accommodation.

My advice therefore remains as summarised in my letter dated 08 October 2018. The personal circumstances referred to in support of the proposal are

outside my advisory remit.(06.10.2021)

- 6.4 KCC Highways – Does not warrant involvement from the highway authority (28.10.2021). However, the site access was discussed with the case officer on 17th December 2021, who agreed that the application would be acceptable on highway safety grounds subject to the removal of the fence panel located on the left hand side of the entrance to ensure that sufficient visibility can be maintained.
- 6.5 Environmental Health Manager – No adverse comments or observations to make (21.12.2021)

7. BACKGROUND PAPERS AND PLANS

- 7.1 Location plan, Plans and elevations 19/14843, Block Plan 19/1842

8. APPRAISAL

Principle of development

- 8.1 The site is located in the countryside and approximately 0.63km to the west of the built up area boundary of Newington and 0.80km to the north of Hartlip, and therefore falls within the lowest, least acceptable tiers of the settlement hierarchy (Tiers 4 & 5), as set out under policy ST3 of the Local Plan (2017). The site falls within open countryside, and as such, residential development within this location is not generally supported. However, Policy DM12 does make provision for rural worker dwellings in the countryside, where there is robust justification and a clear essential need. Policy DM10 of the Local Plan sets out the circumstances under which Gypsy and Traveller sites will be acceptable.
- 8.2 In this instance, the applicant has submitted the application on the grounds of both agricultural need and his Gypsy / Traveller status. These matters are considered further below.

Agricultural need

- 8.3 The applicant operates a smallholding from the wider land parcel and has presented a case within the application that the smallholding requires a constant on-site presence. The case sets out that the applicant has introduced some 80 pigs, 20+ geese, 50+ chicken and 10 ducks, that over 200 pigs were sold in the 15 months prior to submission of the application in 2019, and that an agreement had been made with a local butcher to supply pigs on a weekly basis. Approx 50 Turkeys are reared for the Christmas period. The statement highlights that revenue from the smallholding makes the business a viable and self-sufficient enterprise, and that the provision of a residential unit would enable further development of the business. The statement also highlights concerns over previous break-ins and security issues at the site, and the need for an on-site presence to supervise the livestock and equine horses, including 4-5 pigs farrowing at any one time.
- 8.4 This information provided does not differ from what was originally submitted under the previous application Ref: 18/503381/FULL dated 01/10/2019, and which was refused on the basis that it failed to demonstrate a functional agricultural need for a dwelling on site.

Having once again considered the information submitted as part of this application, and following consultation with the council's rural consultant, it remains the case that the supporting information does not demonstrate the business to be at a viable level, or that there is an essential need for a constant on-site presence. On this basis, I do not consider that the case made for a dwelling under agricultural need complies with Policy DM12, and that this cannot be supported on such grounds.

Gypsy / Traveller status

- 8.5 The application is also made on the grounds that the applicant is a gypsy/traveller. It includes details of his Gypsy heritage and historic travelling, which appears to relate largely to working on farms in the local and wider Kent area. The information sets out that the applicant had recently split up from his wife (from another recognised local Traveller family) and moved to the site from another Traveller site in Medway following this break-up. Representations have been made that the applicant ran a second-hand shop in Rainham for many years. The applicant has stated that although this business was in his name, it was run by a friend and then his cousin, and that the applicant only helped out occasionally. Overall, I am satisfied from the information provided that the applicant is a cultural Gypsy.
- 8.6 However, the application makes clear that the applicant no longer follows a travelling lifestyle, due primarily to his age (he was 77 when the application was submitted and will now be around 80 years). Whilst he is still regarded as a cultural Gypsy, he does not meet the PPTS definition of a Gypsy, which states:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

- 8.7 Policy DM10 of the local plan applies to applicants who comply with the PPTS definition, and as such is of limited weight in the consideration of this application. The applicant falls within a group that is identified in the GTAA (see paras 4.19 and 4.20) as in housing need, but are not currently catered for under Policy DM10 or elsewhere in the current local plan. This is a similar circumstance to a site at Grace's Place, Homestall Road, Doddington, which was subject to an appeal following refusal of permission under 16/503982, and where the applicants had permanently ceased travelling due to old age, ill health and infirmity. Paragraph 27 of the Inspector's appeal decision dated 18 July 2018 stated –

The 24 households subtracted from the 2013 GTAA assessment of need when the definition of gypsies and travellers changed in 2015 are households no less in need of accommodation. These people will be caught by the recently introduced duty in the Housing Act 1985 for Councils to consider the needs of people residing in or resorting to their district in respect of caravan sites and houseboats. The Local Plan Inspector indicated that those needs would be best addressed as part of the early review of the Local Plan. The principal occupiers of the appeal site fall within this group. They are ethnic gypsies and travellers who, I heard, have a cultural aversion to living in conventional bricks and mortar. As yet there appears to be no assessment of need for this group and no provision made for them.

The appeal, decision here granted a five year temporary planning permission (which is due to expire in July 2023) in the expectation that an early review of the Local Plan would address the housing needs of such people, and inform a review of that permission. The review of the Local Plan is yet to be re-published and at this moment the Council still has no policy for this group of non-PPTS gypsies and travellers in response to the above appeal decision.

Impact on character and appearance of area

- 8.8 The site is located within the countryside and within an undesignated landscape. It is also on land previously approved for, '*Change of use for keeping and grazing of horses, and erection of 1.2m high fence*'. (Ref: SW/11/0653). The site and surrounding area is rural in character, albeit that this is partially diluted by a large vehicle repair building immediately to the east side of Breach Lane, and by the railway line and embankment to the south. Nonetheless, the prevailing character of the land on the west side of Breach Lane is of small scale field parcels and paddocks within a generally open landscape.
- 8.9 The portacabin the subject of this application is located adjacent to Breach Lane and behind an existing boundary hedge, which offers reasonable screening from Breach Lane. There do not appear to be any significant views of the site from the local footpath network. Aside from limited views of the portacabin through the hedge, the main visual impact arises from the recently constructed fencing around the site, which consists of 1.8m high fence panels. This is a relatively prominent and detracting feature within the landscape. However, I note that the main area of fencing to the side and rear of the plot is under 2 metres in height and represents permitted development, and does not in itself require planning permission.
- 8.10 Situated against the western site boundary parallel to the railway line are a U-shaped timber stable block, a storage container / outbuilding, and a slightly larger outbuilding (both labelled as "piggery" on the submitted block plans). The portacabin lies within close proximity of this corner of the site which is the less obtrusive area and is therefore seen with these buildings together with the adjacent vehicle repair garage, and not as a stand-alone structure within an open area of countryside. Moreover, this section of Breach Lane where the development is located, also experiences a number of parked vehicles either side of the lane, and which appear to relate to the vehicle repair garage.
- 8.11 Despite the reasonably well screened position of the portacabin, I consider that its location, form and generally poor appearance does cause harm to the generally open and undeveloped rural character and appearance of the area, albeit this is visually limited from Breach Lane. The development would also result in an isolated home in the countryside, contrary to paragraph 79 of the NPPF.
- 8.12 A close boarded fence has also been erected between the highway and the entrance gates to the site. I consider that this is also a detracting feature and it will be noted from the section below that this also causes highways visibility problems. Unlike the fencing elsewhere within the plot, this section of fence requires planning permission as it is over 1 metre in height and adjacent to Breach Lane. If permission is granted, I would recommend that a planning condition is imposed to require removal of the fence and replacement with a more appropriate fence or soft landscaping – whilst maintaining adequate visibility.

