

# Agenda

## Planning Committee Meeting

Date: Thursday, 25 May 2023

Time 7.00 pm

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

Membership:

To be confirmed following Annual Council on 17 May 2023.

Quorum = 6

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Pages

### Information about this meeting

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 by 24 May 2023.

### Recording and Privacy Notice

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## 1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised that:

- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
- (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
- (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

## 2. Apologies for Absence

## 3. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

## 4. Minutes

To approve the [Minutes](#) of the Meeting held on 13 April 2023 (Minute Nos. 817 – 823) as a correct record, subject to an amendment to Minute No. 822, item 2.3, to read:

The committee also resolved unanimously that the twin application 23/500857/HYBRID be delegated to officers for approval on similar terms to item 2.3.

## **Part B reports for the Planning Committee to decide**

5. Deferred Item 5 - 28
- To consider the following application:
- 21/505041/OUT Land North of Lower Road, Eastchurch, Kent
- Members of the public are advised to confirm with Planning Services prior to the meeting that the application will be considered at this meeting.
- Requests to speak on this item must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call us on 01795 417328) by noon on Wednesday 24 May 2023.
6. Report of the Head of Planning Services 29 - 142
- To consider the attached report (Parts 2, 3 and 5).
- The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 24 May 2023.
7. Exclusion of the Press and Public
- To decide whether to pass the resolution set out below in respect of the following items:
- That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7.
- 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  - 7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.
8. Report of the Head of Planning Services 143 - 148
- To consider the attached report (Part 6).

**Issued on Tuesday, 16 May 2023**

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

**Chief Executive, 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

**25 MAY 2023**

#### Standard Index to Contents

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

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

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

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

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

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

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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## INDEX OF ITEMS FOR PLANNING COMMITTEE – 25 MAY 2023

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

### DEFERRED ITEM

Def Item 1	21/505041/OUT	EASTCHURCH	Land North of Lower Road
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### PART 2

2.1	22/505735/REM	BORDEN	Land at Manor Farm, Chestnut Street
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2.2	22/505981/FULL	MINSTER	47 Lady Winter Drive
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2.3	22/500007/FULL	SHEERNESS	Sheerness Bus Station, Bridge Road
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2.4	23/500240/FULL	SITTINGBOURNE	7 Cinnabar Drive
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2.5	22/504907/FULL	SHEERNESS	Napier Hotel, 1 Alma Road
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### PART 3

3.1	21/504388/FULL	NEWINGTON	Woodland Farm, High Oak Hill, Iwade Road
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### PART 5

### INDEX

5.1	21/506332/FULL	EASTCHURCH	Rides House Warden Road
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5.2	21/504668/FULL	EASTCHURCH	Dickens Inn Fourth Ave
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5.3	22/501078/FULL	MINSTER	Cripps Farm Plough Road
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5.4	22/502679/ADV	SITTINGBOURNE	Manor Farm Key Street
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5.5	22/503762/FULL	TEYNHAM	Toft Wray Lower Road
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5.6	22/503371/FULL	LYNSTED	Halfacre House Lynsted Lane
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**PLANNING COMMITTEE – 25 MAY 2023****DEFERRED ITEM**

Report of the Head of Planning

**DEFERRED ITEMS**

Reports shown in previous Minutes as being deferred from that Meeting

<b>DEF ITEM 1 REFERENCE NO - 21/505041/OUT</b>		
<b>APPLICATION PROPOSAL</b>		
Outline application for the development of up to 63 dwellings and all necessary supporting infrastructure including internal access roads, footpaths and parking, open space and landscaping, drainage, utilities, and service infrastructure works. (Access to Lower Road being sought, all other matters for future consideration)		
<b>ADDRESS</b> Land North of Lower Road Eastchurch Kent		
<b>RECOMMENDATION</b> planning permission is granted subject to conditions and the completion of a Section 106 agreement		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The proposed development would provide additional housing adjacent to a settlement identified on the settlement strategy as a tier 4 settlement. Due to the Council's lack of 5-year housing supply the tilted balance in accordance with the National Planning Policy Framework applies. The proposal benefits are considered, on balance, to outweigh the harm.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Deferred item from Planning Committee dated 8 March 2023		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> New Homes and Land <b>AGENT</b> Carter Jonas
<b>DECISION DUE DATE</b> 28/12/21	<b>PUBLICITY EXPIRY DATE</b> 01/05/23	<b>CASE OFFICER</b> Carly Stoddart

**1. INTRODUCTION**

1.1 This application was initially reported to Planning Committee on 8 March 2023 with a recommendation for approval. The Chair invited Members to consider the application and points raised which included:

- The report did not address any of the Parish Council's concerns or set out clearly what their concerns were;
- the report was not clear and lots of information was missing so could not make a decision; and
- could the Council seek to require some affordable housing within the application?

1.2 Following this and a seconded motion for a site meeting, the Planning Committee resolved to defer the application to allow for a site visit to take place.

1.3 The Committee minutes set out the following resolution:

*Resolved: That application 21/505041/OUT be deferred to allow the Planning Working Group to meet on site.*

- 1.4 The site visit was held on site on Tuesday 4 April 2023. The site meeting allowed for points to be raised and questions to be asked.
- 1.5 In addition to the deferral for a site visit, a review of the report and conditions has been undertaken in light of comments made during the discussion in consideration of this application at the 8 March 2023 Planning Committee.
- 1.6 The original Committee Report is attached to this report as Appendix A.

## **2. ADDITIONAL INFORMATION**

- 2.1 Since the March committee meeting, the applicant has provided the following additional information:
  - An updated Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment and Biodiversity Net Gain Calculation.
  - Transport Committee Note.
  - Confirmation of the provision of 15% of the total units as affordable.

## **3. CONSULTATIONS**

- 3.1 Swale Footpaths Group – 30 March 2023
- 3.2 No further comments.
- 3.3 Kent Police – 04 April 2023
- 3.4 No further comments.
- 3.5 KCC Biodiversity Officer – 02 May 2023
- 3.6 It is advised that as the site is predominately intensively farmed arable land, it has relatively low ecological value. Therefore, we are satisfied that biodiversity net-gain can be achieved.
- 3.7 In terms of designated sites, the proposals should fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.
- 3.8 With regard to bats and lighting it is advised that the incorporation of sensitive lighting design for bats is submitted to the local planning authority, as recommended in the ecology report, and be secured via a condition.
- 3.9 The ecology report recommends that that precautionary mitigation strategy should be produced in relation to protected species once the final designs are known. This is accepted as an approach and should be secured via a condition.

- 3.10 Net-gain calculations have now been provided. It is advised that a Landscape and Ecological Management Plan (LEMP) is implemented to ensure that these habitats are established and managed appropriately into the future. A condition is recommended to secure these.

#### **4. APPRAISAL**

##### **4.1 Review of Committee Report Presented at 8 March 2023 Planning Committee**

###### Principle of Development

- 4.2 In reviewing the Committee Report for 8 March 2023, this section is found to consider the proposal against relevant planning policy and material considerations.

###### Landscape

- 4.3 In reviewing the Committee Report for 8 March 2023, the landscape section is found to consider the proposal against relevant planning policy and material considerations.

###### Design and Layout

- 4.4 In reviewing the Committee Report for 8 March 2023, paragraphs 9.43 and 9.44 refers to policies ST6, CP7, DM24 and DM29. These are all policies from the Local Plan. Paragraph 9.45 of the Committee Report refers to paragraph 127 (a) – (d) of the NPPF. This should be paragraph 130 (a) – (d).

- 4.5 In terms of the submitted illustrative layout, it is acknowledged this is only one way of demonstrating how the quantum of development could be accommodated on site. The layout will be subject to formal consideration at reserved matters stage. Particular attention will be paid at this stage to creating a clear hierarchy of streets enclosed by the positioning of dwellings with their frontages presented to the street. This will assist in legibility, natural surveillance as well as avoiding left over spaces within the development where the function of the space and its contribution to the street scene is questionable.

###### Living Conditions

- 4.6 In reviewing the Committee Report for 8 March 2023, given the outline nature of the proposal the living conditions section is found to consider the proposal against relevant planning policy and material considerations.

- 4.7 It should be noted that full assessment of garden depths, internal space provision and the location of refuse storage will be assessed in detailed proposals at the reserved matters application stage. However, considering the submitted illustrative layout and the need for the design and layout of the development to landscape led and for substantial areas of landscape to be provided, it is likely that any future layout is likely to result in similar relationships of properties within the site and to those within the adjacent development site.

###### Highways

- 4.8 In reviewing the Committee Report for 8 March 2023, the highways section is found to consider the proposal against relevant planning policy and material considerations.

- 4.9 The impact on highways was one of the main topics of concern raised by residents and the Parish Council at the site meeting. Whilst concerns are understood, KCC as the Local Highways Authority, and Highways England who are responsible for the strategic network, have not raised any objection to the proposal subject to conditions being attached. To refuse the application on highways grounds would require robust technical evidence to support such reason(s) in defence at appeal.
- 4.10 A Transport Committee Note has been prepared by the applicant in response to questions at the site visit with regard to how the transport surveys and assessments were carried out.
- 4.11 The transport note provides clarity on the modelling approach and agreement with KCC Highways, assessment of road collision data, and an explanation of the benefits of the mobility hub.
- 4.12 The model used to assess the traffic impact of both new developments and transport infrastructure is the Swale Highway Model (SHM) developed by SWECO and KCC. The model is fully validated based on Department of Transport's WebTAG criteria. The model was developed before COVID. It was not possible to undertake surveys at the time of preparing the application and for its submission as the traffic flows were affected by COVID. However, the data provided by KCC is from a validated base and uses growth factors to enable a robust assessment.
- 4.13 The assessment of road safety including road collisions covers the most recent 5 years at the point of writing the Transport Assessment (TA). Whilst citing three serious collisions and three slight collisions within that time, the data does not identify any highway safety issue in the vicinity of the site and KCC Highways have not raised concern with road safety in their consultation responses.
- 4.14 The mobility hub is shown for illustrative purposes only with full details to be worked up and provided as part of reserved matters application stage. A summary of what is included is as follows:
- Relocated / enhanced bus stop to include a bus pull in, covered shelter, and real time passenger information;
  - Lockers for parcel deliveries and collections enabling residents to collect items purchased online following their bus journey;
  - Sheltered cycle parking spaces and a fixed bicycle tyre pump and tools would be provided, enabling residents to easily switch between the two sustainable modes of transport;
  - Parking spaces for parking car club vehicle(s), which will be available for residents to hire when needed, and electric vehicle superfast charging to promote the transition to zero emission vehicles.
- 4.15 The benefits of the mobility hub are listed as:
- Bus use more attractive with significantly enhanced waiting facilities;
  - Lockers to enable delivery and receipt of parcels as part of a multi-modal trip including bus travel;

- Co-location of sustainable travel opportunities; bus; cycle; and car clubs to facilitate interchanges between these modes of travel.

4.16 It is important to note that the development does not rely on the trip savings associated with the deliverability of the mobility hub.

#### Biodiversity

4.17 In reviewing the Committee Report for 8 March 2023, the biodiversity section concludes the proposal is acceptable when considered against relevant planning policy and material considerations.

4.18 The impact on ecology and biodiversity was another main topic of concern at the site meeting.

4.19 In light of the submission of updated Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment and Biodiversity Net Gain Calculation and to provide more detail, the ecological information has been reviewed and is considered sufficient to determine the application.

4.20 In terms of bats and lighting, section 4.19 of the original ecology report refers to lighting design of the development. This should be used as the detailed designs are progressed. The incorporation of sensitive lighting design for bats should be submitted to the Local Planning Authority, as recommended in the ecology report, and secured via a condition with any planning permission.

4.21 Because of the outline nature of the proposal, it is unknown at this time if the small amount of suitable reptile habitat on-site will be impacted and how much breeding bird habitat will be removed. To account for these and other protected species (such as badgers colonising the site for example), the ecology report recommends that that precautionary mitigation strategy should be produced once the final designs are known. This is accepted and it is advised that a precautionary mitigation strategy for the construction phase is secured via a condition with any granted planning permission.

4.22 Under section 40 of the Natural Environment and Rural Communities Act (the NERC Act) (2006) and paragraph 174 of the NPPF (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF, the implementation of enhancements for biodiversity should be encouraged.

4.23 As the site is predominately intensively-farmed arable land, it has relatively low ecological value. Therefore, biodiversity net-gain can be achieved. Net-gain calculations have been provided. It is recommended that a Landscape and Ecological Management Plan (LEMP) is implemented to ensure that habitats suggested in the submitted documentation are established and managed appropriately into the future. The LEMP should be secured by condition.

4.24 Subject to the suggested conditions, the proposal is considered acceptable and in accordance with Policy DM28 and paragraphs 174 and 180 of the NPPF.

#### Flood Risk and Drainage

4.25 In reviewing the Committee Report for 8 March 2023, the flood risk and drainage section is found to consider the proposal against relevant planning policy and material considerations.

### Sustainable Design and Construction

- 4.26 In reviewing the Committee Report for 8 March 2023, it concludes that energy efficiency and sustainability would be the driving force in a reserved matters application. However, to ensure sustainable construction of dwellings is fully considered and incorporated into the design it is necessary to secure these requirements at outline stage. As such, conditions are recommended to secure details of the materials and measures to be used to increase energy efficiency and thermal performance, reduce carbon emissions and construction waste and to ensure water efficiency. With the inclusion of the suggested conditions, the proposal would be in accordance with Policy DM19 of the Local Plan.
- 4.27 Reference to Policy DM19 at paragraph 9.82 of the Committee Report refers to a Local Plan Policy.

### Heritage

- 4.28 In reviewing the Committee Report for 8 March 2023, the heritage section is found to properly consider the proposal against relevant planning policy and material considerations.
- 4.29 However, paragraph 9.87 of the Committee Report refers to policy 32 and policy 34 of the Local Plan. This reference should be Policy DM32 and Policy DM34.
- 4.30 Paragraph 9.88 of the Committee Report refers to chapter 16 and paragraphs 195, 196 and 201. The chapter and paragraphs are contained within the NPPF. However, the relevant paragraphs should be corrected to read as 201, 202 and 207 (respectively) of the NPPF.
- 4.31 These alterations do not affect the outcome of the assessment consideration of the proposal and the development is in accordance with Policies DM32 and DM34 of the Local Plan and paragraphs 201, 202 and 207 of the NPPF.

### Archaeology

- 4.32 In reviewing the Committee Report for 8 March 2023, the archaeology section is found to properly consider the proposal against relevant planning policy and material considerations.

### Developer Contributions

- 4.33 As addressed verbally at the Planning Committee on 8 March 2023 and included in the minutes of that meeting, the Heads of Terms of the Section 106 (s106) set out at paragraphs 9.95 and 12.3 of the Committee Report were amended as follows:
- The Strategic Access Management and Monitoring Strategies (SAMMS) payment had increased from £250.39 per dwelling to £275.88 per dwelling; and
  - the inclusion of a monitoring fee
- 4.34 In recognition of concerns raised by Members where the question was asked by Members if affordable housing could be provided, the applicant is now proposing 15% of the total number of units (10 units) as affordable. This also recognises concerns raised at the site meeting where it was felt that the development would not be affordable for local people.

- 4.35 The issue of impact on services was another main topic of concern raised at the site meeting. It is important to recognise that the contributions listed in the original Committee Report have been agreed and will be secured via a s106 agreement should planning permission be granted. These contributions are requested and agreed in terms of addressing the impact from the development itself and therefore cannot address existing issues.

#### Planning Balance

- 4.36 In reviewing the Committee Report for 8 March 2023, it is noted there are some inaccuracies written within this section of the report. However, these were addressed verbally at the Planning Committee on the 8 March 2023, and it can be seen that the application of the tilted balance has been properly applied considering the proposal against relevant planning policy and material considerations and attaching weight to conclude that the benefits of the provision of housing and the contribution it makes to the 5-yr land supply situation outweigh any harm caused.
- 4.37 To address the inaccuracies within the 8 March 2023 Committee Report and as stated in the minutes from the 8 March 2023 Planning Committee, paragraph 11.3 of the Committee Report incorrectly states harm to landscape character. The paragraph should read as follows:

*'It is considered that the proposals would cause not substantial harm to landscape character.'*

- 4.38 Paragraph 11.5 of the Committee Report refers to benefits in the form of affordable housing (amongst other things). At the time the original report being considered at Planning Committee on 8 March 2023, no affordable housing was proposed for the site in accordance with Local Plan policy.

However, as stated above since the 8 March 2023 Planning Committee and in recognition of concerns raised by Members where the question was asked by Members if affordable housing could be provided, the applicant is now proposing 15% of the total number of units (10 units) as affordable. This also recognises concerns raised at the site meeting where it was felt that the development would not be affordable for local people.

#### Other Matters Arising from Letters of Representation and the Site Meeting

- 4.39 The Council currently finds itself in the position of not being able to demonstrate a 5-land supply. Unfortunately, as set out in the original Committee Report and reiterated here, this carries significant weight in weighing up the planning balance for unallocated sites outside of urban or villages boundaries.
- 4.40 With regard to concerns of this application being a fore runner to a larger 500 dwelling development, this cannot form part of the consideration of this application. As with every application, the current proposal has to be considered on its own merits. In any case, the Council would have control over any further development given that any future proposals would require planning permission and therefore the submission of a planning application.

## 5. CONCLUSION

5.1 The additional information and review of the report and conditions, demonstrate that the development proposals are considered acceptable in terms of officer's recommendation and that the initial recommendation for approval presented to Committee remains justified. However, the review of report and the additional information has resulted in the re-wording, re-ordering and in the inclusion of further conditions as set out below.

## 6. RECOMMENDATION

GRANT Subject to the following conditions:

### CONDITIONS

#### 1. Reserved Matters

Approval of the details of the layout, scale and appearance of the buildings, and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

#### 2. Time Limit: Reserved Matters

Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted in writing to the Local Planning Authority for approval. Such application for approval shall be made to the Authority before the expiration of three years from the date of this permission and the reserved matters shall be carried out in accordance with the approved details.

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

#### 3. Time Limit: Reserved Matters

The development to which this permission relates must be begun no later than the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

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

#### 4. Approved Drawings

The development hereby approved shall be carried out in broad accordance with the parameters as set out in the following approved plans:

Received on 21 September 2021

Drawing Number 1600.002 Rev A – Site Location Plan

Received on 05 May 2022

Drawing Number 1600.004 Rev B – Parameter Plan

Received 21 July 2022

Drawing Number 205448-PD02 – Proposed Site Access General Arrangement and Visibility



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

#### 5. Within Reserved Matters: Ecological Mitigation Strategy

Within the first reserved matters application, a Precautionary Mitigation Strategy shall be submitted which will be produced in alignment with the recommendations set out in sections 4.20 to 4.26 within the Preliminary Ecological Appraisal (The Ecology Partnership July 2020). The measures shall be implemented in accordance with the approved strategy thereafter.

Reason: To ensure the scheme suitably mitigates against its impact in relation to biodiversity, in accordance with the requirements of Policy DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 6. Within Reserved Matters: Landscaping

Applications for the approval of reserved matters in relation to landscaping submitted in pursuance to condition 1 shall include full details of both hard and soft landscape works, any artefacts to be located within the public space and a timetable for implementation. These details shall include existing and proposed finished ground levels; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; all paving and external hard surfacing; any decking; any minor artefacts and structures (play equipment, seating, refuse receptacles, planters, tree grilles, any other decorative feature(s)). Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, plant sizes and proposed numbers/densities where appropriate). The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies CP4, CP7, DM14, DM28 and DM29 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 7. Within Reserved Matters: Landscape and Ecological Management Plan

Applications for the approval of reserved matters in relation to landscaping submitted in pursuance to condition 1 shall include a Landscape and Ecological Management Plan (LEMP). The content of the LEMP will be based on the Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment (Ecology Partnership February 2023) and shall include the following details:

- a. Description and evaluation of features to be managed;
- b. A native species-only planting schedule and source of any seed mixes used;
- c. Ecological trends and constraints on site that might influence management;
- d. Aims and objectives of management;
- e. Appropriate management prescriptions for achieving aims and objectives;
- f. Preparation of a work schedule (including an annual work plan);
- g. Details of the body or organisation responsible for implementation of the plan;
- h. Ongoing monitoring and remedial measures; and
- i. The legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The LEMP shall be implemented in accordance with the approved details.

Reason: To ensure the protected of protected species and the delivery of biodiversity enhancements in accordance Policies DM28 and DM29 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 8. Within Reserved Matters: Biodiversity Lighting Plan

Applications for the approval of reserved matters in relation to landscaping in pursuance of condition 1 shall include a Lighting Design Plan (which shall be overlain on the landscape plan) having particular regard for biodiversity. The plan will show the height, external appearance, light intensity, colour and spillage and locations of external lighting, demonstrating that areas to be lit have taken account of the recommendations of the Bat Conservation Trust and the effects of lighting will be minimised with regard to disturbance of bat activity. All external lighting will be installed in accordance with approved Lighting Design Plan and maintained thereafter.

Reason: To ensure the scheme suitably mitigates against its impact in relation to biodiversity, in accordance with the requirements of Policy DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 9. Within Reserved Matters: Parking

Applications for the approval of reserved matters in relation to layout submitted in pursuance to condition 1 shall show land reserved for parking or garaging in accordance with the adopted Parking Standards. No dwelling shall be occupied until the areas shown for parking or garaging has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved vehicle parking area.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 10. Within Reserved Matters: Materials

Applications for the approval of reserved matters in relation to appearance submitted in pursuance to condition 1 shall include details of all materials to be used externally. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 11. Within Reserved Matters: Secured By Design

Applications for the approval of reserved matters submitted in pursuance to condition 1 shall include Statement setting out how the development complies with Secured By Design principles. The development shall be implemented in accordance with the approved details which shall thereafter be retained.

Reason: To ensure that the application embeds the principles of Secured By Design in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 12. Within Reserved Matters: Sustainability

Applications for the approval of reserved matters submitted in pursuance to condition 1 shall include a Sustainability Strategy for the provision of the following:

- Open spaces
- A community orchard and food growing
- Electric vehicle charging points
- A mobility hub
- Car share scheme if viable
- Internet shopping lockers
- Cycle storage
- Covered bus stop as opportunity to provide biodiversity gain on the roof

The Sustainability Strategy should also include a timetable for implementation and delivery of the aspects listed above. The development shall be implemented in accordance with the approved details which shall thereafter be retained.

Reason: To ensure that the application embeds the principles of sustainable design and construction in accordance with Policy DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 13. Pre-commencement: Road Layouts and furniture

No development shall take place until details proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and a timetable for implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be retained thereafter.

Reason: Required prior to commencement of development to ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 14. Pre-commencement: Surface Water Drainage Baseline

Applications for the approval of reserved matters in relation to layout submitted in pursuance to condition 1 shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts in accordance with Policies DM14 and DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 15. Pre-commencement: Surface Water Drainage Scheme

No development shall take place until a scheme based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon the Flood Risk Assessment dated August 2021 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm) can be accommodated and disposed of at a rate equivalent of 10.6l/s without increase to flood risk on or offsite.

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

- i. Details of the design of the scheme (in conjunction with the landscaping plan where applicable)
- ii. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- iii. A timetable for its implementation
- iv. Operational maintenance and management plan including access requirements for each sustainable drainage component.
- v. Proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason: Required prior to commencement of development to ensure the development is served by satisfactory arrangements for the disposal of surface water that is intrinsic to the design and to ensure that the development does not exacerbate the risk of on/off site flooding in accordance with Policies DM14 and DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 16. Pre-Commencement: Land Contamination Compliance

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not take place until conditions 17 to 20 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition 20 has been complied with in relation to that contamination.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy paragraph 183 of the National Planning Policy Framework 2021.

#### 17. Pre-commencement: Contamination Investigation and Report

No development shall take place until a desktop study and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. desktop study and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:

- human health
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
  -
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with paragraph 183 of the National Planning Policy Framework 2021.

#### 18. Pre-commencement: Contamination Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with paragraph 183 of the National Planning Policy Framework 2021.

#### 19. Pre-commencement: Contamination Implementation and Verification

No development shall take place (other than development required to enable the remediation process to be implemented) until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development.

*Reason:* Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with paragraph 183 of the National Planning Policy Framework 2021.

#### 20. Pre-commencement: Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. Development shall cease and an investigation and risk assessment must be undertaken in accordance with the requirements of condition 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 18, which shall be submitted to and approved in writing by the Local Planning Authority.

The remediation must be completed in accordance with the approved scheme and following completion of the measures a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 18 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 19.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with paragraph 183 of the National Planning Policy Framework 2021.

#### 21. Pre-commencement: Construction Environment Management Plan

No development shall take place until a Construction Environmental Management Plan (CEMP) that describes measures to control, amongst other matters, hours of working, noise, dust and lighting, pollution incident control measures, wheel chassis cleaning facilities, routing of construction and delivery vehicles to / from site, parking and turning areas for construction and delivery vehicles and site personnel, timing of deliveries, temporary traffic management / signage and site contact details in case of complaints has been submitted to and approved in writing by the Local Planning Authority. The construction works shall be undertaken in accordance with this approved plan.

Reason: Required before commencement of development in order to minimise the impact of the construction period on, residential amenity and highway safety (on the local and national networks) with regard to Policies DM6 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 22. Pre-Commencement: Energy Efficiency

No development shall take place until details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions and construction waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials and measures.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 23. Pre-Occupation: Water Efficiency

The proposed residential development hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no residential unit(s) shall be occupied until details of the measures used to achieve the rate for that unit(s) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with Policy DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 24. Pre-Occupation: SWDS Verification Report

No building within the development hereby permitted shall be occupied (or within an agreed implementation schedule) until a signed verification report carried out by a qualified drainage engineer (or equivalent) has been submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water systems has been constructed as per the agreed scheme and plans. The report shall include information and evidence (including photographs) of details and locations of critical drainage infrastructure (such as inlets, outlets and control structures, landscape plans) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

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

subsequently maintained pursuant to the requirements of paragraph 167 of the National Planning Policy Framework 2021.

#### 25. Pre-Occupation: Off-site Highway Works

No dwelling shall be occupied until the off-site highway works to provide the footway, bus lay-by, bus shelter and carriageway realignment as shown on drawing numbers 205448-PD01 Rev C and 205448-A02 Rev G have been constructed and available for use. In the event of the footway approved by planning permission 18/500887/FULL not having been constructed, the alternative off-site highway works to provide the footway, bus lay-by, bus shelter and carriageway realignment as shown on drawing numbers 205448-PD02 and 205448-A05 shall be constructed and available for use.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 26. Pre-Occupation: Highways Works

No dwelling shall be occupied until the following works between the dwelling and the adopted highway have been completed:

- a) Footways and/or footpaths, with the exception of the wearing course;
- b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 27. Pre-Occupation: Visibility Splays

The access shall not be used until vision splays have been provided on both sides of the vehicular access point(s) and no obstruction of sight, including any boundary treatment, more than 1.2m above carriageway level shall be permitted within the splays thereafter.

Reason: To ensure that the development permitted does not prejudice conditions of highway safety or efficiency in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

#### 28. Pre-Occupation: EV Charging

Each dwelling shall not be occupied until an electric vehicle charger has been provided for that dwelling. Electric vehicle chargers for homeowners within the development herein approved must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection) (or to a subsequent equivalent amending standard). All electric vehicle chargers for visitor spaces shall be provided before the space is brought into use. All electric chargers shall thereafter be retained.

Reason: In the interests of sustainability in accordance with paragraph 112e of National Planning Policy Framework 2021.

#### 29. Pre-Occupation: Cycle Storage

No dwelling shall be occupied until details of the cycle storage arrangements for the dwellings, has been submitted to and approved in writing by the Local Planning Authority. No dwelling

shall be occupied until the approved cycle storage arrangements for that dwelling are in place and all approved storage arrangements shall thereafter be retained.

Reason: To provide cycle storage facilities of an appropriate design and in a safe and secure location in accordance with Policy DM7 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 30. Pre-Occupation: Boundary Treatment

No dwelling shall be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any dwelling is occupied and shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 31. Pre-Occupation: Refuse Storage

No dwelling shall be occupied until details of the refuse storage arrangements for the dwellings, including provision for the storage of recyclable materials, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage arrangements for that dwelling are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 32. Pre-Occupation: High Speed Broadband

No dwelling shall be occupied until details for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mbps) connections to all dwellings have been submitted to and approved in writing by the Local Planning Authority. The infrastructure capable of connection to commercial broadband providers shall be installed in accordance with the approved details and shall be maintained thereafter.

Reason: To provide high quality digital infrastructure in new developments in accordance with Policy CP6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 33. Wheelchair Accessible Dwellings

A minimum of 5 of the dwellings hereby approved shall be provided as wheelchair accessible dwellings and the remaining dwellings should be provided as accessible and adaptable dwellings in accordance with Volume 1: Dwellings of Approved Document M – Access to and use of buildings 2015 Edition (as amended by 2016) of the Building Regulations 2010 (or any amending Regulation)

Reason: To ensure inclusive design in accordance with Policies CP3 and CP4 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 34. Hours of Working: Construction

No construction in relation to the development herein approved shall take place outside the hours of 0730-1800 Mondays to Fridays (inclusive) and 0800–1300 on Saturday and not at any time on Sunday or Public Holidays.



Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### 35. Hours of Working: Piling

No impact pile driving in connection with the construction of the development shall take place outside the hours of 0900-1700 Monday to Friday (inclusive) and not at any time on Saturday, Sunday or Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

## **INFORMATIVES**

### Building Regulations

1. The applicant is reminded that this permission relates to planning permission only and does not constitute approval under any other legislation including Building Regulations. To obtain advice on current Building Regulations the applicant should contact the South Thames Gateway Building Control Partnership at Foord Annex, Eastgate House, High Street, Rochester, Kent ME1 1EW.

### Highways

2. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.
3. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.
4. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.
5. Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.
6. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for

the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

7. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:  
<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.
8. Approved electric charger models for homeowners are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:  
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

### Public Rights of Way

9. The applicant will need to apply to divert the path ZR189 where the existing route will be affected by the development as well as for any temporary closure. The applicant is advised to engage directly with KCC PROW for details of this process.  
KCC PROW advise that:
  - No furniture, fence, barrier or other structure may be erected on or across Public Rights of Way without the express consent of the Highway Authority
  - There must be no disturbance of the surface of the Public Rights of Way, or obstruction of its use, either during or following any approved development without the express consent of the Highway Authority.
  - No hedging or shrubs should be planted within 1.5 metres of the edge of the Public Rights of Way.
  - Please also make sure that the applicant is made aware that any planning consent given confers no consent or right to close or divert any Public Rights of Way at any time without the express permission of the Highway Authority.
  - No Traffic Regulation Orders will be granted by KCC for works that will permanently obstruct the route unless a diversion order has been made and confirmed. If the applicant needs to apply for a temporary traffic regulation order whilst works are undertaken, six weeks' notice is required to process this.

### Construction Environmental Management Plan

10. As the development involves construction the applicant is advised to take account of the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected. This can be found at:  
<https://tunbridgewells.gov.uk/environmental-code-of-development-practice>

### Flood and Drainage

11. Given that the ground properties are described as impermeable it is expected for it to be explained as part of the detailed design for reserved matters application(s), as to how water falling on the undeveloped areas of the land within the red line boundary does not enter the positively drained system.
12. It is expected that the surface water flow path evident through the site on the Environment Agency's Flood Map for Surface Water, is to be considered as part of the detailed design for reserved matters application(s).
13. The proposed development will require land drainage consent in line with the Lower Medway Internal Board's byelaws (specifically byelaw 3). The Lower Medway Internal Board can be contacted at [enquiries@medwayidb.co.uk](mailto:enquiries@medwayidb.co.uk) or on (01622) 758345

### Sewers

14. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.