- 8.13 The site falls outside of any settlement boundary. However it is located a short distance from the A2, which in turn provides access by foot to Newington and also access to bus services. The development would be contrary to Policy ST3 of the Local Plan as it would result in the development of a residential unit in the countryside and in the least acceptable tier under this policy. However, the broad location of the site is within reasonable distance to access services, when considered against the indicative map in the supporting text to Policy ST3. When taken in the context of a site for Gypsy / Traveller accommodation, which inevitably tend to be in rural areas, I do not consider this location to be inherently remote or unsustainable.
- 8.14 Overall, I consider that the development does cause harm to the rural character and appearance of the area, and is within an area where residential development is generally resisted under Policy ST3 of the Local Plan, albeit that the visual impact of the development is limited and there are services / facilities available within a reasonable distance.

Residential Amenity

- 8.15 The application site is 92m from the closest neighbouring properties to the south which are located on the northern side of the A2 (London Road). Given this distance and the intervening railway embankment, I do not consider that the proposed residential use would cause any undue disturbance to local residents. I acknowledge that in 2019, a number of concerns were raised which related to elevated noise, tipping and burning of waste. However such matters would normally be dealt with under other legislation, and are not directly associated with this application for a residential unit on the site.
- 8.16 The site is remote from any residential dwellings to the north and separated from those to the south by the raised railway embankment. I therefore have no serious concerns in respect of potential amenity impacts for existing residents specifically in relation to loss of light, outlook, sense of enclosure or loss of privacy. For these reasons, I am satisfied that the proposal is acceptable on amenity grounds

Highways

- 8.17 The site benefits from an existing access and an area for vehicles to pull off the highway in front of the gates to avoid blocking traffic. These were granted under the previous permissions for the site, on which Kent Highways provided comments, and I therefore have no serious concerns. The site has a large area of space for parking and turning of vehicles.
- 8.18 In terms of visibility upon entering/exiting the site and potential impact upon highway safety, a close boarded fence has been erected on the left hand side of the site entrance which currently obscures visibility which is otherwise good in both directions. I have also assessed the visual impact of the fence to be harmful in the section above. In my opinion, this section of fencing should be removed and replaced with more appropriate boundary treatment and in a manner that would maintain appropriate visibility for drivers. A suitably worded condition has been added for this purpose.

Other Matters

- 8.19 This application will result in a net increase in residential accommodation on the site. Impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £253.83 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee.

9. FINAL BALANCING / CONCLUSION

- 9.1 The site is located within the countryside and in a location where such development would not normally be permitted. Whilst the portacabin is reasonably well screened from the roadside, the site is generally open and the development does cause harm to the rural character of the area. In my opinion, this generally is not an acceptable location for residential development.
- 9.2 The applicant's case on agricultural need grounds is not accepted. However, I accept that the applicant is a cultural Gypsy, although he has ceased travelling and does not meet the PPTS definition, and in turn also does not meet the requirements of Policy DM10 of the Local Plan. The GTAA identifies a need for additional pitches to accommodate cultural Gypsies who no longer travel, and this need is not presently met in the current local plan.
- 9.3 Taking the above into account, the personal circumstances of the applicant (and particularly his age), and the need for the council to consider, over the longer term and through the local plan review, how the identified non-PPTS need can be addressed, I consider that the balance is in favour of permitting the application - but on the basis of a temporary and personal permission only.

10. RECOMMENDATION

- 10.1 That, subject to receipt of a SAMMS payment, planning permission is GRANTED Subject to the following conditions:

CONDITIONS

- (1) This permission shall extend to a maximum of five years or for the lifetime of the applicant, Mr James Hills only, whichever is the shorter. When the premises cease to be occupied by the applicant, or at the end of the five year period hereby provided for, the portacabin/mobile and any buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.

Reason: In recognition of the terms of the application, and in the interests of the character and appearance and amenities of the area.

- (2) The development hereby approved shall be carried out in accordance with drawing title number(s): Location plan, Plans and elevations 19/14843, Block Plan 19/1842

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

- (3) No more than one caravan or mobile home (and for the avoidance of doubt the portacabin currently stationed on the site is to be considered for the purposes of this condition as a mobile home) shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) The caravan or mobile home shall only be positioned in the location shown on the Block Plan drawing 19/1842.

Reason: In the interest of visual amenity.

- (5) The site shall only be used for residential purposes and as small holding and equestrian facilities only and not for any industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes shall be kept on the site and no more than one maximum 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In the interest of residential amenity of the area.

- (6) Within three months from the date of this permission, the existing fence panels between the access gate and the public highway shall be removed from the site.

Reason: In the interests of highways safety and visual amenity.

- (7) Within 3 months from the date of this permission, a scheme of hard and soft landscape works shall be submitted to the Local Planning Authority for approval. 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. This shall include a scheme of planting adjacent to the close boarded fence erected on site.
- Any other means of enclosure and hard surfacing areas including for car parking.

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 submitted under condition 7) within a period of 3 months following such approval in writing 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 floodlighting, security lighting or other external lighting shall be installed or operated on the site other than in accordance with details which shall have been previously submitted to and agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and biodiversity

APPROPRIATE ASSESSMENT

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.