### Broadband

15. For advice on how to proceed with providing access to superfast broadband please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

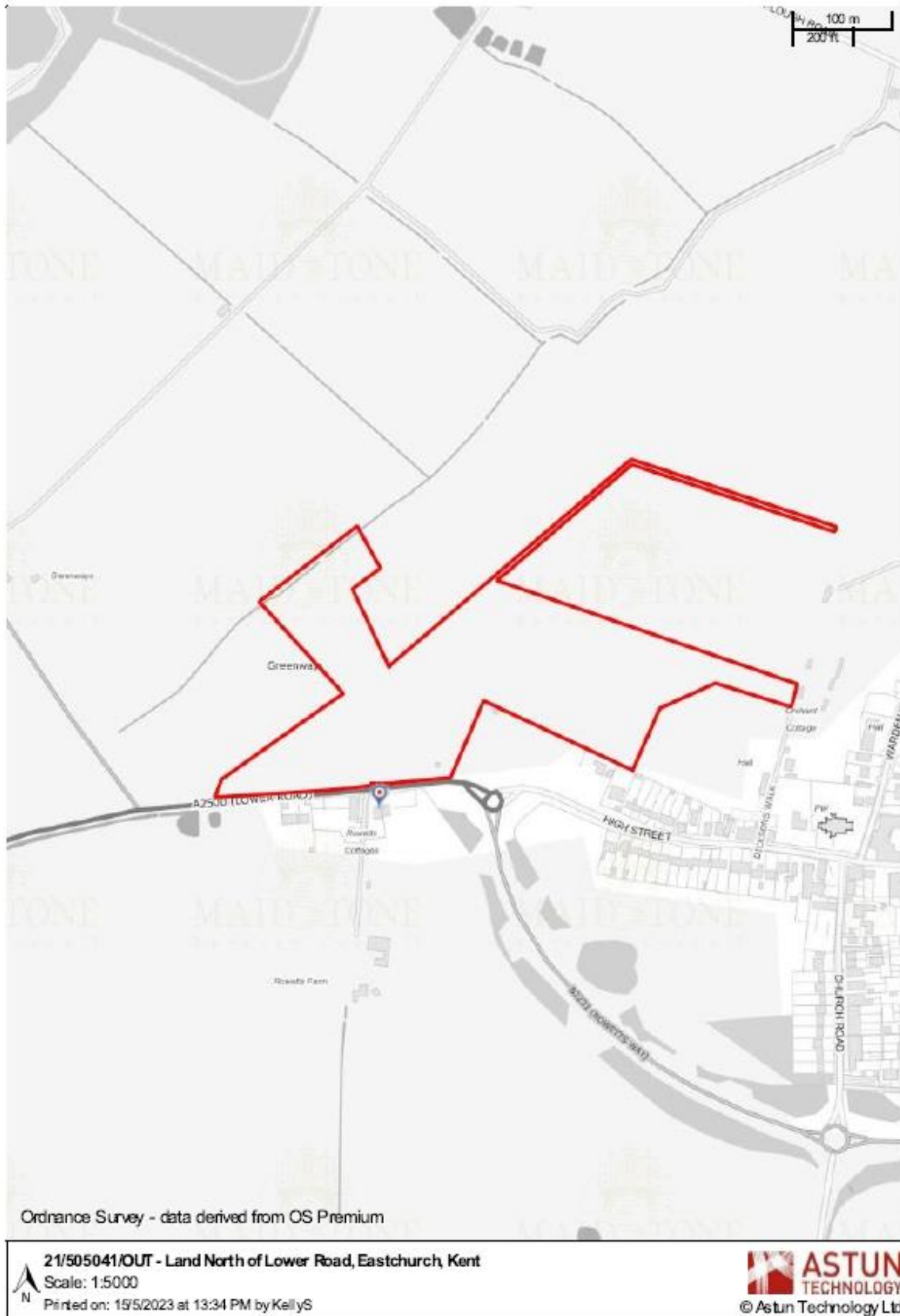
### **The Council's approach to the application**

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

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

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

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



**PLANNING COMMITTEE – 25 MAY 2023****PART 2**

Report of the Head of Planning

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

<b>2.1 REFERENCE NO - 22/505735/REM</b>			
<b>APPLICATION PROPOSAL</b> Approval of Reserved Matters of appearance, landscaping, layout and scale for erection of 50 dwellinghouses pursuant to application 17/500727/OUT - Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017.			
<b>ADDRESS</b> Land at Manor Farm, Chestnut Street, Borden, Kent, ME10 1YU			
<b>RECOMMENDATION</b> Grant subject to conditions with delegated authority to amend the wording of conditions as may reasonably be required.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Site is allocated for residential development in Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Policy A21) and proposal is in accordance with national and local planning policy.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Borden Parish Council objection			
<b>WARD</b> Borden and Grove Park	<b>PARISH/TOWN COUNCIL</b> Borden	<b>APPLICANT</b> Abbey Development Ltd <b>AGENT</b> CMYK	
<b>DECISION DUE DATE</b> 09/03/23	<b>PUBLICITY EXPIRY DATE</b> 17/04/23	<b>CASE OFFICER</b> Carly Stoddart	

**Relevant Planning History**

22/503060/SUB

Submission of details pursuant to condition 23 (Archaeology) of application 17/500727/OUT.  
Pending Consideration

21/504812/REM

Approval of Reserved Matters of appearance, landscaping, layout and scale for erection of 50 dwellinghouses pursuant to application 17/500727/OUT - Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved).

Appeal

17/500727/OUT

Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved), as amended by drawings received 31/05/2017  
Approved Decision Date: 20.12.2019

**Relevant Appeal History**

21/504812/REM

Approval of Reserved Matters of appearance, landscaping, layout and scale for erection of 50 dwellinghouses pursuant to application 17/500727/OUT - Outline application for residential development for up to 50 dwellings with access off Chestnut Street (All others matters reserved).

Pending Consideration

**Relevant Planning History for adjacent Land at Wises Lane, Borden, ME10 1GD**

22/504937/REM

Approval of Reserved Matters (appearance, landscaping, layout and scale) for Phase 1B, 2A, 2B and 2C for the erection of 209no. dwellings including affordable, together with associated access, landscaping, equipped play, drainage, infrastructure and earthworks, pursuant to 17/505711/HYBRID - Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS

Awaiting determination

17/505711/HYBRID

Hybrid planning application with outline planning permission (all matters reserved except for access) sought for up to 595 dwellings including affordable housing; a two-form entry primary school with associated outdoor space and vehicle parking; local facilities comprising a Class A1 retail store of up to 480 sq m GIA and up to 560sqm GIA of "flexible use" floorspace that can be used for one or more of the following uses - A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), D1 (non-residential institutions); a rugby clubhouse / community building of up to 375 sq m GIA, three standard RFU sports pitches and associated vehicle parking; a link road between Borden Lane and Chestnut Street / A249; allotments; and formal and informal open space incorporating SuDS, new planting / landscaping and ecological enhancement works. Full planning permission is sought for the erection of 80 dwellings including affordable housing, open space, associated access / roads, vehicle parking, associated services, infrastructure, landscaping and associated SuDS. For clarity - the total number of dwellings proposed across the site is up to 675

Granted on Appeal on the 29 April 2021

**1. DESCRIPTION OF SITE**

- 1.1 The site consists of a triangular shaped field which is located alongside the old A249, Chestnut Street, close to the Key Street Roundabout which is located to the north. It is understood that the application site originally formed an orchard which has since been removed and appears to have been fallow for some time.

- 1.2 Further, and to the north of the site lies the main A2 Key Street which continues to the east towards Sittingbourne town centre as London Road. To the west of the site there is a sizeable electricity substation and fallow land; to the immediate north situated on land between the application site and A2 are existing residential dwellings. There are further residential dwellings adjacent to the site to the east at Cherry Fields and Dental Close. To the south there is a field which forms part of the Wises Lane development.
- 1.3 The site slopes down significantly from east to west. The lowest part of the site is to the northwest corner which is approx. 26.5m AODN (Above Ordnance Datum Newlyn – Sea level). The highest part of the site is to the southwestern corner at approx. 37.3 AODN.
- 1.4 Two public rights of way (PROW) are located within or adjacent to the site. Footpath ZR118 runs northeast/southwest along the eastern boundary of the site and would not be directly affected by the proposal. Footpath ZR117 runs northwest/southeast within the site, connecting to footpath ZR118 to the southeast and emerging on to Chestnut Street to the northwest. Running across the site, footpath ZR117 would be affected by the proposal.

## 2. PROPOSAL

- 2.1 This is an application seeking approval of reserved matters of appearance, landscaping, layout and scale for 50 dwellinghouses pursuant to outline planning permission, 17/5000727/OUT for residential development for up to 50 dwellings with access off Chestnut Street (all other matters reserved).
- 2.2 This application is a resubmission of a previous application for reserved matters (21/504812/REM – set out in the history above) that was written up for refusal under delegated authority. However, an appeal was submitted against non-determination on 15 December 2022, slightly before a decision notice was issued 23 December 2022.
- 2.3 The Planning Inspectorate have accepted the appeal as valid and therefore the appeal is proceeding on the basis of non-determination.
- 2.4 However, the reasons for refusal that were drafted and included on the decision notice are relevant as that is the decision the Council would have made if they had been in the position to do so. The reasons for refusal were drafted as follows:
  - The proposed development, by reason of its inappropriate layout, would result in poor quality private and public amenity space, insufficient parking, and a significant reduction in the quality of the environment for users of the existing public right of way ZR117, whilst also failing to provide an adequate landscaping scheme. The poor layout would mean that the requirements of the Local Plan policy A21 to deliver an integrated landscape strategy consider and the creation of a new attractive urban edge to Sittingbourne, with substandard landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation of Sittingbourne with Bobbing, have not been met. Therefore, the proposal fails to comply with policies A21, CP3, CP4, DM14 and DM29 of the Local Plan (217-2031) and paragraphs 7, 8, 11, 126, 131 and 135 of the NPPF (2021).
  - The absence of an agreed scheme of archaeological mitigation would result in a development that would not achieve acceptable mitigation of adverse archaeological effects and is, therefore, contrary to the provisions of the NPPF and policy DM34 of the Local Plan (2017-2031).

- Insufficient information has been provided to demonstrate that adequate sustainable design and construction measures would be secured in the final development, resulting in an unsustainable that fails to comply with Local Plan policy DM19 and paragraphs 7, 8, 11 and 174 of the NPPF.
- 2.5 To address the drafted reasons for refusals, the current submission includes a revised layout which allows for further parking and inclusion of car ports in place of garages, open space and a revised route for the footpath ZR117. A Landscape and Ecological Management Plan, and details of sustainable construction and energy efficiency in the form of an Energy Statement have also been submitted. Details regarding archaeology have been submitted pursuant to condition 23 of the outline planning permission.
- 2.6 Access was approved by the outline planning permission. It would be a newly created vehicular and pedestrian access from Chestnut Street located closer to the western corner of the site.
- 2.7 The existing vegetation buffer to the northwest boundary along Chestnut Street, which is located outside of the site area would be retained.
- 2.8 Open space would be located at the entrance of the site to both sides of the access road and a wider area of open space along the entire length of the western boundary compared to the previous reserved matters scheme. A further area of open space would be located to the north in a similar location of a similar size (approx. 587 sqm) to the previous reserved matters application.
- 2.9 The existing footpath ZR117 would be diverted and located within the open space proposed along the western boundary, still allowing for connection to Chestnut Street and footpath ZR118.
- 2.10 The access road within the site would create a loop with dwellings located along the northern boundary of the site and within a central 'island' fronting the road. To the eastern side of the site, the dwellings are proposed to be either fronting the road or to have side elevations, all with windows fronting the road. To the western side of the site where dwellings are adjacent to the road, they are orientated to have side elevations fronting the road.
- 2.11 There are a mix of dwelling types and sizes proposed which is set out in the table below and provides a comparison against the previous reserved matters application.

Current Proposal	Previous Reserved Matters Application
1-bed properties x 2 (both maisonettes)	None
2-bed properties x 16 (all houses)	2-bed properties x 16 (2 of which were to be affordable bungalows and the remainder houses)
3-bed properties x 24 (3 of which are to be affordable bungalows and a further 2 affordable houses)	3-bed properties x 21 (all houses and 3 to be affordable)
4-bed properties x 8 (all houses)	4-bed properties x 11 (all houses)



	5-bed properties x 2 (all houses)
Total: 50	Total: 50

2.12 Parking would be provided for each dwelling either as driveway spaces and/or car ports. There would be a total of 136 spaces within the site for the occupiers and 11 visitor spaces.

### 3. PLANNING CONSTRAINTS

3.1 The site is allocated for housing within the Swale Borough Local Plan 2017 at Policy A21. This policy sets out the following requirements:

- Any planning application for development proposals on these sites will need to have considered the possibility of archaeological remains being on site.
- Financial contributions include those towards primary education, health and junction improvements at Key Street A249/A2.
- Through an integrated landscape strategy consider: The creation of a new attractive urban edge to Sittingbourne, with substantial landscaping to achieve the integration of development in a fashion that minimises its impact upon the separation of Sittingbourne with Bobbing.
- The assessment and, where possible, the retention of remaining orchard trees (a UK BAP priority habitat).
- Determine such matters as the presence of protected species, whilst retention of habitat as far as possible and mitigation will secure a net gain in biodiversity.

3.2 Site of archaeological interest

3.3 Public Right of Way ZR117

### 4. POLICY AND CONSIDERATIONS

4.1 The Development Plan for the area comprises the Bearing Fruits 2031: The Swale Local Plan 2017 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 and are considered to conform.

4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan)

<b>ST1</b>	Sustainable Development
<b>ST2</b>	Development Targets for Homes
<b>ST3</b>	The Swale Settlement Strategy
<b>ST5</b>	Sittingbourne Area Strategy
<b>CP3</b>	Delivering High Quality Housing
<b>CP4</b>	Requiring Good Design
<b>CP7</b>	Conserving and Enhancing the Natural Environment
<b>A21</b>	Smaller Allocation Sites as Extensions to Settlements
<b>DM6</b>	Transport Demand and Impact

<b>DM7</b>	Vehicle Parking
<b>DM8</b>	Affordable Housing
<b>DM14</b>	General Development Criteria
<b>DM17</b>	Open Space Provision
<b>DM19</b>	Sustainable Design and Construction
<b>DM21</b>	Drainage / Flood Risk
<b>DM24</b>	Landscape
<b>DM28</b>	Biodiversity
<b>DM29</b>	Woodlands, Trees and Hedges
<b>DM34</b>	Scheduled Monuments and Archaeological Sites

### Supplementary Planning Guidance (SPG)

Parking Standards, 2020

Swale's Landscape Character and Biodiversity Appraisal, 2011

## **5. LOCAL REPRESENTATIONS**

5.1 The application has been advertised on site and in the press and individual neighbour notification letters have been sent to 79 owners and occupiers of neighbouring properties. To date, 9 letters from 8 individuals have been received raising the following objections:

- Poorly positioned development which links to over-populated areas.
- Loss of greenfield site.
- Ill thought-out development.
- Inappropriate density.
- Adverse impact on existing infrastructure and services including schools, doctors, dentists, electricity.
- Water issues – shortages and flooding which would cause subsidence of footpath.
- Need land for diverse food production.
- Ecological mitigation is not adequate – therefore negative impact on wildlife, particularly badgers, whose population is being squeezed out and depleted. Impact on other wildlife - newts, frogs, lizards, snakes, slow worms, bats, little owls, buzzards, skylarks, marsh harrier, butterflies and dormice.
- Loss of trees.
- Flower meadow should be included.
- Reduction in green space since 2017.
- No play space.
- Increased traffic.

- Will exacerbate existing highway safety issue.
- Increased parking problems.
- Overshadowing.
- Overlooking – Loss of privacy.
- Overbearing impact.
- Security risk to existing property.
- Increased noise impact.
- Impact on quality of life and mental health.
- No regard to former use as dump
- What is the mitigation for damage to air quality?
- Should use solar panels

5.2 Borden Parish Council 17/04/2023

5.3 Object to the proposal due to the style of dwellings being changed from bungalows to two-storey; the access road causing major problems with Chestnut Street – prefer a left turn only; impact on services such as local schools, doctors, hospital and other community services; existing footpaths running through the site should be protected; loss of land to local wildlife; badger activity identified in the area in a survey commissioned by Borden Parish Council and carried out by Wildlife Management Consultancy; and due to a lack of visitor spaces with 8 shown rather than 10.

5.4 Borden Wildlife Group – 10/04/2023

5.5 Object to the proposal as it does not offer adequate mitigation for the negative impact on wildlife. Badgers reliant on the area for survival are being subjected to applications and decisions that will not protect or support them. Development will be closer than is legally allowed to one particular sett. Should be protected by law. Described by a leading expert as a magnificent major sett. Development pushes badgers out of their environment with fewer suitable locations to move to.

5.6 Ponds with Great Crested and Common Smooth Newts and frogs were allowed to dry up. The habitat no longer supported their presence. The entire site was mown prior to ecology report so habitat no longer supported reptiles.

5.7 Local badger groups were not consulted. New residents will need to understand badgers have a right to continue their lives without damaging intrusion. Attempts to keep them out of gardens is unacceptable. Badgers that stay won't be guided. Likely to cause conflict between residents and badgers and those residents trying to the survival of badgers.

5.8 Providing mitigation for hedgehogs shows a lack of understanding of the area. There is a healthy population of hedgehogs in the area. It is advisable not to construct hedgehog areas on site. Housing development must sufficiently accommodate badgers.

- 5.9 Priority should be to replenish ponds as wildlife ponds. The comments that the site has little ecological value is inevitable given the manner in which it was mown and strimmed. Butterfly and moth experts should have been asked to examine the habitat before it was cut down given Fiery Clearwing Moth having been identified locally. Annual butterfly counts at Manor Farm noted the same species as the previous year with notable absence of Clouded Yellows and Jersey Tiger Moths. Numbers have depleted due to the site being mown. Also, fewer bees, dragonflies and other insects. Spiders have not been investigated.
- 5.10 Birds of prey such as a barn owl, buzzards, kestrels, hobbies and red kite have been seen hunting at Manor Farm. These species need open ground with healthy populations of small mammals and rodents. Housing development will result in insufficient open ground. Manor Farm should be purchased to mitigate against the harm caused by the Stockbury roundabout construction.
- 5.11 Bat boxes and swift boxes is a box ticking exercise. These mitigation proposals are not appropriate to interfere with an area already evolved with a balance of population of species and the proposals are to degrade habitat. Little restraint is imposed on housebuyers and they often pave, gravel or astroturf over lawns. The use of strimmers, mowers, loppers and chemicals leave little natural or wild areas and cats seek out and dominate areas set aside for wildlife. Noise, light and air pollution would be detrimental to all wildlife.
- 5.12 These matters are addressed in the relevant sections of the report.

## 6. CONSULTATIONS

- 6.1 The following consultation responses comprise the latest comments received on the amended scheme. Consultation responses are available to view in full online. Where conditions are requested, they are indicated.
- 6.2 Environment Agency - 29/12/2022 & 04/04/2023
- 6.3 No detailed comments other than providing advice with regard to infiltration. This advice can be included as an informative.
- 6.4 Natural England - 11/04/2023
- 6.5 No objection - Satisfied that if mitigation measures are appropriately secured there will be no adverse impact on the North Kent Special Protection Area (SPA) from recreational pressure.
- 6.6 National Highways – 20/12/2022 & 04/04/2023
- No objection – Content that there will not be any material impact on the Strategi Road Network (SRN)
- 6.7 Kent Police – 19/12/2022& 17/04/2023
- 6.8 No objection - Conditions requested to comply with Secure by Design guidance.
- 6.9 Southern Water – 17/04/2023

No objection to the proposal. Advice provided with regard to the need for an application to be made to Southern Water for connection to public foul sewer and the siting of soakaways which would be included as an informative.

6.10 Lower Medway Internal Drainage Board 23/12/2022 & 03/04/2023

Although within the river catchment LM90 that eventually drains into the Lower Medway Internal Drainage Board's District, the proposal relates to infiltration and therefore does not impact on the Board's interest. The application has been comprehensively addressed by KCC Flood and Water Management.

6.11 KCC Ecology – 03/01/2023 & 24/04/2023

6.12 Satisfied no further ecological information is required as part of this application.

6.13 Badgers - application 22/500133/SUB shows badger setts were recorded to the east and south of the site. The main concern is the sett recorded to the east of the site (south of Cherry Trees Road) as the current layout will result in the loss of connectivity for the badgers within the sett to the surrounding area. It is recommended that gardens which back on to the eastern boundary be fenced with close-boarded fencing with steel reinforced concrete gravel boards with pre-cast badger holes. It is also recommended that all garden boundaries adjacent to the footpath have wire mesh dug into the ground at the base of the fence.

6.14 Bats and Reptiles – grass snake is confirmed as being present at the site and two trees for removal have high potential for roosting bats. The recommended mitigation for the grass snake is considered appropriate and it is recommended emergence surveys for bats be carried out to inform the detailed mitigation strategy required by condition 18 of the outline planning permission. A plan detailing the location of the receptor site should also be included in the strategy pursuant to condition 18. The grassland along the western boundary should be managed to provide continuous areas of long vegetation to benefit reptiles. This should be included in an updated management plan required as part of condition 30 of the outline planning permission.

6.15 Ecological Enhancements – Integrates bat and bird boxes, external bat and bird boxes and hedgehog highways will be incorporated into the site.

6.16 KCC Highways – 05/01/2023, 31/03/2023 & 19/04/2023

6.17 The amendments previously requested have been made. These amendments related to the relocation of speed restraint feature shown on the plans to be moved from outside plots 41 and 49 to centrally outside 46 and 45 and to provide 10 visitor spaces distributed evenly throughout the site. Conditions are recommended

6.18 KCC Flood and Water Management – 04/01/2023, 13/04/2023 & 27/04/2023

6.19 No further comments from 04/01/2023 – refer to 21/504812/REM 10 November 2022

6.20 KCC Rights of Way Officer – 17/04/2023

6.21 No objection. Issues related to the diversion of footpath ZR117 have been addressed. E.g. the footpath should be accommodated within the open green corridor. Expect to see details of the PROW to be conditioned

6.22 SBC Footpath Officer – 16/12/2022

6.23 Concerns regarding the impact on footpath ZR117 as uncertain whether the applicant intends to seek any diversion of it, although looks as though none would be required.

6.24 SBC Climate Change/Renewable Energy Officer – 13/12/2022

6.25 Happy with the EV Charging Strategy.

6.26 KCC Minerals and Waste – 13/12/2022

6.27 There are no minerals or waste management capacity safeguarding objections or comments.

## 7. APPRAISAL

### Principle of Development

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with development plan unless material considerations indicate otherwise.

7.2 The principle of development of the site for residential purposes is accepted by the allocation as set out in Policy A21 of the Local Plan and the grant of outline planning permission under application reference 17/500727/OUT.

7.3 This application considers the detailed matters of layout, appearance, scale and landscaping.

### Design and Layout

7.4 The Government attaches great importance to the design of the built environment. Paragraph 126 of the NPPF emphasises the importance of good design and paragraph 130 of the NPPF is key to achieving well designed places.

7.5 In line with the NPPF, Policies CP4 and DM14 of the Local Plan requires design of the development to be of a high quality that conserves and enhances the natural and/or built environments; is well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location. New development should create safe, accessible, attractive places that make safe physical and visual connections within the development itself and its surroundings.

7.6 Whilst layout was a reserved matter, in considering the outline application, an indicative layout was submitted to demonstrate that the quantum of development at 50 dwellings could be accommodated within the site. The Committee Report for the outline application states that, *‘the indicative layout has shown that the site could comfortably accommodate up to fifty dwellings’*.

7.7 The indicative layout drawing submitted as part of the outline application showed a similar road layout to that being considered under this current application for reserved matters. They both show the access from Chestnut Street (as approved as part of the outline planning permission) and a loop road arrangement adjoining a more linear road to the western side of the site adjacent to a linear area of open space.

- 7.8 The main differences between the indicative layout submitted for the outline and this current layout is the distribution of the open space across the site. Within the indicative layout submitted for the outline, there was a greater area of open space proposed to the north-western side of the site adjacent to the existing vegetative buffer along Chestnut Street and a narrower and straighter area of linear open space along the western boundary next to a fairly straight road. Overall, there was slightly more open space shown on the indicative layout for the outline, but if the SUDs area is excluded when looking at useable space, the amount of useable open space shown within the outline layout and the current proposal is approx. 0.33ha and approx. 0.34ha respectively.
- 7.9 The current proposal shows a row of dwellings to the north-western side of the site, flanked either side by open space, with an area adjacent to the access to the site from Chestnut Street and an area of open space to the northern boundary providing separation to another row of dwellings along the north-eastern boundary. This area of open space was located here to help address concerns raised by existing residents during consideration of the outline application.
- 7.10 There is also a difference related to the linear area of open space to the western boundary. The current proposal shows a greater width to the linear area of open space compared to that shown on the indicative layout for the outline.
- 7.11 Whilst it is noted there is slightly less open space shown as part of this current application, the layout shown as part of the outline application submission was indicative and no specific minimum area of open space was secured by condition as part of the outline planning permission and the open space provision remains in broad accordance with the approve parameter plans.
- 7.12 It is also worth noting the differences between this current application and the previous reserved matters.
- 7.13 The layout of the previous reserved matters application showed a much narrower linear area of open space to the western boundary of the site, and smaller areas of open space adjacent to the access and where the existing PROW ZR117 enters the site from Chestnut Street. The layout of the previous reserved matters application showed the PROW route remaining in situ but rather than enjoying a rural feel, the proposal would have resulted in the footpath becoming part of a residential road/street within the development. By trying to maintain the route of the ZR117 footpath, the layout of the previous reserved matters showed the road 'loop' dissected by a road resulting in a smaller road loop and an arbitrary wedge of space with a small number of dwellings located to the western side of that dissecting road.
- 7.14 The current proposal shows footpath ZR117 diverted to run through the linear area of open space as discussed with the PROW officer, to connect through to footpath ZR118. It is agreed by the PROW officer that final details of the footpath such as surfacing should be submitted as a part of a condition. Condition 22 of the outline planning permission requires details to be submitted and approved that show the footpath can be delivered to avoid steep gradients and steps. Should planning permission be approved for this current reserved matters application, it is recommended that a further condition will be added to require details of the exact route and surfacing.
- 7.15 Overall, the areas of open space within the previous reserved matters were smaller and less defined, with no clear function and questionable in terms of useability; and the siting

of the dissecting road along with the dwellings to the western side of it, appeared contrived, making for a more awkward road layout across the site.

- 7.16 In addition to the abovementioned differences, the current proposal shows the dwellings along to the eastern boundary set further into the site away from the boundary compared to the previous reserved matters layout. This allows for more vegetation to be accommodated along that boundary and takes account of a badger sett known to be sited within the locality.
- 7.17 In terms of assessment of the layout as currently proposed, the approved vehicular and pedestrian access from Chestnut Street is clear. The road loop with some cul-de-sacs branching off to the eastern side allows for a distinct street hierarchy, a legible and easy route around the development with footpath connections between Chestnut Street and footpaths ZR117 and ZR118 being maintain albeit diverted. Pedestrian footways are located throughout the majority of the site with the exception of the small cul-de-sac areas to the east where the space becomes shared.
- 7.18 The layout allows more space for vegetation around the perimeter to be retained and reinforced and for further planting within the site. The open space is of a size and at locations that allow for recreational activity.
- 7.19 Most dwellings, except for two to the eastern side and two to the western side of the site, face the road creating an active frontage to the street scene. This in turn provides natural surveillance creating safer streets. Where the side elevations of the dwellings face the street scene, there are windows in the street facing side elevation to ensure an active frontage. In addition, where boundary treatments to the rear of dwellings present to the street scene, they are proposed as brick walls rather than the close board fencing that is proposed elsewhere across the site.
- 7.20 Drawings have been submitted showing sections through the proposed development and the existing site and proposed finished floor levels. There will be some regrading of land levels to create an appropriate development platform, however, land level changes would be minimal with some areas slightly higher and some areas slightly lower than current levels. Where levels are slightly higher, this is generally towards the middle and bottom of the site (western side).
- 7.21 The proposed dwelling types have changed since the originally submitted outline application. Dwelling types now include maisonettes, two-storey houses and bungalows ranging from 1-bed to 4-bed in size. The previous reserved matters included dwellings up to 5-bed in size and there was a greater number of larger dwellings proposed which is why there was significantly less open space proposed and in part why the application is considered unacceptable.
- 7.22 Condition 5 of the outline planning permission requires dwellings to be no more than 2.5 storeys high across the site and condition 5 requires the dwellings on the northeast corner to be no more than one storey in height. The proposal complies with both conditions.
- 7.23 It is considered that the levels of the site are acceptable especially taking account of the dwelling heights and the proposed landscaping across site and therefore the development can proceed without harm to the character and appearance of the locality.



7.24 In addition, the proposal would provide for good mix of unit size, type and tenure in accordance with Policy CP3 of the Local Plan. The proposal includes mix of bungalows, houses and maisonettes to be 1-bed, 2-bed, 3-bed or 4-bed in size. Five of the total dwellings proposed are to be affordable units in accordance with the s106 of the outline planning permission. The affordable units will be a mix of two 3-bed houses and three 3-bed bungalows.

#### Architectural design and materials

7.25 The architecture and material palette within the locality, (Key Street, Cherry Fields, Dental Close and Chestnut Street) is mixed. There is consistency within the individual closes of Cherry Fields and Dental Close.

7.26 The palette of materials for the proposal includes a mix of brick, render, tile-hanging and weather-boarding set to an architectural style similar to Dental Close.

7.27 The materials palette for the hardsurfacing within the site includes tarmac for the footpaths and main road loop with block paved areas as speed restraint features. Block paving is also proposed for private driveways and parking areas and paving slabs proposed for pathways within the curtilage of dwellings. The surfacing for the diverted footpath ZR117 is subject to a separate condition included should planning permission be granted.

7.28 The dwellings have been well-planned and the material palette is considered acceptable.

#### Sustainable Design and Construction

7.29 An Energy report has been submitted as part of the application which sets out the measures to be incorporated into the development to address and adapt to climate change. The measures include product and fabric improvements and photovoltaic (PV) panel systems. Electric vehicle charging points would also be provided for each dwelling and for each visitor space. This is sufficient to address Policy DM19 of the Local Plan and paragraphs 112(e) and 154 of the NPPF. However, a condition is recommended to require the final distribution of PV panels across the site and to ensure the measures are implemented on site. A separate a condition is recommended to ensure the type of electric vehicle chargers for homeowners meet the Office for Low Emission Vehicles Homecharge Scheme (or any subsequent equivalent).

7.30 The layout, scale and appearance of the proposal is considered to address concerns raised in consultation responses during the consideration of previous applications as well as this current application. The proposals follow good urban design practice, with a design that respects its surroundings, topography and forms a legible layout incorporating secure by design principles, provides for amenity, which would result in an attractive and sustainable environment to live. The proposal is considered acceptable and in accordance with Policies A21, CP3, CP4 DM14 and DM19 of the Local Plan and paragraphs 126 and 130 of the NPPF.

#### Landscape and Visual Impact

7.31 In considering the outline application, it was noted in the assessment of the application and the appraisal section of Committee Report that the application site is not within a designated landscape area and is not noted for its special quality or character.

Furthermore, it was stated that The Swale Landscape Character and Biodiversity Appraisal 2011 (SL&BA) indicates that the landscape is of moderate quality with moderate sensitivity to change. In terms of landscape and visual amenity, the outline application was granted planning permission on this basis and that it was considered that the development would not cause significant harm to the character and appearance of the countryside/landscape and that any harm could be adequately mitigated against through retention and reinforcement of vegetation along the boundaries of the site.

- 7.32 Both Local Plan Policies A21 and DM14 require an integrated landscape strategy to form part of the proposal. The NPPF also sets out at paragraph 174 that planning decisions should protect and enhance valued landscapes and sites of biodiversity and contribute to and enhance the natural and local environment by recognising the intrinsic beauty of the countryside, and the wider benefits from natural capital and ecosystems. The previous reserved matters application would have been refused due to the failure to provide adequate landscape.
- 7.33 Concerns raised in the assessment of the previous reserved matters application related to the choice of trees at the entrance of avenue, being small, short-term tree species and that a larger more native tree would be more appropriate. It was also considered that the space at the entrance accommodating only one line of trees may not be sufficient to create a natural and well-landscaped boundary. It was advised that there should be more space around the boundaries of the site so more structured landscaping could be achieved.
- 7.34 It is important that all new development proposals within the countryside are assessed in the context of their sensitivity to landscape, avoidance of material harm to landscape character and evidence that proactive steps are being taken to strengthen and enhance landscape character and distinctiveness.
- 7.35 The application site is located within the Borden Mixed Farmlands character area as identified by the SL&BA and is allocated for housing development under Policy A21 of the Local Plan. The SL&BA gives guidance on the use of species for new hedges and hedgerow trees and for mixed woodland or other planting.
- 7.36 The site is bound by Chestnut Street and a sizeable electricity substation to the west, residential properties and the A2 to the north, residential properties to the east and the development site of Wises Lane to the south.
- 7.37 The wider landscape is described as rolling topography and an enclosed rural landscape with fragmented hedgerows and intimate small-scale fields. The land within the site rises from west to east and south to north with the northeast corner being the more elevated point of the site. However, the existing vegetation providing screening around all boundaries of the site means it is currently not highly visible from outside of the character area.
- 7.38 The development would take place within an edge-of-settlement context but would extend the built form out into an undeveloped site to the south of existing residential properties along the A2. The southern edge of the existing development is reasonably well contained by virtue of the vegetation. The development would extend the existing edge of the built form and introduce new dwellings into a rural landscape. In this regard it is inevitable that there would be landscape change within the site as the existing field would become a new housing estate. However, when assessing the extent of this

impact, in this instance, the site itself is not 'valued' in terms of its designation and is allocated in the Local Plan for development.