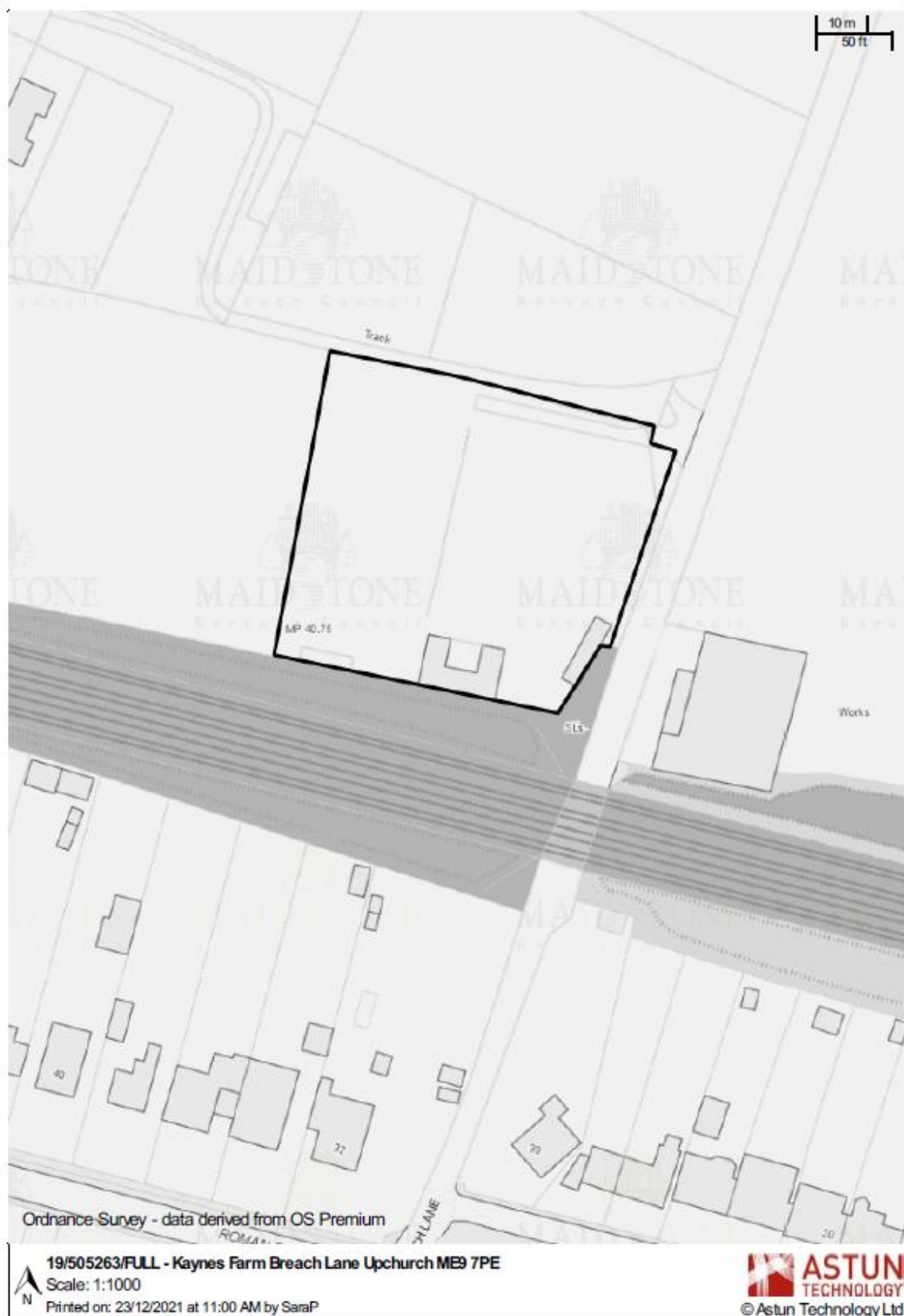
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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



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PLANNING COMMITTEE – 10 MARCH 2022

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Copper Beeches The Street Hartlip**

APPEAL DISMISSED

DELEGATED DECISION

Observations

Full support for the Council's position that the development would harm the character and appearance of the conservation area.

- **Item 5.2 – Land Situated at 61 Newton Road Faversham**

APPEAL DISMISSED

ENFORCEMENT APPEAL

Observations

Full support for the Council's action despite the corrections to the notice.

- **Item 5.3 – 1 Ashberry Close Faversham**

APPEAL DISMISSED

DELEGATED DECISION

Observations

Full support for the Council's decision. This matter will now become the subject of enforcement action to remedy the breach.

- **Item 5.4 – Rides House Warden Road Eastchurch**

APPEAL DISMISSED

DELEGATED DECISION

Observations

The Inspector supported the Council's position that the development fell outside of any holiday park designation, would have an urbanising effect and would cause significant harm to the countryside.

- **Item 5.5 – Little Owens Court Farmhouse Selling Road Selling**

APPEAL DISMISSED

DELEGATED DECISION

Observations

Full support for the Council's objections to this scheme.



The Planning Inspectorate

Appeal Decision

Site visit made on 25 January 2022

by **T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **11 February 2022**

Appeal Ref: APP/V2255/D/21/3285547

Copper Beeches, The Street, Hartlip ME9 7TG

- 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 S Hughes against the decision of Swale Borough Council.
 - The application Ref 21/502419/FULL, dated 4 May 2021, was refused by notice dated 4 August 2021.
 - The development proposed is described as a new outbuilding to be used as a home gym.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal is in a conservation area (CA), I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to heritage assets.

Reasons

4. Forming a generous sized plot, the appeal site contains, amongst other aspects, a relatively large property, a single-storey garage and, as I observed on my site visit and as shown on the submitted site plan, a single-storey outbuilding. The detached buildings are all set-back from The Street, situated behind the front garden which includes a driveway and various trees and soft landscaping. The prevalence of green frontages and the relatively loose knit pattern of development in the locality, providing a sense of space between built form and affording some views to the countryside beyond, are notable features which the site reflects and which positively contribute to the open character and verdant appearance of the area. Identified as a non-designated heritage asset, the main property also provides, as is common ground between the main parties, a neutral to positive contribution to the character of the area.
5. The site is located within the Hartlip CA. The submitted CA character appraisal sets out, amongst other things, that the mostly well-spaced buildings, which are well set back from the road, provide the village with its generally loose knit development character. It identifies the green appearance of most of the frontage to The Street as an important landscape feature, that the green

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

Appeal Decision APP/V2255/D/21/3285547

framework of the village helps create a strong sense of visual cohesion, and that the generous space between and around buildings is also a crucial feature of the area. In addition, the views out from The Street through to the countryside beyond are highlighted as an attractive feature of the village which reinforces the links with the rural surroundings. The significance of the CA stems from these aspects, along with the gaps between buildings and the area's generally uncluttered nature. The Council's Supplementary Planning Guidance, Conservation Areas, also identifies that, amongst other aspects, gaps between buildings are often important elements of the streetscene and the overall character of the conservation area.

6. The proposed single-storey outbuilding would be set back from The Street and soft landscaping, including mature trees and various shrubs, would provide some screening of it from the public realm, particularly when plants are in leaf, as shown in the photographs included in the appellant's appeal statement. I observed on my site visit that while it would therefore not appear as a particularly prominent feature, the proposed development would nevertheless be visible, like the existing buildings on the site, in some public views. With its relatively significant width filling most of the gap between the existing outbuilding and garage, the appeal proposal would create a tight knit line of development that would give the site a cluttered and cramped appearance. It would also block the existing view between the buildings of the countryside beyond.
7. Irrespective of whether its flat roof would reflect other extensions in the locality and despite it not encroaching into or altering the site's green frontage, it would therefore read as an incongruous addition that would harm the character and appearance of the site and the surrounding area. In coming to this view, I have taken into account the size and external materials of the proposed outbuilding, which would provide a domestic gym and is said to have been designed under the permitted development rules which apply to outbuildings, its slight set back from the front of the main property and garage, and that further boundary treatment and soft landscaping could be secured by condition. The positioning of the appeal proposal adjacent to the garage rather than in the open area at the rear of the site – which is partly visible from the nearby junction – or to the front of the main property does also not lead me to a different conclusion.
8. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area, with particular regard to heritage assets. I therefore find that it conflicts with Policies CP4, DM14 and DM33 of Bearing Fruits 2031, the Swale Borough Local Plan (2017). Amongst other aspects, these require development to retain and enhance features which contribute to local character and distinctiveness, reflect the positive characteristics and features of the site and locality, conserve and enhance the natural and/or built environments taking in to account the desirability of sustaining and enhancing the significance of heritage assets, and preserve or enhance all features that contribute positively to the special character or appearance of the CA.
9. It has been put to me that the development would comply with Policy DM11 of the Swale Borough Local Plan. However, as the policy relates to extensions to, and replacement of, dwellings in the rural area rather than to new outbuildings such as the appeal proposal, it has not been determinative in my decision.

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10. As the harm I have identified would be relatively localised, it would – in the words of the National Planning Policy Framework (Framework) – represent less than substantial harm to the significance of the CA. However, this still constitutes harm, and in such circumstances, the Framework indicates that the less than substantial harm should be weighed against the public benefits. However, no public benefits have been put forward to weigh against the harm, nor do I find any exist that would outweigh the great weight given to the conservation of the designated heritage asset. On a balanced judgement, taking into account the scale of the harm and the significance of the property, I find that the appeal proposal would also result in unacceptable and unjustified harm to the non-designated heritage asset. That the property is not a listed building and there are no listed buildings adjoining the site do not lead me to a different conclusion.

Planning Balance

11. The Council has not alleged that the proposed development would harm the living conditions of adjoining occupiers. It has been put to me that the appeal proposal would be finished internally and externally to an extremely high standard and that the proposed outbuilding, as set out in the Design and Access Statement, has been positioned to avoid the open area at the rear of the site being cluttered with random buildings. Nevertheless, these matters do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan.

Conclusion

12. For the above reasons, the appeal is dismissed.

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INSPECTOR

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Appeal Decision

Site visit made on 27 January 2022

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/V2255/C/21/3273320

The land situated at 61 Newton Road, Faversham, Kent ME13 8DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Steven Avey against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice was issued on 8 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission the replacement of a timber framed window with UPVC frames and triple glazing to the front first floor elevation and the replacement of the timber front door with a composite door.
 - The requirements of the notice are:
 1. Remove the UPVC window situated to the front first floor elevation of the property.
 2. Remove the new composite front door to the property.
 3. Replace the UPVC window situated on to the front first floor elevation of the property with a traditional timber sliding sash window.
 4. Replace the composite front door with a door of traditional size and proportions using hard wood materials and close in design to the door that was removed from the property.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. It is directed that the enforcement notice be corrected by: -
 - (i) deleting the words "a timber framed window" and inserting the words "two timber framed windows" in paragraph 3.
 - (ii) deleting the words "sash window with a UPVC window" and inserting the words "sash windows with upvc windows" in paragraph 4 (ii).
 - (iii) deleting the word "window" and inserting the words "windows" in paragraph 5.1.
 - (iv) deleting the words in paragraph 5.3 and inserting the words "Replace the UPVC windows situated to the front first floor elevation of the Property with traditional timber sliding sash windows."
2. Subject to these corrections, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

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Preliminary Matters

3. The enforcement notice refers to 'a window' in the singular whereas there are two first floor windows on the front elevation of the property, so the enforcement notice cannot be correct as drafted. Both parties in their submissions refer to first floor windows on the front elevation in plural. For precision, the notice should be amended accordingly. Given the nature of the submissions made, the appellant clearly understood that the notice was directed at both first floor windows on the front elevation. I am satisfied therefore, that I can amend the notice accordingly without injustice to either party.
4. A revised National Planning Policy Framework (the Framework) came into force in July 2021, after the appeal had been submitted. Other than a change to the relevant paragraph numbers, the revised Framework does not materially alter the approach in respect of the main issue raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Appeal on ground (a)

Main Issue

5. The main issue is the effect of the development on the appeal property and whether the replacement windows and door preserve or enhance the character or appearance of the Conservation Area.

Reasons

6. The appeal property is an end of terrace traditionally designed single fronted Victorian property which fronts almost immediately onto the street. It is located along Newton Road which lies within the Faversham Conservation Area ('the FCA').
7. The FCA is characterised by roads that comprise rows of terrace Victorian housing. Although some houses have replaced their windows and doors in a variety of materials, a significant proportion retain the timber sash windows and timber doors which are a feature of and make an important contribution to the character and appearance of the FCA.
8. In 2007 the Council introduced an Article 4 Direction removing permitted development rights for the enlargement, improvement, or other alteration of a dwellinghouse where any part of the enlargement, improvement or alteration would front a highway under Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The Article 4 Direction advises that "original doors and windows contribute greatly to the character of the FCA, so should be retained. The removal of traditional timber windows and doors will normally be resisted, as will the installation of inappropriate replacements in aluminium or plastic".
9. Planning permission was refused and an appeal dismissed (APP/V2255/W/16/3145567 dated 14 June 2016) in relation to this property for the replacement of timber single glazed windows with triple glazed upvc windows and a wooden front door with a composite door. The previous Inspector considered that the replacement of the windows and door would harm the character and appearance of the property and would fail to preserve or enhance the character or appearance of the FCA. I can find nothing from the

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evidence before me to indicate the case has changed since that appeal and I must give the previous Inspector's findings considerable weight.