- 7.39 The current layout shows dwellings set in from the boundaries of the site but particularly to the eastern side to allow space for appropriate, more structured planting as was previously advised to be lacking.
- 7.40 In addition, there was also concern regarding the proximity of the trees within the buffer adjacent to Chestnut Street to plots 41 to 50 to the northern side of the site. It was considered that the limited garden depths may result in the future pressure to prune or fell the trees. The change in dwelling types across the site has allowed for more space within the site and for greater garden depths to those properties to the north-western edge of the site, ensuring the pressure with regard buffer is reduced. A condition is recommended for details of tree protection measures to be submitted and implemented on site during construction.
- 7.41 The linear area of landscaping to the western edge of the site also allows for more meaningful and adequate screening.
- 7.42 The SL&BA provides guidance on the species to be used to help conserve and create. As detailed on the submitted Landscape Proposals drawings, the planting scheme includes a native hedgerow comprising species that are included in the guidance given in the SL&BA as well as on the website for the Royal Horticultural Society. In addition, the area to the entrance of the site allows more space for the planting of trees to create a more attractive arrival to the site and of species that are more structural and also provide opportunities for wildlife.
- 7.43 In terms of the overall visual effects on the landscape character of the site itself and its immediate context, the initial impact of the development would reduce in time when the planting matures. Over time, the scheme would assimilate into the landscape and be adequately screened. In any event, the site will sit alongside the existing built form to the north and to the east albeit separated by landscaping.
- 7.44 In this instance the landscape is not of the type that the NPPF seeks to protect from development in terms of its hierarchy, where paragraph 174 of the NPPF states that protection should be commensurate with status. Visually it is not considered that the proposal would result in any unacceptable harm to the landscape, nor the wider countryside and the scheme can be developed, enabling the proposal to successfully assimilate with its surroundings. The proposal is considered to have addressed the concerns raised with regard to the previous reserved matters application.
- 7.45 Consequently, and subject to a condition requiring further details of lighting, the proposal is considered to be in accordance with Policies A21, CP4, CP7, DM14, DM24 and DM29 of the Local and paragraph 174 of the NPPF.

#### Living conditions

- 7.46 There are two main considerations in terms of living conditions, firstly the impact of the proposed development on neighbours, and secondly, that of future occupants of the development itself. Policy DM14 of the Local Plan and paragraph 130 of the NPPF relates to the provision and protection of these amenities.

#### Living conditions of Future Occupiers

- 7.47 The proposed dwellings have been considered against the Technical Housing Standards – Nationally Described Space Standard dated March 2015 (the national standard). All dwellings meet the minimum space standards for the overall floor space for each type and size of dwelling and in any case also show adequate space for furnishings within each unit.
- 7.48 The layout of the development provides sufficient separation between the proposed dwellings within the site and have adhered to condition 5 of the outline planning permission requiring the properties in the northeastern corner to be single storey only.
- 7.49 In terms of private amenity space, there were concerns raised which would have formed part of a reason for refusal for the previous reserved matters in relation to the quality of the outdoor amenity space for plots 45-50. These dwellings were located along the northern boundary of the site. The concern arose due to the limited garden depth, which combined with the proximity to the trees fronting Chestnut Street and the large flank walls of garages, was considered to result in the future occupiers experiencing an undue sense of enclosure and poor outlook.
- 7.50 The current proposal allows for greater garden depths, thereby creating a greater separation distance between the trees fronting Chestnut Street and the rear elevation of the dwellings. In addition, the garages have been changed to car ports and therefore less imposing to the side boundaries of the rear garden space. It is considered that this previous concern has now been overcome and there is no objection in this regard. A condition is recommended to ensure that the car ports remain as car ports to preserve open character and to ensure the space remains for parking and not enclosed for storage purposes.
- 7.51 It is also recommended that permitted development rights be removed by condition to ensure that the development within the rear garden is controlled to ensure any further development does not result in enclosure of the rear amenity space and therefore putting pressure on the potential for encroachment into the buffer and for trees to be pruned.
- 7.52 Refuse storage would be accommodated out of sight within the rear garden areas. The layout has been designed to allow for direct external access from the rear to the front of each dwelling to enable the refuse to be moved to kerbside collection points on refuse collection days without the need to travel internally through the dwelling.

#### Living conditions of neighbouring occupiers

- 7.53 There are concerns raised by the occupiers of 57 Cherry Fields and 16 Key Street regarding overshadowing and overlooking from the nearest proposed dwelling. These concerns were raised as part of the consultation response for the previous reserved matters application in relation to 56 Cherry Fields and 12 Key Street. It was considered that given that the property closest to 56 Cherry Fields is a bungalow with no windows in the flank elevations and that it is screened by existing mature hedging, there would be no detrimental impact on the amenities of the occupiers of this property.
- 7.54 The situation with regard to the relationship of the development with 57 Cherry Fields is similar, but that the current proposal shows the nearest bungalow to be set in from the eastern boundary significantly in comparison to the previous reserved matters. There would be a separation distance of approx. 19m from the side elevation of the proposed bungalow of plot 33 and the nearest point of the dwelling at 57 Cherry Fields which is

the northwestern corner of that dwelling. Taking this separation distance into account and the siting of 57 Cherry Fields being at an angle to the proposed bungalow of plot 33, it is considered there would be no detrimental impact on the living conditions of the occupiers of 57 Cherry Fields.

- 7.55 In consultation responses as part of the previous reserved matters, the occupiers of 24 Key Street raised concerns that plots 35, 36 and 37, because of their two-storey nature, and because of the elevated land levels, would result in some level of overlooking into the windows and the gardens of 24 Key Street. It was considered by officers at the time that given the significant separation distances (between approx. 38m and 40m), even though the land is elevated, the level of overlooking would not result in detrimental harm.
- 7.56 The previous reserved matters also considered the separation distance between plots 39 and 40 and 12 Key Street at approx. 41m and the land level which is more even would not result in a detrimental impact on the living conditions of the occupiers of 12 Key Street as a result of the development.
- 7.57 The situation is similar with regard to the impact of the current proposal on the occupiers of number 16 Key Street particularly given that the separation distance is approx. 36m.
- 7.58 The proposal for the current application is considered acceptable in terms of its impact upon the living conditions of both future occupiers and the occupiers of existing nearby residential properties. The proposal is in accordance with Policy DM14 of the Local Plan and paragraph 130 of the NPPF.

#### Ecology

- 7.59 The information submitted as part of this application has been considered by KCC Biodiversity Officers as sufficient to inform a decision and no further information is required prior to a decision.
- 7.60 The layout shows some habitat connectivity retained within the site particularly along the western boundary. The submitted Ecological Report detailed there were no sign of badgers within the site. However, as part of application 22/500133/SUB (related to the Wises Lane development) badger setts were recorded to the east and south of the site. In addition, information submitted by consultees as part of application 23/500516/SUB (also related to the Wise Lane development) confirmed presence of badgers along the footpath in the east of the site.
- 7.61 The main concern relates to the sett recorded to the east of the site (south of Cherry Trees Road) as the current layout will result in the loss of connectivity for the badgers within the sett to the surrounding area. Dwellings 28 to 32 are directly adjacent to the area where an active badger sett is present and there is concern that badgers associated with the sett will push through into those gardens or any of the gardens adjacent to the footpath for foraging or commuting to the surrounding area. This may potentially damaging fences/gardens and cause future resident's problems if the badgers create setts within them.
- 7.62 The submitted site plan has been updated and it does demonstrate that a native species hedgerow will be planted along the edge of the hedgerow adjacent to the housing. However, the above concerns are still valid. It is recommended that the gardens which back on to the eastern site boundary be fenced with close board fencing with steel reinforced concrete gravel boards with pre-cast hedgehog holes to minimise the risk of

badger access the gardens. This was previously agreed as part of reserved matters application 21/504812/REM but was not included within the updated mitigation strategy.

- 7.63 In addition, it is recommended that all garden boundaries adjacent to the footpath have wire mesh dug into the ground at the base of the fence to stop badgers digging underneath the fences.
- 7.64 The applicant has confirmed they are agreeable to a condition requiring the aforementioned fencing as described above.
- 7.65 The Ecological Report also confirms the presence of grass snake within the site and that at two trees within the site proposed for removal have medium/high potential to be used by roosting bats. Emergence surveys should be carried out to inform the detailed mitigation strategy required as part of condition 18 of the outline planning permission. It is also recommended that an updated walkover survey is required to inform the details submitted pursuant to condition 18.
- 7.66 The ecological enhancement plan has confirmed that integrated bat bricks will be incorporated into the site therefore in the event that bats are roosting within the cherry tree, it is considered that appropriate mitigation can satisfactorily be implemented within the site.
- 7.67 As only 1 grass snake was recorded within the site, the proposed precautionary mitigation is considered appropriate. It is recommended that part of the species rich grassland proposed along the western boundary is managed to provide continuous areas of long vegetation to benefit reptiles. The management plan submitted as part of this application does not demonstrate that this will be implemented as it suggests that the whole area will be cut short each year. This should be updated and submitted pursuant to condition 30 of the outline planning permission.
- 7.68 The mitigation strategy details that a corner of the southern boundary will be used as the receptor site in the event that reptiles are captured during the reptile mitigation. A plan demonstrating the location of the receptor site must be included within the detailed mitigation strategy when it is submitted to discharge condition 18 of the outline planning permission. The plan must clearly demonstrate that the receptor area will be protected and retained during the construction works.
- 7.69 In addition to the integrated bat boxes, the ecological enhancement proposed include integrated bird boxes, external bat and bird boxes and hedgehog highways to be incorporated into the site. A condition is recommended to secure the provision of these ecological enhancement measures on site.
- 7.70 With the inclusion of the suggested conditions and details to be submitted pursuant to conditions 18 and 30 of the outline planning permission, It is considered that that proposal can be implemented without detrimental harm to ecology in accordance with Policies A21, CP7, DM14 and DM28 of the Local Plan and paragraph 174 of the NPPF.

#### Flooding and Drainage

- 7.71 A Flood Risk Assessment was submitted as part of the outline application setting out the principles for dealing with surface water and Microdrainage Surface Water Drainage Calculations have been submitted and assessed as part of this reserved matters

application having particular regard to Policy DM21 of the Local Plan and paragraphs 162, 167 and 169 of the NPPF.

- 7.72 The Lead Local Flood Authority are satisfied with the principles proposed for dealing with surface water and that they can be accommodated within the proposed site layout.
- 7.73 However, point out that as of the 10 of May 2022, the Environment Agency's climate change allowances have been updated. As part of this update, revisions have been made to the 'Peak Rainfall Intensity Allowances' that are used in applying climate change percentages to new drainage schemes.
- 7.74 The LLFA would now seek the 'upper end' allowance is designed for both the 30 (3.3%) and 100 (1%) year storm scenarios. This analysis must determine if the impacts of the greater allowance are significant and exacerbate any flood risk. The design of the SUDs scheme therefore, may need to be minimally modified but may also need additional mitigation allowances, for example attenuation features or provision of exceedance routes. This will tie into existing designing for exceedance principles and will be considered as part of the submission of details pursuant to condition 12 of the outline planning permission.
- 7.75 In addition to this, any infiltration into boreholes should be as shallow as possible, always ensure an adequate protective unsaturated zone above the highest seasonal water table and the base of any infiltration feature. Infiltration may only be permitted into clean natural ground. Designs should be in accordance the Building Regulations Approved Document H and be protective of groundwater resources with relevant pollution control mechanisms built in line.
- 7.76 Subject to the discharge of conditions pursuant to the outline planning permission requiring the submission of further details and implementation in respect of a sustainable drainage scheme (conditions 12, 13, 14, 15 and 16), the proposal is considered acceptable and in accordance with Policy A21, DM14, DM20 and DM21 of the Local Plan and paragraphs 162, 167 and 169 of the NPPF.

#### Archaeology

- 7.77 One of the drafted reasons for refusal of the previous reserved matters related to an absence of an agreed scheme of archaeological mitigation.
- 7.78 Since the drafting of the reasons for refusal, on-site evaluation has taken place and details have been submitted pursuant to condition 23 of the outline planning permission under reference 22/503060/SUB. A further report was submitted on 1 December 2022. Further mitigation proposals are required in the form of monitoring which would be undertaken whilst the development is carried out. This would be covered by condition 23 of the outline planning permission. The proposal is considered to comply with Policy DM34 of the Local Plan and paragraphs 197, 201, 202 and 205 of the NPPF.

#### Highways

##### Access

- 7.79 Access was approved as part of the outline planning permission and therefore the impact on the existing highway network from a development of 50 dwellings is accepted.

- 7.80 The current application consists of a higher proportion of 3 and 4 bed dwellings within the mix than was shown on the illustrative plans previously submitted as part of the outline application. However, the associated Transport Assessment submitted at that time did not make any distinction between the dwelling sizes when considering the traffic generation. The trip rates used in the assessment were derived from the industry standard tool, the TRICS database, which produces average rates for housing developments, rather than based on the proportion of dwellings of a specific size.
- 7.81 The selection parameters used before in the TRICS calculation would still have been applicable with the mix of dwelling now indicated, drawn from the general pool of surveyed developments falling in the “Houses – Privately Owned” category. This is considered robust and likely to represent the worst-case scenario, as the alternative selection categories “Affordable/Local Authority Houses” or, “Mixed Private/Affordable Housing” are recognised as producing lower trip rates than the former. Therefore, there the highway implications from 50 residential dwellings of any number of bedrooms being provided on the site is acceptable. A condition is recommended to ensure pedestrian visibility splays are provided and maintained.

#### Layout

- 7.82 The highway assessment of the current reserved matters application is therefore limited to the layout of the development itself. A plan showing the extent of the development that will be offered to the Highway Authority for adoption has been submitted. This plan confirms that the roads, footways, and service margins will be offered for adoption as highway and this will therefore be adopted through the Section 38 Agreement process in due course.
- 7.83 Speed restraint features have been included within the design to provide a target speed of 20mph, where carriageway bends are too shallow to encourage lower speeds. The proposed layout features a curvature in the road around property 19 which will help towards a reduction in speed. Initially the speed restraint feature was on the stretch between plots 41 and 49. Following advice from the Highway Authority, this feature has now been repositioned centrally outside plots 46 and 45 away from the bends at each end to help reduce speeds further.
- 7.84 The vehicle tracking provided is sufficient and the layout of the development has been designed to conform with Kent Design Guide specifications in terms of road widths to allow a refuse freighter to pass on bends.

#### Parking

- 7.85 The development comprises of 2-, 3- and 4-bedroom dwellings whereby each have allocated parking spaces that meet Swale Borough Councils parking standards. For the 4-bedroom dwellings, 3 spaces have been provided by means of 2 spaces with an additional car port.
- 7.86 Visitor spaces are required at a ratio of 0.2 per unit and therefore 10 spaces need to be provided. Initially, the proposal only provided 8. The layout has since been amended to accommodate the required visitor spaces which now totals 11, which are shown to be evenly distributed throughout the development.
- 7.87 A plan showing the provision of electric vehicle charging points for each dwelling and visitor spaces has been submitted which is considered acceptable. However, should



planning permission be granted, a condition is recommended to ensure the type of electric vehicle chargers for homeowners meet the Office for Low Emission Vehicles Homecharge Scheme (or any subsequent equivalent).

- 7.88 In terms of provision for cycling, a condition is recommended to require details of secure cycle storage arrangements for the dwellings.
- 7.89 The proposal is considered to be in accordance with Policies CP2, DM6 and DM7 of the Local Plan, Swale Borough Council Parking Standards and paragraphs 110, 11 and 112 of the NPPF.