10. During my site visit, I observed that despite examples of traditional timber sash windows having been replaced with a variety of modern upvc in Newton Road, those that remain make a positive contribution to the character of the FCA. The appellant has drawn my attention to some of these examples where the original windows have been replaced. I am not aware of the detailed circumstances of these developments. However, I consider that the impact of upvc windows and composite doors varies depending on the type of property and the specific detailing. Moreover, and in any event, I have determined the appeal before me on its own merits, with regard to the specific context of the appeal property in the street scene.
11. Whilst the replacement upvc windows closely resemble the design of the original sash windows, the thickness of the frames and glazing bars are more substantial than the original windows. The sash design with their thicker frames is not as delicate as their original timber counterparts. Thus, whilst the appellant has sought to keep the style authentic, the loss of the original timber sash with their thinner detailing has a negative impact upon the contribution the fenestration makes to the character and appearance of the property and the FCA. Although its style is wood effect and it has been in situ for almost four years, the composite door is unsympathetic to the traditional appearance and historic character of the property and terrace. In addition, upvc is not a traditional material and is generally heavier, more even, smoother, and glossier in finish than traditional windows and doors, giving the windows and door a modern and less refined appearance. As the original windows and door were an important part of the building's character, their upvc replacements are harmful to the appearance of the appeal property.
12. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area to which I have attached considerable importance and weight. Given that the original windows and door were a key element of the street scene; the development has an adverse effect on the character and appearance of the FCA.
13. The harm I have identified falls within the category of "less than substantial harm" to the significance of the heritage asset. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appellant identifies benefits from reduced noise and that the use of upvc and double glazing is more economical, 'greener' and less polluting and that the sash styling of the previous windows and the wood effect of the previous door have been retained. These are predominantly benefits to the owners rather than to the wider public. Furthermore, there is nothing before me to demonstrate that the windows and door could not have been replaced with timber frames and a timber door similar to the originals. Thus, these matters, even if they were considered public benefits do not outweigh the harm caused to the character or appearance of the FCA, a consideration the courts have determined is a matter of considerable importance and weight.

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14. I conclude that the replacement upvc windows and composite door harm the character and appearance of the appeal property. Moreover, they fail to preserve or enhance the character or appearance of the FCA. The development is therefore contrary to Policies CP4, DM14, DM16 and DM33 of the Swale Borough Local Plan (2017) and the guidance in the Council's Supplementary Planning Guidance 'Conservation Areas' which expect developments to preserve or enhance all features that contribute positively to the conservation area's special character or appearance. The development also conflicts with the aims of the Framework.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires development to be in accordance with the development plan unless there are material considerations which indicate otherwise. The benefits described do not outweigh the conflict with the development plan.

Conclusion

16. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Jones

INSPECTOR



The Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2022

Appeal Ref: APP/V2255/D/21/3277043

1 Ashberry Close, Faversham, Kent ME13 8FZ

- 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 Joseph Hawkes against the decision of Swale Borough Council.
 - The application Ref 21/500182/FULL, dated 12 January 2021, was refused by notice dated 26 March 2021.
 - The development proposed is alterations to existing carport to create storage area.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner above is taken from the Council's decision notice. It is more precise than that used in the application form and omits wording relating to the merits of the case.
3. At the date of the application, and as I saw at my site visit, the development had already been carried out.

Main Issue

4. The main issue is the effect of the development on the provision of car parking at the appeal property and highway safety.

Reasons

5. The appeal property is a detached three-bedroom house. It is part of a mixed use development still under construction, including for 196 dwellings. As originally permitted and built, it had two off-street car parking spaces — a car port and in front a paved hardstanding in tandem layout, accessed directly off a main estate spine road. This was typical of parking arrangements at similar houses fronting the spine road, all subject to a condition that these spaces shall be retained¹. The car port has been enclosed with permanent elevations, including French doors at the front (the development). It can no longer be used as a parking space and has the appearance of a side extension.
6. One car parked off-street on the hardstanding may meet the appellant's personal preferences or requirements. However, planning operates in the wider public interest. The National Planning Policy Framework (the Framework) states that parking is integral to the design of schemes and contributes to making

¹ Condition 17 of 18/501048/REM

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high quality places. Furthermore, that development should function well, not just for the short term but over its lifetime and respond to local design standards, in this case for parking provision. Whether taken at the time planning permission was granted², or now³, the Council's parking standards require two off-street car parking spaces for this size of house. Accordingly, there is a significant deficiency (50% reduction) in off-street parking at the appeal property.

7. There was no permanent parking in the spine road at the time of my visit, albeit a snap-shot in time. The appellant suggests that the absence of on-street parking restrictions, such as resident permits or a controlled parking zone, means there is no parking stress in the area. However, the mixed use development is not yet complete and, moreover, the houses already built have sufficient available off-street parking provision, which I saw was well used. Inadequate off-street parking at the appeal property, albeit by one space, is likely to result in permanent parking in the spine road or overspill parking in the side road residential cul-de-sacs or in visitor parking lay-bys. This would cause unnecessary street clutter, unduly restrict the free flow of traffic and would not minimise the scope for conflict between pedestrians, cyclists and vehicles, at odds with these objectives of the Framework. On-street parking would not, therefore, provide a satisfactory substitute for insufficient off-street parking at the appeal property.
8. The acceptable appearance of the development does not address the loss of a parking space and domestic storage needs could be conveniently met in the rear garden with a shed or other outbuilding. As in this appeal, each case must be considered on its individual planning merits. Nevertheless, there are a large number of similar houses and car ports in the immediate vicinity. There is, therefore, a realistic prospect that granting planning permission for the development would set an undesirable precedent. It could make it difficult for the Council, or another Inspector, to resist similar development being repeated elsewhere with potential cumulative adverse impacts.
9. Taking all of the above into account, I find that the development has an undesirable effect on the provision of car parking at the appeal property and an unacceptable impact on highway safety. It conflicts with the Council's development plan⁴ Policies DM7 and DM14. These include that parking standards should take account of the type and size of dwellings and needs of visitors, with appropriate parking provision integrated into layouts. Development should conserve the built environment, achieve safe vehicular access and provide convenient routes for pedestrians and cyclists. The development also conflicts with the Framework.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

² Kent County Council Interim Guidance Note 3 Residential Parking, November 2008

³ Parking Standards supplementary planning document, April 2020

⁴ Swale Borough Local Plan, July 2017



Appeal Decision

Site visit made on 15 February 2022

by **D Szymanski BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th February 2022

Appeal Ref: APP/V2255/W/21/3274235

Rides House Farm, Warden Road, Eastchurch ME12 4HA

- 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 Love against the decision of Swale Borough Council.
 - The application Ref 21/500005/FULL, dated 11 December 2020, was refused by notice dated 22 April 2021.
 - The development proposed is Change of use of land for stationing of holiday caravans.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above from the planning application form does not specify the number of caravans to be stationed at the appeal site. I have assessed the appeal on the basis it would be up to 15, as set out in the appellant's appeal statement and Council's decision notice.
3. At my visit, the layout differed from that on the existing plan/drawing in respect of the access road alignment to the southeast of the site and the number of bays on its eastern side. However, the development before me is what is expressed in the existing and proposed plans/drawings and my assessment is made on this basis.
4. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the Appellant the opportunity to comment upon the implications of this for their cases.

Main Issues

5. The main issues are:
 - whether or not the development would be in a suitable location having regard to policies for the location of development;
 - the effect of the development upon the countryside; and,
 - whether or not the development would be compliant with policies for development affecting agricultural land.

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Reasons

Location

6. The appeal site is outside the limits to development of any settlement. Being in the open countryside it is within the 6th and final tier in the settlement hierarchy referred to by Policy ST3 of the Swale Borough Local Plan (2017) (the LP). Development will not be permitted, unless supported by national planning policy and it can demonstrate it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities. Therefore, a development must meet both requirements of the policy.
7. To be supported by national planning policy paragraph 4.3.17 of the LP explains applications should be accompanied by evidence to show how it will support the viability of existing services and/or how it will bring new services to the community. The Council's Cultural and Leisure adviser suggests the development would have some benefits to nearby facilities. Paragraph 7.1.23 of the LP acknowledges holiday parks provide direct employment, and their users support shops, pubs, restaurants, and visitor attractions. This development would meet some of the broad policy objectives of CP1, DM3, ST3 and ST6 of the LP and paragraph 84a) of the Framework. However, little substantive evidence has been provided by the appellant of its practical effects in this regard. Given the scale and nature of the development, it is likely the support would be limited.
8. Policy DM3 of the LP supports the sustainable growth and expansion of rural businesses. This is provided amongst other things, the design and layout is sympathetic to the rural location, it is in appropriate locations where identified needs are not being met by existing facilities, or, where able to increase facilities available to local communities and visitors, and, proposals are in accordance with Policy DM4.
9. The supporting text to Policy DM4 (para 7.1.25) explains given the scale of existing caravan and chalet provision on the Isle of Sheppey and the contribution to the poor condition and appearance of landscapes, the LP does not allocate any new sites for such development. It explains the expansion of existing sites outside the defined holiday areas will also not be permitted due to the likely landscape and visual impacts.
10. It is not clear that other previously developed sites have been considered as sought by DM3 1)b). Even if it had, the evidence provided does not identify needs not met by existing facilities in the locality, as expected by DM3 2)b). The text at paragraph 7.1.25 of the LP suggests to the contrary on Sheppey. While there may be some limited support to existing services, it is not demonstrated this development would increase facilities available to local communities as well as visitors sought by DM3 2)b).
11. Part 3. of DM4 states permission will be granted for new or improved facilities within areas shown on the proposals map provided they meet certain criteria. Section 3 is not only restricted to static caravans and chalets. While part of the appeal site is occupied by surfaces for the stationing of up to 5 touring caravans under a licence obtained via the Caravan and Motorhome Club, the site is not included on the proposals map. Therefore, the development also conflicts with this aspect of Policy DM4.

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12. For the reasons set out above, given the benefits visitors would bring in supporting services, facilities and tourism assets, the proposal gains support from some objectives and criteria in Policies ST3, CP1 and DM3 of the LP and the Framework. However, it conflicts with the strategy for and would not be in a suitable location having regard to policies for such development, in conflict with Policy DM3 and DM4 as a whole, the relevant provisions of which I have set out above. The broad support from the other aspects of policies, does not overcome the conflict identified.
13. In a similar manner to Policy ST3, paragraph 84c) of the Framework states that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. Therefore, my findings in respect of meeting that aspect of ST3 and paragraph 84c) will be dependent upon my findings in respect of character and appearance.

Countryside

14. The appeal site is a landscaped grassland field bound by trees and hedgerows, with a limited part occupied by an access road and standing areas for up to 5 touring caravans. To the south it adjoins a yard area with a small number of caravans, mobile homes, and buildings. Outside the western boundary are some buildings and structures that appear to be in an equine related use. The other boundaries are lined and surrounded by hedgerows, trees, forested areas, and fields. The largely open, landscaped and mostly undeveloped composition within well vegetated boundaries results in the appeal site making a positive contribution to the countryside.
15. The development would significantly increase the extent of access tracks and standing areas, which would be positioned around much of three of the appeal site sides, significantly beyond that existing. The increased extent of development would result in a greater amount and intensity north of and away from Warden Road. This would intensify development at odds with the majority of the existing pattern of development which comprises a broadly linear pattern relatively close to highways such as Warden Road and Sixth Avenue, with only occasional rural buildings viewed much further away from roads.
16. The ground level of the stationing areas means they would have relatively limited discernibility from outside the appeal site boundary. However, associated with them would be the stationing of additional caravans or motor homes, together with some motor vehicles, and paraphernalia such as awnings, chairs, fuel cylinders and bins. There would also be a significant increase in associated comings and goings, as well as leisure activities taking place on the site such as playing games, sitting outside, and preparing meals.
17. The use may be seasonal and not all plots may be occupied. Notwithstanding the existing plots, the appeal site surrounds, and some larger parks in the wider area, this proposal would significantly develop and urbanise the appeal site resulting in an inherently harmful and unsympathetic incursion of development into open countryside. Seasonal use means the harm would be more limited out of season and further landscaping once mature, could limit the visibility of the development in time. However, it would not fully mitigate or overcome the significantly harmful effects to the intrinsic value, landscape setting and tranquillity of the countryside. For these reasons, I cannot agree

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the proposal would meet all the expectations of the design-related policies referred to, before me.

18. As well as visibility from within the appeal, the development would be particularly visible from outside the appeal site from the south, including parts of Warden Road and small number of buildings. If the retention of other perimeter landscaping and new landscaping was secured, the visibility from the north and east would be more limited. However, based upon the evidence before me, I am not persuaded landscape retention, new landscaping and other planning conditions could mitigate the harmful effects upon the countryside.
19. For the reasons set out above the proposed development would be significantly harmful to the countryside. It would conflict with Policies ST3 and CP1 of the LP which expect proposals to demonstrate that they would contribute to safeguarding and protecting the intrinsic value, landscape setting, tranquillity, beauty of, and be sympathetic, to the countryside. It would also conflict with paragraph 84 of the Framework which amongst other things seeks to ensure that development respects the character of the countryside.