### Other Matters

- 7.90 The principle of development and the impact of the proposal on infrastructure was considered acceptable when outline planning permission granted. As such, issues of loss of agricultural/greenfield land and the presence of brickearth have already been addressed.
- 7.91 In terms of the impact on services and infrastructure, again this was considered and addressed as part of the outline planning application and is covered by s106 that accompanies the outline planning permission. The s106 secured the provision of 10% (5) of the units to be affordable and contributions towards: off-site highways works, primary and secondary education, NHS healthcare, SPA mitigation, youth services, social care, public footpath improvements, off-site play equipment, libraries and community learning.
- 7.92 Also covered as part of the consideration of the outline planning application was air quality and consideration of the Conservation of Habitats and Species Regulations 2017.
- 7.93 With regard to air quality, it was concluded that there were no reasons to refuse the application on air quality grounds and a pre-commencement condition was included on the outline planning permission (condition 24), to ensure a scheme for quantifying mitigation measures or offsetting schemes to be included in the development.
- 7.94 With regard to the impact on 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), it was concluded that subject to mitigation, there will be no adverse effect on the integrity of the SPA.

## **8. CONCLUSION**

- 8.1 The proposal is considered to make an effective contribution in meeting the need for homes, in a manner which delivers much needed homes, whilst safeguarding the environment and biodiversity as well as being sympathetic to local character, including the surrounding landscape setting and intrinsic character of its location.
- 8.2 The scheme under this current proposal is considered to be acceptable and would comply with Policies A21, CP2, CP3, CP4, DM6, DM7, DM14, DM19, DM20, DM21, DM24 and DM29 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017; Swale Borough Council Parking Standards, 2020; and paragraphs 110, 111, 112, 126, 130,

162, 167, 169, 174, 197, 201, 202 and 205 of the National Planning Policy Framework 2021.

## 9. RECOMMENDATION

GRANT Subject to the following conditions:

### CONDITIONS

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

Received 6 December 2022

1975/P/110.01	Site Location Plan
1975/P/120.01	Type B, Wilton – Floor Plans
1975/P/120.02	Type B, Wilton – Elevations
1975/P/120.11	Type Si1 – Floor Plans
1975/P/120.12	Type Si1 – Elevations
1975/P/120.21	Type Si2 – Floor Plans
1975/P/120.22	Type Si2 – Elevations 1
1975/P/120.23	Type Si2 – Elevations 2
1975/P/120.24	Type Si2 – Elevations 3
1975/P/120.31	Type A 994 - Floor Plans
1975/P/120.32	Type A 994 – Elevations 1
1975/P/120.33	Type A 994 – Elevations 2
1975/P/120.34	Type A 994 – Elevations 3
1975/P/120.41	Type D Bellingham – Floor Plans
1975/P/120.42	Type D Bellingham – Elevations
1975/P/120.51	Type L Cecil – Floor Plans
1975/P/120.52	Type L Cecil – Elevations
1975/P/120.61	Type Si3 – Floor Plans
1975/P/120.62	Type Si3 – Elevations
1975/P/120.71	Type N Stirling – Floor Plans
1975/P/120.72	Type N Stirling – Elevations 1
1975/P/120.73	Type N Stirling – Elevations 2
1975/P/120.81	Type R Maxwell – Floor Plans
1975/P/120.82	Type R Maxwell - Elevations
1975/P/120.101	Type 3b AFF Bung – Floor Plans
1975/P/120.102	Type 3b AFF Bung – Elevations
1975/P/120.111	Type 3b AFF – Floor Plans
1975/P/120.112	Type 3b AFF – Elevations 1
1975/P/130.01	Maisonettes Floor Plans
1975/P/140.01	Street Scenes 1-3
1975/P/140.02	Street Scenes 4-8
1975/P/140.03	Site Sections AA and BB
1975/P/150.01	Single Car Port Plans and Elevations
1975/P/150.02	Twin Car Port Plans and Elevations
1975/P/150.03	Cranked Car Port and Elevations

Received 9 December 2022

1975/P/130.02 Rev A	Maisonette Elevations
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Received 10 March 2023

ABBEY24111-11A	Landscape Proposals Composite
ABBEY24111-11A	Landscape Proposals, 1 of 2
ABBEY24111-11A	Landscape Proposals, 2 of 2
E20-012-1100 P2	Strategy Site Levels Plan
E20-012-1101 P2	Strategy Site Drainage Plan
E20-012-1150 P2	Tracking Plan – Fire Appliance DB32
E20-012-1151 P2	Tracking Plan – Refuse Phoenix 2 Duo (Clockwise)
E20-012-1152 P2	Tracking Plan – Refuse Phoenix 2 Duo (Anticlockwise)
E20-012-1155 P2	Visibility Splays Plan

Received 30 March 2023

1975/P/110.02 Rev A	Site Layout
1975/P/110.03 Rev A	Boundary Treatment
1975/P/110.04 Rev A	Secure By Design Principles
1975/P/110.05 Rev A	Hard Landscape Finished
1975/P/110.06 Rev A	Waste Strategy
1975/P/110.07 Rev A	Developable Area
1975/P/110.08 Rev A	Adoptable Highway
1975/P/110.09 Rev A	Electric Charging Points Strategy
1975/P/110.10 Rev A	Cycle Storage Strategy
1975/P/110.11 Rev A	Materials Plan

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

- 2 No development shall take place, until an arboricultural method statement to ensure the satisfactory protection of retained trees, hedgerows and vegetation has been submitted to and approved in writing by the Local Planning Authority. The matters to be included within the arboricultural method statement shall include the following:
- I. A specification for the pruning of, or tree surgery to, trees to be retained in order to prevent accidental damage by construction activities.
  - II. The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of BS 5837 'Trees in relation to design, demolition and construction' and details of the timing and duration of its erection.
  - III. The definition of areas for the storage or stockpiling of materials, temporary on-site parking, site offices and huts, mixing of cement or concrete, and fuel storage.

The development shall thereafter be implemented in accordance with the approved details which shall remain in situ for the duration of the construction activity.

Reason: Required prior to commencement of development to ensure that reasonable measures are being taken to protect trees and hedgerows during construction in line with Policy DM29 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 3 No dwelling shall be occupied until details of the new diverted route of footpath ZR117 has been submitted to and approved in writing by the Local Planning Authority. Details shall include the following:
- The exact alignment of the diverted footpath
  - The width of the footpath which should be a minimum of 2m
  - Surface materials
  - Location and design of signage
  - Compliance with secure by design principles.

The diverted footpath shall be implemented in accordance with the approved details and shall be provided prior to the first occupation of the development herein approved.

Reason: To ensure protection of the public right of way network and access is maintained in accordance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 4 No dwelling shall be occupied until final details of the distribution of photovoltaic panels to be installed on dwellings across the site have been submitted to and approved in writing by the Local Planning Authority. Where a dwelling includes photovoltaic panels, the dwelling shall not be occupied until the photovoltaic panels have been installed in accordance with the approved details. The photovoltaic panels shall thereafter be retained.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with Policy DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 5 No dwelling shall be occupied until the ecological enhancement measures as set out in the Ecological Enhancement Plan at Appendix 3 within the Method Statement for Ecological Mitigation by ACD Environmental, reference ABBEY23423\_MSEM\_F Revision F, dated 10/03/2023, and at Appendix 3 within the Landscaping Ecological Management Plan by ACD Environmental, reference ABBEY23423\_LEMP\_F Revision F, dated 10/03/2023 have been implemented on site. The ecological enhancement measures shall thereafter be retained in accordance with the approved details.

Reason: To enhance conditions to encourage biodiversity in accordance with Policies CP4, DM14 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 6 Each dwelling shall not be occupied until the boundary treatment for that dwelling has been provided in accordance with drawing number 1975/P/110.3 Rev A. The boundary treatment shall thereafter be retained.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 7 Each dwelling shall not be occupied until an electric vehicle charger for that dwelling has been provided in accordance with drawing number 1975/P/110.09 Rev A. Electric vehicle chargers for homeowners within the development herein approved must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection) (or to a subsequent equivalent amending standard). All electric vehicle chargers for visitor spaces shall be provided in accordance with drawing number 1975/P/110.09 Rev A before the space is brought into use. All electric chargers shall thereafter be retained.

Reason: In the interests of sustainability in accordance with paragraph 112e of National Planning Policy Framework 2021.

- 8 No dwelling shall be occupied until pedestrian visibility splays of 2metres x 2metres behind the footway on both sides of each access with no obstructions over 0.6m above footway level have been provided. The vision splays shall thereafter be maintained in accordance with the measurements set out in this condition.

Reason: In the interests of highway safety and in compliance with Policy DM6 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 9 No dwelling shall be occupied until details of the secured, covered cycle storage arrangements for the dwellings, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved cycle storage arrangements for that dwelling are in place and all approved storage arrangements shall thereafter be retained.

Reason: To provide cycle storage facilities of an appropriate design and in a safe and secure location in accordance with Policy DM7 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 10 The development herein approved shall incorporate the measures set out in the Energy Report by Environmental Economics dated 05 May 2023 to address energy efficiency and climate change and where applicable, the photovoltaic panels required pursuant to condition 4. The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.

Reason: To ensure the development delivers energy efficiency measures to address climate change in accordance with Policy DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 11 Each dwelling shall not be occupied until refuse storage arrangements for that dwelling, including provision for the storage of recyclable materials, have been provided. All refuse storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 12 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) together with a report to demonstrate its effect on the landscaping of the site (including an overlay of the proposed lighting onto the site landscaping plans), the rural landscape, nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust) and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the landscaping of the site, the surrounding landscape, nearby residents and wildlife and with regard to Policies CP4, DM14 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 13 The eastern side boundary to gardens of plots 20, 27, 28, 32, 33 to the eastern side of the site as shown on the site layout plan, drawing number 1975/P/110.02 Rev A, will be fenced with close board fencing with steel reinforced concrete gravel boards with pre-cast hedgehog holes to minimise the risk of badger access the gardens.

Reason: To ensure that reasonable measures are being taken to protect badgers in accordance with DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 14 The sides of the approved carports shall not be enclosed, and no other permanent development shall take place, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending,

revoking or re-enacting that Order). The car port parking spaces shall remain available for parking.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and for the protection of occupier amenity in accordance with Policies DM14 and DM7 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, AA, B, D, E, F and H of that Order unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of visual and neighbouring and occupier amenity in accordance with Policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

## INFORMATIVES

- 1 The applicant is reminded that this permission relates to planning permission only and does not constitute approval under any other legislation including Building Regulations. To obtain advice on current Building Regulations the applicant should contact the South Thames Gateway Building Control Partnership at Foord Annex, Eastgate House, High Street, Rochester, Kent ME1 1EW
- 2 It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.
- 3 Please note: No new soakaways should be located within 5 metres of a public or adoptable gravity sewers. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).  
Website: [southernwater.co.uk](http://southernwater.co.uk) or by email at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)
- 4 Approved electric charger models for homeowners are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
- 5 As part of the application to discharge condition 12 of the outline planning permission 'the detailed drainage design' full hydraulic analysis and the results of constant head testing will need to be supplied.
- 6 The Ecological Enhancements and additional and updated ecological information should be submitted pursuant to the discharge of conditions 18 and 30 of the outline planning permission

## The Council's approach to the application

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





<b>2.2 REFERENCE NO - 22/505981/FULL</b>			
<b>APPLICATION PROPOSAL</b> Garage conversion into a habitable space including changes to fenestration and creation of 2no. parking spaces on drive way.			
<b>ADDRESS</b> 47 Lady Winter Drive Minster-on-sea Sheerness Kent ME12 2GF			
<b>RECOMMENDATION</b> that planning permission is Granted, subject to the conditions below			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The dwelling would retain two parking spaces and this would comply with the Council's Car Parking SPD and Local Plan.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection			
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Shaun Browne <b>AGENT</b> Mr Karl O'Brien
<b>DECISION DUE DATE</b> 14/04/23	<b>PUBLICITY EXPIRY DATE</b> 30/03/23	<b>CASE OFFICER</b> Katie Kenney	

**Planning History**

22/501879/LAWPRO

Lawful Development Certificate for a Proposed conversion of integral garage into habitable room with front facing window.

Withdrawn Decision Date: 07.06.2022

**1. DESCRIPTION OF SITE**

- 1.1 47 Lady Winter Drive is a detached 4 bed property situated in the built-up area of Minster.
- 1.2 There is amenity space to the front of the property which is partially hard landscaped to allow for off-road parking and access to an integral garage. There is also amenity space to the rear.
- 1.3 The streetscene comprises of similar sized and designed dwellings.

**2. PROPOSAL**

- 2.1 This application seeks planning permission for the conversion of the garage into habitable space, shown to be used as a dining room. To facilitate this, the garage door would be removed and replaced with brickwork and a window. A window would also be inserted in the side elevation of the garage.
- 2.2 Such works would normally constitute permitted development and would not require planning permission. However, in this instance there is a planning condition that restricts the garage to vehicle parking only, hence why this planning application has been submitted.

### 3. PLANNING CONSTRAINTS

3.1 None of relevance

### 4. POLICY AND CONSIDERATIONS

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

**CP4** - Requiring good design

**DM7** – Parking

**DM14** - General development criteria

**DM16** - Alterations and extensions.

4.2 Supplementary Planning Guidance (SPG) 'Designing an Extension - A Guide for Householders'.

4.3 The SBC Vehicle Parking Standards Supplementary Planning Document (SPD).

### 5. LOCAL REPRESENTATIONS

5.1 **Minster-on-Sea Parish Council** raise an objection on the following grounds:

- Insufficient parking;
- Access to neighbours drives would be blocked;
- Access to front door would be blocked.

Following the submission of amended plans, Minster-on-Sea PC maintain their objection.

5.2 1 letter of objection received from a neighbouring occupier raising the following concerns:

- There is not enough space for 4 cars to be parked on the driveway as shown on the plans.  
(Officer note: the original plans showed 4 cars parked on the drive although it was clear from the officer assessment that this could not be achieved. The plans have been amended to 2 spaces.)

### 6. CONSULTATIONS

6.1 None received.

### 7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents provided as part of application 22/505981/FULL including subsequent amendments.

### 8. APPRAISAL

#### Principle of Development

8.1 The site is located within the built confines of Minster where the principle of development is accepted. The proposal relates to minor works to an existing dwelling. The proposed external alterations to the dwelling itself are small scale changes to remove the garage

door and replace it with brickwork and insert windows, which do not raise any material issues in terms of visual appearance or amenity impacts, and do not cause harm to the dwelling or wider streetscene. The key issue is considered to be whether the loss of the garage would result in any detrimental loss of parking provision to the property.

### Parking

- 8.2 The plans originally submitted with the application rather unhelpfully indicated that 4 cars could be parked within the frontage of the property. However, following a site visit and upon closer inspection of the drawings, it was clear to the case officer that such parking provision cannot be provided. Amended plans were received that now show the provision of two parking spaces to the front of the property. This includes widening works to maintain a pathway leading to the front door of the property.
- 8.3 Policy DM7 of the Local Plan states that parking requirements in respect of any new proposed developments should be in accordance with vehicle parking standards. The Swale Borough Council Vehicle Parking Standards Supplementary Planning Document (SPD) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.
- 8.4 The SPD recommends that 2-3 parking spaces should be provided for a 4 bed dwelling in this location. The existing property has 2 formal parking spaces, although the garage space is undersized when taking into account the garage dimensions recommended in the SPD (the garage measures 5.75m x 2.85m whereas the SPD advises that garages should have a minimum internal size of 7m x 3.6m). As such, there is only 1 existing parking space that complies with the SPD.
- 8.5 The application proposes to widen the hardsurfaced area to the front of the site, creating a parking area of approx. 6.8m x 4.5m for two vehicles. This is slightly narrower than recommended in the SPD (5m), but in this instance is considered to be acceptable as it would retain 1 compliant space, and 1 slightly undersized space – and as such would not worsen the existing parking situation. It is also noted that as the footpath to the entrance of the dwelling is to be sited immediately next to the parking spaces, in practical terms this would provide further space that could be utilised – over which a car door could be opened / closed and a driver / passenger could access or exit the car onto the path.
- 8.6 On this basis, it is considered that the conversion of the garage to a habitable room and widening of the existing parking area would lead to a marginal improvement of parking provision at the property and would accord with Policy DM7 of the Local Plan.