Agriculture

20. The appeal site would be accessed via what I understand to be a recently constructed access, permitted by 19/503100/FULL to provide access to modern agricultural machinery to land to the north. The proposed layout does not block the access gate to the northwest. Although it proposes a caravan stationing area where the track leads to a compound area to the northeast.
21. Being a proposal for up to 15 caravans, I see no reason why within the scope of this scheme, a suitably worded planning condition could not ensure a layout that would retain suitable access to fields and land to the north and east. It seems highly unlikely that access by agricultural machinery would be so frequent, it would cause a conflict along the limited section of access track with tourers and vehicles accessing or leaving the plots. For these reasons the development would not result in an accumulated significant loss of high quality agricultural land to the north or be harmful to viability of the holding.
22. For the reasons set out above the development would not conflict with the aims of Policy DM31 of the LP for the development of agricultural land. This states that development will not be permitted where it would result in the remainder of the agricultural holding becoming unviable or lead to the likely accumulated significant loss of high quality agricultural land.

Other Matters

23. The appeal site is within 6km Zone of Influence (ZoI) of the Swale Special Protection Area and Ramsar Site (the SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) requires where a project is likely to result in a significant effect on a European site, the competent authority is required to make an Appropriate Assessment of the implications on the integrity of the site. If constructed, the development would create spaces for caravans occupied by visitors, thereby increasing the number visitors staying within the ZoI for recreational purposes.
24. I am advised that no contribution has been made and secured against this scheme by means of a planning obligation, to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) to

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mitigate the effects upon the SPA. Even if mitigation had been secured against this appeal scheme by an obligation or it were demonstrated it would be possible via a condition securing an obligation, the evidence suggests contributions towards the SAMMS are necessary to mitigate the impacts of this development. As such it is not put to me that the contribution would result in an overall net benefit to the SPA and its conservation objectives, that would weigh in favour of the development. Therefore, as I am dismissing this appeal for other substantive reasons, it is not necessary for me to consider this matter in detail.

25. The Council's Flood and Water Management section recommended the application should not be determined due to insufficient information in respect of a surface water drainage strategy. However, as I am dismissing this appeal for other reasons I have not considered this matter further.

Planning Balance

26. The development would provide a small temporary economic benefit during construction. Once complete it would provide a benefit to the local economy and society through increased spend by visitors in local services, facilities, and attractions, and would support the vitality of rural communities. However, in light of any substantive evidence to the contrary this would only be a limited benefit. The limited evidence suggests that ecological and landscape enhancements secured by a suitably worded planning condition would be limited. Overall, the benefits of the development are attributed limited weight in favour of the scheme.
27. If I were to agree the development would be or could be made compliant with policies in respect of matters such as access, parking, highway safety, surface water drainage, and the living conditions of neighbouring occupiers, these would all be neutral matters in the planning balance. Compliance with policies for the development of agricultural land are a neutral matter in the balance. If the development were to have provided mitigation for the SPA in accordance with the SAMMS, this would also be a neutral matter.
28. However, the proposal conflicts with development plan policies for the location of development and would result in a significantly harmful effect upon the countryside. The policy conflicts and harm from the development is such that it attracts significant weight against the scheme, significantly outweighing the benefits of the development. Therefore, the appeal should not succeed.

Conclusion

29. The proposed development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

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Appeal Decision

Site visit made on 14 February 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2022

Appeal Ref: APP/V2255/W/21/3278512

Little Owens Court Farmhouse Selling Road, Selling, Faversham ME13 9QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Glenn Sullivan against the decision of Swale Borough Council.
 - The application Ref 21/501809/FULL, dated 15 April 2021, was refused by notice dated 10 June 2021.
 - The development proposed is change of use of existing stables and attached garage to granny annexe, including erection of a two-storey side extension and garage and septic tank.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The main parties agree that in error the Council's decision notice refers to Policy DM33 of the Swale Borough Local Plan, July 2017 (the LP) whereas the relevant policy is LP Policy DM32. I have considered the appeal on this basis.

Main Issues

3. The main issues in this case are:
 - the effect of the development on the significance of Little Owens Court Farmhouse Grade II listed building, with particular regard to its setting; and
 - its effect on the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty.

Reasons

Listed Building

4. Little Owens Court Farmhouse is a two-storey detached house (the Listed Building). Its significance derives from its 16th century origins, distinctive details of its design and appearance, which would remain unaltered by the proposal, and its historic association at the centre of a small group of buildings surrounded by open countryside. The historic environment record describes this as 'a loose courtyard plan farmstead'. Despite conversion to residential use, extensions and some new domestic outbuildings, this group of buildings still broadly reflects this historic layout. The Listed Building still displays the essence of a historic farmhouse and much of its original immediate and wider

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functional and landscape setting survives. Distances between adjoining buildings and views across open spaces allow it to be observed and its architectural interest and historic character appreciated.

5. The proposal would convert a former stable building in the rear garden of the Listed Building, including by external alteration and extension, into a two-storey, two-bedroom detached residential 'granny' annexe including integral garage¹. It would be directly behind the Listed Building and in its setting, which is not disputed by the appellant.
6. The National Planning Policy Framework (the Framework) states that heritage assets, such as listed buildings, are an irreplaceable resource and should be conserved in a manner appropriate to their significance. When considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of the level of any harm to its significance.
7. I recognise that the annexe would be single storey in scale and massing and include an extension to the end of the stable furthest, and facing away, from the Listed Building (including where there was a low lean-to car port). This part would be screened from direct line of sight of the listed building at ground level and the annexe would be no closer to the Listed Building than the stable. However, this is not the only relevant juxtaposition in this case and the absence of greater public visibility does not mean the absence of intrinsic harm in listed building and setting terms.
8. The annexe would be substantially greater in floorplan area than the Listed Building (by about 60%, or over half as much). It would also significantly increase the length of the stable (by about 50%) and project appreciably further in depth into the rear garden, towards the southern boundary, with a commensurate reduction in openness. In addition, it would fundamentally deviate from the rectangular floorplan of the stable, with its L-shape and protruding nub on one side facing the drive and closing the space to the adjoining dwelling at Little Owens Court. Furthermore, the proposal would more than double the linear length and volume of roof space compared to the stable. Having regard also to the extent and overly domestic form and positioning of some of the proposed fenestration, the annexe would have the size and appearance of a separate dwellinghouse.
9. The proposal would not, therefore, establish a secondary unit of ancillary living accommodation derived mainly from conversion and re-use of a rural building. Indeed, much of the individual character and identity of the stable would be engulfed and lost and detract from its otherwise legible presence in the setting of the Listed Building. Instead, it would result in an undesirable consolidation in the layout and scale and massing of built form and residential use at the appeal site and a tighter pattern of development within this group of buildings.
10. This would be at odds with the loose courtyard plan farmstead layout and unduly undermine the stature and historic primacy of the Listed Building. The close proximity and resulting intervention of built form would have a significant negative effect on these visual, spatial and historic contextual elements of the setting of the Listed Building. Consequently, it would adversely alter and unduly detract from the way in which the Listed Building is experienced.