### Landscaping

- 8.7 The widening of the parking area and the relocation of the pathway would result in the removal of a small part of the hedging and landscaped area to the front of the property, but this would be minimal and is not considered to be harmful to the streetscene.

## **9. CONCLUSION**

- 9.1 Having taken all the above into account, the proposal is considered to be acceptable and compliant with relevant policies within the Local Plan. As such it is recommended that planning permission is granted.

## 10. RECOMMENDATION

GRANT Subject to the following conditions

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

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

- (2) The development hereby approved shall be carried out in accordance with approved drawings: 'Existing and Proposed Front Garden and Driveway' (received 07/03/23), 'Existing and Proposed Floor Plans' and; 'Existing and Proposed Elevations'.

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

- (3) The materials to be used in the construction of the external surfaces of the 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) The works to widen the driveway and relocate the path as shown on the Existing and Proposed Front Garden and Driveway drawing received on 07/03/23 shall be completed prior to the first use of the garage as habitable space, and the extended driveway shall thereafter be retained for vehicle parking only.

Reason: To ensure that adequate parking provision is retained.

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

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

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

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

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



Ordnance Survey - data derived from OS Premium

22/505981/FULL -47 Lady Wirtter Drive, Minster-on-sea, Shorness, Kent. ME12 2GF  
Scale: 1:1250  
Printed on: 15/5/2023 at 15:10 PM by KellyS



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<b>2.3 REFERENCE NO - 22/500007/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of former bus depot (Sui Generis) to vehicle servicing and repair business (Class B2) and construction of additional workshop unit.		
<b>ADDRESS</b> Sheerness Bus Station Bridge Road Sheerness ME12 1RH		
<b>RECOMMENDATION</b> that planning permission is Granted subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development is not considered to result in undue harm to the visual amenity of the area. In addition, the proposal will not result in harm to the significance of the nearby designated heritage assets. The noise impact assessment provided by the applicant also confirms that the noise levels associated with the development will not result in unacceptable harm to the living conditions of neighbours. The proposal is therefore considered to meet the requirements of the Swale Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Town Council objection		
<b>WARD</b> Sheerness	<b>PARISH/TOWN COUNCIL</b> Sheerness Town Council	<b>APPLICANT</b> WP Commercials Ltd <b>AGENT</b> Kevin Wise Town Planning
<b>DECISION DUE DATE</b> 14/03/22	<b>PUBLICITY EXPIRY DATE</b> 22/09/22	<b>CASE OFFICER</b> Megan Harris

**Planning History**

PN/13/0057

Replacement 15m high telecommunications monopole with installation of four equipment units and ancillary works.

Prior Approval Not Required Decision Date: 24.07.2013

SW/05/1244

Variation of condition (1) of permission SW/00/0812 (for erection of supermarket and bus depot) to extend the period for commencement of the development by three years

Grant of Conditional PP Decision Date: 21.11.2005

SW/00/0812

Erection of supermarket and bus depot.

Grant of Conditional PP Decision Date:

SW/89/0731

CONSTRUCTION OF BUS MAINTENANCE BUILDING

Approved pre 1990 Decision Date: 23.06.1989

**1. DESCRIPTION OF SITE**

1.1 The application site is a former bus depot measuring approximately 0.32 hectares in size. The existing site was formerly used predominantly for the storage and

maintenance of buses and it is made up of large areas of hardstanding, with a workshop / maintenance building to the rear. The site formerly included an open hardsurfaced and partial landscaped area to the front, which included a bus shelter.

- 1.2 The site lies in a central location adjacent to Sheerness Rail Station. The site lies in close proximity to the grade II listed war memorial and to Sheerness High Street, within the built-up area boundary of the town. It falls within the town centre boundary and within the Port of Sheerness Regeneration Area. It is also within Flood Zone 3.

## 2. PROPOSAL

- 2.1 Planning permission is sought for the change of use of the land from its use as a bus depot (sui generis) to a vehicle servicing and repairs business (Class B2). This use has now commenced on the site and as such is retrospective. The application also includes an extension to the existing workshop building on the site to facilitate the creation of an additional workshop. The proposed extension will be single storey and measure approximately 17.2 metres x 10.5 metres in size. The proposed extension has been designed with a flat roof in a similar manner to that of the existing workshop building.
- 2.2 During the course of the application, palisade fencing has been erected around the front boundary of the site and the bus shelter has been removed. This fencing is currently sited adjacent to a highway and requires planning permission. This application proposes to relocate the fencing 2 metres back into the site.

## 3. PLANNING CONSTRAINTS

- 3.1 Area of Archaeological Potential
- 3.2 Flood Zones 2 and 3
- 3.3 SSSI Impact Risk Zone
- 3.4 Regeneration Area – Regen 3
- 3.5 Town Centre Boundary – ST2
- 3.6 Kent Minerals and Waste Sites – 250m buffer

## 4. POLICY AND CONSIDERATIONS

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

**ST1** Delivering sustainable development in Swale

**ST3** The Swale Settlement Strategy

**ST6** The Isle of Sheppey Area Strategy

**CP1** Building a strong, competitive economy

**CP4** Requiring Good Design

**CP8** Conserving and enhancing the historic environment

**Regen 3** The Port of Sheerness: Regeneration Area

**DM1** Maintaining and enhancing the vitality and viability of town centres and other areas

**DM2** Proposals for main town centre uses

**DM7** Vehicle parking

**DM14** General development criteria

**DM16** Alterations and extensions

**DM19** Sustainable design and construction

**DM28** Biodiversity and Geological Conservation



**DM32** Development involving listed buildings  
**DM33** Development affecting a Conservation Area

**Supplementary Planning Guidance (SPGs)**

The SBC Parking Standards SPD 2020

Sheerness Mile Town Conservation Area Appraisal

**National Planning Policy Framework 2021**

**5. LOCAL REPRESENTATIONS**

5.1 Letters were sent to neighbouring occupiers; a site notice was displayed near the site and the application was advertised in the local press. In response to this, two local representations have been received from the same person objecting to the proposal on the grounds that there is a need for regeneration/improvement in Sheerness and the representee does not support the positioning of a large vehicle servicing station at such a pivotal point in the town.

5.2 **Sheerness Town Council:** Object to the proposal on the following grounds:

- 1) The application is detrimental to the character of the area, and regarding the council's levelling up bid.
- 2) The site is considered to have a negative impact upon the nearby heritage assets.
- 3) The Council has concerns regarding access to the site and the impact on pedestrians and other vehicles and the loss of a paved area, which includes a bus shelter which is no longer accessible.
- 4) The existing workshop was a supporting element of the primary use of the site as a bus terminus, not a primary use in its own right. The current site already negatively impacts upon the area and an extension of operations would further impact upon this.

**6. CONSULTATIONS**

6.1 **Historic England:** No comment

6.2 **Conservation Officer:** No objection to the change of use and due to the scale, siting and form of the proposed workshop and intervening distance between the identified heritage assets and site, the proposal would not cause harm to the assets or their setting. Also confirmed that the fencing at the front of the site is acceptable due to the 2 metre set back and adequate room for landscaping to the front of the fencing.

6.3 **Kent County Council Archaeology Team:** No objection, subject to condition requiring the submission of a programme of archaeological works.

6.4 **Environmental Health:** Initial concerns raised regarding noise. However, the applicant has since provided a noise survey and the Environmental Health Officer has confirmed that they accept the findings of the report and raise no objections to the scheme, as long as conditions are imposed relating to the permitted hours of operation on the site and contamination.

6.5 **Kent County Council Minerals and Waste Planning Policy Team:** No objection

6.6 **Environment Agency:** No objection

6.7 **Kent County Council Flood and Water Management Team** – No objection. Advise that the Environment Agency's Flood Map for Surface Water shows a flow path crossing

the site and whilst the proposal is situated within the low-risk area of this flow path the applicant may wish to consider appropriate mitigation measures as part of their build.

6.8 **Natural England:** No comments

6.9 **Kent County Council Highways Team:** No objection raised to access arrangements or the proposed use. There are no public highway rights around the bus shelter and there is no evidence that demonstrates that KCC have been maintaining any of the land behind the footway. The bus shelter is privately owned and it may be difficult to relocate given the limited footway width available.

## 7. BACKGROUND PAPERS AND PLANS

7.1 All documents associated with application 22/500007/FULL.

## 8. APPRAISAL

### Principle of Development

8.1 Policy ST3 of the Swale Local Plan 2017 sets out the settlement strategy for the borough, it states that development proposals which are to be located on land falling within the built-up area boundary of established towns and villages will generally be supported in principle, subject to the proposal meeting other relevant local plan policy requirements. Policy CP1 seeks to support employment uses and economic development in the right locations.

8.2 The application site is centrally located within Sheerness town centre and the site lies in close proximity to the railway station. The site is in a sustainable urban location.

8.3 The site has an existing longstanding lawful use as a bus depot, but this has now ceased. The proposed use bears a number of similarities to the former use, insofar that it is for a transport related use, for a servicing and repair business. Although it can be said that the site occupies a relatively prominent location next to the train station, it would be difficult to argue that the proposed change of use would be inappropriate given the former and lawful principal land use on the site is transport-related and involves the storage of larger vehicles on the land.

8.4 Policy Regen 3 of the Swale Local Plan 2017 states that within the Port of Sheerness, proposals will be supported where they are in accordance with the objective of maintaining and enhancing the Port of Sheerness as a deep-water gateway port to Europe and the proposals are of a scale, use and external appearance that would not detract from the visual appearance or residential amenity of the locality. The site falls within this regeneration area but is not specifically highlighted for any alternative use or development. Given that the existing site does not have a clear connection to the operation of the port, I do not consider that the proposal could be held to be unacceptable in this regard.

8.5 In light of the policy position as set out above, and importantly the former lawful use of the site as a bus depot, the change of use and development of the site as proposed is not considered to be in conflict with any local plan policies as a matter of principle, taking into account the existing site use.

### Character and Appearance

8.6 Policy CP4 of the Local Plan requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard

should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.

- 8.7 Policy DM16 of the Swale Local Plan 2017 supports alterations and extensions to existing buildings where they reflect the scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.
- 8.8 The proposed extension to the existing workshop building reflects the simple form and appearance of the existing workshop and the flat roof design of the proposed workshop reflects the character of the existing built form on the site. The flat roof also helps to keep any perceived bulk to a minimum. As the building is single-storey and sufficiently set back from both Bridge Road and from the nearest neighbouring boundaries, it will not appear overly bulky or excessive in scale and is discreetly set back from the road. The workshop building will be a steel portal framed structure constructed with brown profile steel sheeting. The materials proposed are typical of buildings intended for commercial or industrial use and they are considered to be appropriate in the context of the site as the existing workshop building is also metal framed.
- 8.9 During the course of the application, palisade fencing was erected at the front of the site, abutting the public footway to the front of the site. As part of this work, two established trees were removed from the site frontage. The erection of fencing in this prominent position is considered to be harmful to the open character of the surrounding area. The agent was informed of this concern and the application has been amended to set the fencing 2 metres back from the front boundary of the site, painted green, and with a landscaping strip between the fence and road. Four trees and a native hedgerow have been shown on the plans to the front of the fencing, however officers consider that a greater level of landscaping should be provided, although this can be secured via planning condition. Subject to this, the visual impact of the fence and site is considered acceptable
- 8.10 The proposal is therefore considered to be acceptable from a design perspective and in accordance with policy requirements.

#### Impact on Heritage

- 8.11 Policy DM32 of the Swale Local Plan 2017 states that proposals that affect a designated heritage asset, or its setting, will be permitted only where the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.
- 8.12 Policy DM33 of the Swale Local Plan 2017 states that new development within, or adjacent to, a conservation area is expected to be both of an appropriate use, of a very high standard of design, and to respond positively to the grain of the historic area by preserving or enhancing the character or appearance of the place.
- 8.13 The application site is located approximately 22 metres from the boundary of the Sheerness Royal Naval Dockyard and Bluetown Conservation Area. The site is also approximately 22 metres from the Sheerness defences, a scheduled monument and approximately 23 metres from the Sheerness War Memorial, which is grade II listed. The site also lies approximately 60 metres from the boundary of the Sheerness Mile Town Conservation Area.
- 8.14 Although an extension to the existing workshop building has been proposed, it is sufficiently small in scale to avoid negatively impacting the significance of the nearby heritage assets and it is set back in excess of 50 metres from the road so would not impact the views leading into either of the Conservation Areas in a negative manner. In addition, whilst the proposed change of use of the land will result in B2 use on the site in

the place of sui generis use, when the proposed use is compared to the existing authorised use of the site (a bus depot), the visual appearance of the site and its associated impact upon the setting of the listed heritage assets or on the approach to the Conservation Area boundaries is likely to be similar to the existing. Although the fence line would be closer to the road than was the case with the former depot site, the landscaping to the frontage would help mitigate this. As a consequence the special architectural and historic interest of each asset will not be detrimentally impacted. The Conservation Officer has reviewed the application and raises no objection to the development.

- 8.15 Whilst the comments of Sheerness Town Council are noted, the proposal is considered to preserve the setting of the designated heritage assets and accord with Policies DM32 and DM33 of the Swale Local Plan 2017.

#### Living Conditions

- 8.16 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and that due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 8.17 The proposed extension to the existing workshop building is considered to be sufficiently small in scale and set back from the nearest neighbouring boundaries, such that it will not physically impact neighbouring access to daylight or sunlight – noting the closest residential accommodation is at Bridge House. In addition, the proposed works to the workshop building will not impact neighbouring outlook or privacy due to the distance between the site of the workshop building and the nearest neighbouring properties.
- 8.18 With regards to the potential for noise pollution from the site as a consequence of the proposed change of use, Bridge House is located on the adjacent site. It is understood that the building is used to provide residential accommodation as part of a young person's housing scheme on the upper floors and is used as a day centre on the ground floor. Bridge House is located approximately 5 metres from the application site boundary and approximately 29 metres from the site of the proposed workshop extension.
- 8.19 Whilst initial concerns relating to noise pollution were raised by the Environmental Health team, the applicant has since provided an acoustic survey. The report confirms that the risk of an adverse noise impact from the change of use on the site and the additional workshop to Bridge House would be low.
- 8.20 It is also accepted that in the context of the site's previous use as a bus depot, vehicle movements would historically have occurred on the site from the early morning until late at night, whereas it is proposed that the vehicle repair works on the site will only be carried during the day until the business closes at 6pm. Accordingly any late evening vehicle movements on the site will be minimal and the level of noise in the evening should be reduced.
- 8.21 The Environmental Health team have confirmed that they are satisfied with the report findings and have raised no concerns in relation to the proposal, subject to a condition to restrict the opening hours and hours of operation. A condition will be added on this basis and is considered reasonable and necessary to protect the amenities of the surrounding area including neighbours.
- 8.22 In light of the above, subject to condition, the proposal is considered to meet the requirements of Policy DM14 of the Swale Local Plan 2017.

### Flood Risk

- 8.23 Policy DM21 of the Swale Local Plan 2017 relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, development proposals should accord with national planning policy and planning practice guidance, and inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere should be avoided. The policy states that site specific flood risk assessments should be carried out to the satisfaction of the Environment Agency and, where relevant, the Internal Drainage Board.
- 8.24 The application site is located within flood zones 2 and 3a and both national and local policy sets out that new development will only be permitted in these flood zones if it can be demonstrated that it satisfies the requirements of the sequential test, and where required, the exception test. However the NPPF does set out at paragraph 168 that applications for some minor development and changes of use should not be subject to the sequential or exception tests. In this case, the development involves the change of use of the site to a commercial use and the extension to an existing workshop. The floorspace created by the development is approximately 180m<sup>2</sup>, and as such meets the definition of minor development set out in footnote 56 of the NPPF. As such, the sequential and exception tests are not required in this case.
- 8.25 A flood risk assessment (FRA) has been provided by the applicant. The Environment Agency has raised no objection to the proposal on flood risk grounds, and I note that this application is predominantly for a change of use with associated minor development and with similar characteristics to the former use of the site. Taking this into account, I consider the development is acceptable from the flood risk perspective.
- 8.26 Kent County Council Flood and Water Management Team have also been consulted in respect of the application and they have raised no objection to the development proposal. However, they have advised that as the Environment Agency's Flood Map for surface water shows a flow path crossing the site, the applicant should consider incorporating appropriate mitigation measures as part of the construction process. An informative is proposed to advise the applicant of their recommendations in this regard.