¹ The size of a double garage but with door access only for a single car.

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11. The Council has already approved a scheme to convert the stable to a residential annexe. It includes a modest extension to replace only the car port and a detached double garage set at right angles to, and diagonally across from, the approved annexe. Foundations and footings have been started for this development. I appreciate that, in essence, the proposal would infill the 'missing' corner in the approved scheme and connect those separate buildings. However, this part is a substantial proportion of the built form of the annexe in this appeal and contains a significant element of fenestration at two levels.
12. Moreover, despite the relatively small gap between the approved annexe and the approved double garage, it has a profound positive effect in separating that development into two, albeit closely sited, but nonetheless distinctly separate buildings. In particular, in alleviating the extent of scale and massing at roof level and maintaining more of the individual integrity of the stable building. This is in clear contrast to the homogeneity of built form that would result in the appeal proposal due to the undesirable 'binding together' of the individual elements of the approved scheme.
13. Taking all of the above into account, I find that the development would have a detrimental impact on the setting of the Listed Building. This would detract from its special architectural and historic interest and the proposal would not preserve the Listed Building or its setting². Consequently, it would conflict with LP Policies CP4, DM14, DM16 and DM32.
14. These policies include that development should be appropriate to its surroundings, enrich qualities of the environment, retain and enhance features which contribute to local character and distinctiveness and strengthen the sense of place. It should also be appropriate in scale and massing, well sited, respond positively to the style and character of a building being extended and conserve the built environment by preserving and sustaining the architectural and historic significance of heritage assets. In the case of a listed building, development should preserve its special architectural or historic interest, and its setting, having particular regard to design, scale and its situation.
15. The adverse effect of the proposal on the special architectural and historic interest of the Listed Building, by virtue of impact on its setting, would be localised and as a result would cause less than substantial harm to the significance of this designated heritage asset. The Framework states that this harm should be weighed against the public benefits of the proposal. I return to this in the 'planning balance' below.

Character and Appearance

16. The appeal site lies at the end of a long, straight shared private access track on gently rising land on one side of Selling Road. It is part of an enclave of mostly original rural buildings now in residential use bounded mainly by hedgerow and some trees. This discrete pocket of built form is surrounded by large, open fields with few intervening boundary hedgerows or trees. There is a similar scattered, isolated pattern of individual buildings, or small clusters, in the immediate vicinity. It is an expansive, mainly flat, landscape with extensive panoramic views across this part of the countryside. It is locally distinctive for these reasons, including as part of the North Kent Downs Area of Outstanding Natural Beauty (the AONB).

² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

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17. The development would be approximately centrally placed relative to the siting and layout of larger or taller adjoining buildings and within the cordon of the boundary landscaping. It would incorporate an existing building and albeit quite large, would be relatively low level. At one end it would be partly inset into the rising rear garden level. As a result, it would have no appreciable or meaningful discernible visual or spatial presence in the countryside or in public views, even, as I saw, from more elevated land to the north in Brenley Lane. Accordingly, the location and design of the development would have a neutral effect on land within the AONB and would not detract from its landscape and scenic beauty or its wildlife or cultural heritage.
18. Considering the above, I find that the development would not cause harm to the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty. Consequently, it would comply with LP Policies ST3, DM14, DM16 and DM24. These policies include that development in the countryside must protect and conserve the intrinsic value, landscape setting, tranquillity and beauty of the countryside and natural environment, be well sited and appropriate in scale and sympathetic to the location and its surroundings and preserve landscape features of interest. In the AONB development should also conserve its special qualities and distinctive character and minimise individual impact or cumulative effects.

Other Matters

Living Accommodation

19. The proposal is intended so that an elderly relative can live at the appeal site as part of a single family unit and be cared for, while retaining a degree of independence. I have no reason to doubt that this is a sincere and genuine intention and I sympathise with the appellants' objectives in this respect.
20. The approved scheme would be suitable for use as a detached annexe. I have not been provided with full plans of that development. It is not apparent why it was 'lacking flexibility to provide a ground floor bedroom', nor why this can only be resolved by the additional living space in the proposal. Even if it was used for a bedroom 'as well as' a lounge, this room would measure 6m by 7m and 42m² in floor area alone. Moreover, accounting for a live-in carer, it is not clear why a second bedroom is required upstairs given that this would be accessed by a staircase. I am also uncertain why a double sized garage with loft storage would be required and need to be attached to the annexe.
21. A condition could control occupancy of an annexe to ancillary living accommodation and the application was not made for a separate dwellinghouse. However, once granted planning permission runs with the land and the development would remain long after the appellants' personal circumstances have ceased to be material. The annexe would be of a size, and have all the facilities required, for use and occupation as a reasonably large independent dwelling in an area where ordinarily such development is strictly controlled. The significant quantum of living space proposed has not been justified.

Planning Balance

22. In terms of benefits, the proposal would at least retain some fabric and structure of the stable building and, in that narrow sense, an association as

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part of the setting of the Listed Building. It would also make an efficient and effective re-use of the building to provide a particular type of accommodation. These outcomes would be aligned with objectives of the Framework for the historic environment and, in this case, to meet the housing needs of older persons, including those with disability. Commensurate with the small-scale nature of the development, I give these considerations limited weight.

23. The development would be acceptable in external materials and would not have an adverse impact on the countryside or the AONB. The absence of harm in these regards, and compliance with the Council's development plan and the Framework, are neutral factors in my decision.
24. However, the Framework also seeks to achieve well-designed places with development that is sympathetic to local character and history, including the surrounding built environment, and maintains a strong sense of place. With respect to the historic environment and the Listed Building, the proposal would cause less than substantial harm to, and loss of, the significance of this designated heritage asset by inappropriate development within its setting. The benefits outlined above would already be achieved in the approved scheme (and for the stable building and the Listed Building, bettered) and the additional living accommodation sought in this appeal, which has not been justified, would be a private benefit. There is, therefore, no public benefit that provides clear and convincing justification to outweigh this harm.
25. The proposal would conflict with the Council's relevant development plan policies and diminish the Council's objectives in these respects. These are consistent with aims of the Framework to balance conserving and enhancing the historic environment with the objectives of sustainable development. Consequently, I give substantial weight to these considerations.
26. Accordingly, notwithstanding that the benefits would be aligned with the Framework, or my findings with regard to character and appearance, the adverse impacts of the proposed development would outweigh the benefits.

Conclusion

27. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

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