### Parking/Highways/Transport Issues

- 8.27 Policy DM7 of the Swale Local Plan states that vehicle parking should be in accordance with the guidance set out in adopted standards, which in this case are the Swale Borough Council Parking Standards SPD 2020.
- 8.28 The guidance states that where any new proposed developments relating to vehicle servicing and repairs are being proposed, one parking space should be provided for every two members of staff or alternatively four parking spaces should be provided for every service bay.
- 8.29 In this case, the applicant has confirmed that ample off-road parking will be provided on the large forecourt to the front and side of the workshop. Given the size and nature of the site, it is considered that there will be ample parking opportunities for future users of the site.
- 8.30 The vehicular and pedestrian accesses to and from the site are as per existing access arrangements and they will be unaffected by the proposed works. Their suitability is already established by virtue of their current use.

- 8.31 The former bus depot incorporated a bus shelter within the frontage of the site, serving a bus stop on the road immediately outside the site. The shelter has now been removed and the land enclosed by fencing. Some concerns have been raised in respect of the loss of the shelter. The Kent County Council Highways team have confirmed that the bus shelter was stationed on private land and never publicly maintained, and that there are no highways rights around the retention of the shelter. Nonetheless, officers have queried whether a replacement shelter could be provided closer to the highway as part of the development.
- 8.32 This matter has been raised with the applicant / agent, who has resisted the provision of a new shelter but did suggest they would be willing to lease part of the land for a public shelter to be erected. However, both KCC Highways and the Swale Borough Council Parking and Engineering team advise that there is no funding to support this and as such it would not be viable to maintain. KCC Highways also advise that the loss of the shelter would not be of significant concern, noting that the bus shelter was unlikely to have been well used, given the main footfall of bus passengers would be to disembark at this stop rather than to be waiting for a bus.
- 8.33 On this basis, whilst the proposal has resulted in the loss of a bus shelter, it would appear that this was erected on private land, and that the impact on public transport users would be very limited.

#### Other Matters

- 8.34 The site is located within an area of archaeological potential. I have consulted with Kent County Council Archaeology team, who have confirmed that a condition should be added to any future consent to ensure that any archaeological finds are suitably recorded. A condition will be added in accordance with their recommendations.

### **9. CONCLUSION**

- 9.1 The development proposal is considered to meet the requirements of the local plan policies and it will bring a site within the town centre back into active use, which will benefit the local economy. Whilst the comments of the town council have been taken to consideration, the proposal is unlikely to impact the nearby designated heritage assets in a negative manner. The visual impact of the proposal will not detract from the character of the surrounding area owing to similarities with the existing permitted land use, not harm neighbouring amenities. On this basis, the proposal is considered to be acceptable, subject to the conditions set out below.

### **10. RECOMMENDATION – GRANT Subject to the following conditions:**

#### **CONDITIONS**

- (1) No development shall take place other than in accordance with the following approved plans: KWTP.03, KWTP.04, KWTP.05, KWTP.07 (all received on 27.01.22) and KWTP.08 (received 30.03.23).

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

- (2) The site shall not be open or in use other than between 0600 to 1800 hours Monday to Saturday, and no uses or operations within the workshop shall take place other than between the hours of 0700 to 1800 from Monday to Saturday. The site shall not open or operate on Sundays or Public Holidays.

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

(3) No development (including excavations) related to the construction of the workshop unit approved by this permission shall be commenced until a contaminated land assessment (and associated remediation strategy if relevant), has been submitted to and approved in writing by the Local Planning Authority, comprising:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) A Closure Report, submitted upon completion of the works. The Closure Report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

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

(4) No development (including excavations) related to the construction of the workshop unit approved by this permission shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

(5) Within 3 months from the date of this decision, the fence as shown on drawing no. KWTP.08 shall be erected and the original access as shown on the drawing shall be fenced off and closed to vehicular traffic. The fence shall thereafter be retained and maintained as approved and the former access shall not be re-opened.

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

(6) Within 3 months from the date of this decision, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall incorporate landscaping across the site frontage and shall include existing and proposed trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, and an implementation programme.

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

- (7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

- (9) The site and workshop as outlined in red on the approved plans shall be used for the purpose of vehicle servicing and repair (Class B2) and the site shall be used for no other purpose, including any other purpose considered to fall within a B2 use, as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) or any order revoking or re-enacting that Order.

Reason: In the interests of neighbouring amenity.

- (10) The approved development shall be constructed in accordance with the materials specified on the application form unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

- (11) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) No vehicles shall be stored on the site other than for the purposes of servicing and repair at the premises.

Reason: In the interests of visual amenity

- (13) Within 3 months of the date of this decision, details of any areas of the site to be used for the external storage of parts, equipment, materials or products together with the maximum height levels for such storage and details of any enclosures of works to contain such areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved details. No external storage of parts, equipment, materials or products shall take place within the site other than as approved.

Reason: In the interests of visual and neighbouring amenity.

- (14) No works or operations involving the use of power tools or air impact tools shall take



place outside of the workshop building.

Reason: In the interests of neighbouring amenity.

## **INFORMATIVES**

- (1) The applicant should be aware that the Environment Agency's Flood Map for Surface Water shows a flow path crossing the site. Accordingly, whilst the proposal is situated within the low-risk area of this flow path the applicant may wish to consider appropriate mitigation measures to address the risk of surface water flooding as part of the construction process.

### **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.



**REPORT SUMMARY**

<b>2.4 REFERENCE NO - 23/500240/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Erection of a two storey pitched roof side and a single storey linked to garage rear extension including changes to fenestration (Resubmission 22/505026/FULL).			
<b>ADDRESS</b> 7 Cinnabar Drive Sittingbourne Kent ME10 5LA			
<b>RECOMMENDATION</b> that planning permission is Granted subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b>			
The proposed development would not have an unacceptable impact upon the streetscene, neither would it have an undue impact upon neighbouring amenities, and it would therefore accord with the development plan.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection			
<b>WARD</b> The Meads	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Mr Paul Thompson <b>AGENT</b> Alpha Design Studio Limited	
<b>DECISION DUE DATE</b> 08/03/23	<b>PUBLICITY EXPIRY DATE</b> 17/03/23	<b>CASE OFFICER</b> Katie Kenney	

**Planning History**

22/505026/FULL

Erection of a two storey pitched roof side extension, including link to garage.

Refused Decision Date: 23.12.2022

**1. DESCRIPTION OF SITE**

- 1.1 7 Cinnabar Drive is a part gable, mock Tudor fronted detached property situated in the defined built-up area of Sittingbourne, but falling within the Parish of Bobbing.
- 1.2 It has a detached, original, pitched roof double garage to the rear. There is amenity space to the front which has been hard landscaped to allow for off road parking and amenity space to the rear.
- 1.3 The property faces side-on to Cinnabar Drive, and is one of a small number of properties that utilise a private shared access from the main road.
- 1.4 The immediate streetscene here comprises detached dwellings of broadly similar design.

**2. PROPOSAL**

- 2.1 The application (as amended) seeks planning permission for a two storey side extension of approximately 3.7m in width. The extension would be set back slightly from the main front wall of the dwelling and lower in ridge height. It would be sited to the north of the dwelling and adjacent to Cinnabar Drive, with a gap of approximately 2.8 metres to the pavement edge. The extension would incorporate detailing, including a front roof gable feature, to match the existing dwelling. A single storey extension is proposed to the rear

of the two storey extension which would be approx. 3.5 metres in depth and would link to the existing garage at the property.

- 2.2 The garage door would be relocated to the side elevation of the garage, and this space is shown to be utilised as a store.
- 2.3 The alterations would accommodate an extra bedroom upstairs with en-suite and a living area with utility room downstairs.

### 3. PLANNING CONSTRAINTS

- 3.1 Within built confines of Sittingbourne

### 4. POLICY AND CONSIDERATIONS

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

**CP4** - Requiring good design

**DM7** - Parking

**DM14** - General development criteria

**DM16** - Alterations and extensions.

- 4.2 Supplementary Planning Guidance (SPG) 'Designing an Extension - A Guide for Householders'.
- 4.3 SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM7 of the Bearing Fruits Local Plan Adopted 2017. The SPD was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.

### 5. LOCAL REPRESENTATIONS

- 5.1 **Bobbing Parish Council** – Object to the application on the grounds of impact upon character, the size of the extension, share neighbours concerns, and impact on parking.
- 5.2 Following the submission of amended plans, **Bobbing Parish Council** confirmed that they stand by their original comments.
- 5.3 3 neighbour comments received, objecting to the development on the following summarised grounds -
- The extension would be out of proportion with the existing property and immediate area, causing visual harm
  - Concerns with parking provision
  - Concern regarding access, egress, noise, cleanliness and safety around the Close during and after construction
  - Would like reassurance that the privately owned shared driveway would be maintained and repaired, if necessary, after construction
  - The development would set a precedent across the estate
  - Loss of light concerns
  - Loss of sense of openness
  - High risk of surface water flooding on the plot
  - The garage is incorrectly drawn on the plans with a number of discrepancies
  - Conflict with the Council's SPG on house extensions
  - Failure to comply with various policies within the adopted Local Plan.

- 5.4 Following the submission of amended plans, two of the objectors provided further comments stating that the amendments had not addressed any of their concerns.

## 6. CONSULTATIONS

- 6.1 None received.

## 7. BACKGROUND PAPERS AND PLANS

- 7.1 Plans and documents provided as part of application 23/500240/FULL.

## 8. APPRAISAL

### Principle of Development

- 8.1 The application site is located within the built-up area boundary of Sittingbourne, where the principle of domestic extensions and alterations are generally acceptable, subject to the proposal meeting the requirements of more detailed Local Plan policies, particularly policies DM14 (General Development Criteria) and DM16 (Extensions and Alterations to Buildings) which are considered further below.
- 8.2 This application follows a previously refused application for a larger extension than is now proposed. The refused scheme was for a side extension that was larger in width (4.9m) and depth (the two storey element extended to the existing garage to the rear), and extended closer, being 1.1 metres to the boundary with Cinnabar Drive. The extension was refused for the following reason:

*The proposed extension, by virtue of its significant size, scale, massing, poor design and siting, would represent an imposing and dominant form of development that would be out of proportion with the existing dwelling and would cause significant harm to the character and appearance of the area and streetscene. This would be contrary to Policies, CP4, DM14 and DM16 of Bearing Fruits 2031 - The Swale Borough Local Plan, and to the Swale Borough Council "Designing an Extension" SPG.*

### Visual Impact

- 8.3 Policy CP4 of the Local Plan requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals. Policies DM14 and DM16 of the Local Plan support alterations and extensions to existing buildings where they reflect the scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.
- 8.4 The Council's Householder Extensions SPG provides guidance for extensions, which includes advice that they should be of appropriate scale and not oversized, and should pay careful attention to the existing streetscene and character of an area. The SPG advises that two storey extensions should normally maintain a gap of 2 metres to side boundaries, although this is to maintain separation and openness between buildings and to avoid a "terracing effect", particularly at first floor level, which is not directly relevant here as the extension would be adjacent to the road.
- 8.5 The existing dwelling faces side-on to Cinnabar Drive, separated by a driveway and small landscaped verge. It is within a residential area characterised by moderate to large detached houses set behind grassed verges and gardens.

- 8.6 The proposed two storey side extension, as amended, has been designed to be subservient in scale, width and height to the main dwelling, in accordance with advice in the SPG. It has been significantly reduced in size in comparison to the refused scheme and is considered to relate well to the scale, form and design of the existing dwelling.
- 8.7 The two storey extension would be sited adjacent to the footway on Cinnabar Drive. It would be at a slight taper to the road, being approximately 2.8 metres from the edge of the footway at its nearest point and 4.4 metres at its furthest point. This would result in the flank wall of the dwelling being closer to Cinnabar Drive and more prominent in the streetscene. However, the set back from the footway would be comparable to other dwellings in the immediate vicinity of the site that also face side-on to the road, including 1 Cinnabar Drive (3 metres set back at closest point), 14 Cinnabar Drive (3.3 metres set back), and 20 Cinnabar Drive (1.4 metres set back). In addition, whilst the refused scheme included a two storey extension that extended well beyond the rear of the existing dwelling, this proposed two storey extension does not extend any further than the rear of the main house. As such, the combined effect of siting the extension further away from Cinnabar Drive and reducing the depth of the extension has reduced its prominence and impact on the streetscene to what is now considered to be an acceptable level. It would not be out of character with the existing pattern of development in the road as evidenced by the comparable developments referred to above.
- 8.8 The single storey rear extension would link the garage to the house. It is of modest scale and design and lower in ridge height than the garage – and would be set further back from the road than the garage. This would not have an unacceptable impact upon the streetscene.
- 8.9 Taking the above into account, it is considered that this smaller revised scheme has overcome the previous reason for refusal. It would not harm the character or appearance of the area and would accord with policies CP4, DM14 and DM16 of the Local Plan.

#### Residential Amenity

- 8.10 Policy DM14 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. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or result in excessive noise or odour pollution.
- 8.11 The neighbouring properties most likely to be affected by the proposed extensions would be Nos 1 and 9 Cinnabar Drive. Although the dwelling at No. 5 is closer to the application property, the extensions would be built on the north side of the property and on the furthest side from No 5. For this reason it is not considered that this property would be affected in terms of light, privacy or outlook.
- 8.12 The extension would be sited more than 21m from No 1 Cinnabar Drive, and would face it across the existing shared drive. It is not considered there would be any significant impacts to this property given this distance.
- 8.13 No 9 Cinnabar Drive is sited immediately to the rear of the application property. It fronts onto Cinnabar Drive and its flank wall faces the rear of the application site. The two

storey extension would be on the north side of the dwelling and would be sited 13 metres from the main flank wall of No. 9. The proposed extension would not significantly change the relationship between the application property and No 9. It would not cause any material overlooking compared to the existing relationship between the dwellings and in any case it is noted the rear window in the proposed first floor would be to a bathroom. Neither would it result in any loss of light to main windows sited to the front and rear of No 9 and it would be set back behind the existing garage. The flank wall to No.9 contains a landing window and a kitchen window at ground level which is sited under an existing canopy roof to the dwelling. It is not considered the extension would be likely to cause any unacceptable impacts to these windows, which in any case do not serve habitable rooms. Whilst the comments from the neighbour are noted, the proposal is not considered to have a negative impact in a manner that could reasonably warrant a reason for refusal of this application.

- 8.14 The various concerns raised by neighbours regarding impacts on amenity during construction are noted. However this is not a matter that the planning system can reasonably control for a small scale extension. Issues raised such as possible damage to the shared driveway are civil matters and not controlled under the planning system.

#### Parking/Highways

- 8.15 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with vehicle parking standards. The Swale Borough Council Vehicle Parking Standards Supplementary Planning Document (SPD) was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.
- 8.16 For a dwelling of this proposed size (5 bedrooms), there should be minimum parking availability for 2 to 3 vehicles - spaces of which should be minimum 5.0m x 2.5m. 3 spaces have been marked on the proposed site plan measuring 5.0m x 2.5m which provides acceptable parking provision. The loss of the garage as a parking space is acceptable given the provision of spaces as proposed.

#### Other Matters

- 8.17 A neighbour has raised concern that the site is at high risk of surface water flooding. However, it appears from Environment Agency maps that the site itself is at low risk.
- 8.18 A neighbour has also raised concern that the drawings are inaccurate. Amended plans have been received to accurately show the siting of the existing garage.

### **9. CONCLUSION**

- 9.1 Having taken all the above into account, it is considered that the proposal has overcome the previous reason for refusal. It has been reduced in scale and subservience and sited further from the footway on Cinnabar Drive. As such it now relates well to the existing dwelling and streetscene in general. It is not considered that the proposal would have any significant impact on the surrounding neighbours. As such the application complies with the relevant policies within the Local Plan and it is recommended that planning permission is granted.

### **10. RECOMMENDATION**

That planning permission is GRANTED 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 1642 – 13B and 1642 – 14B.

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

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

Reason: In the interests of visual amenity.

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

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

The applicant/agent was advised of minor changes required to the application and these were agreed.

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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<b>2.5 REFERENCE NO - 22/504907/FULL</b>		
<b>APPLICATION PROPOSAL</b> Conversion of first floor and loft to 2no. two bedroom flats, including erection of a two storey rear extension, creation of a roof terrace, and internal alteration to existing pub/restaurant.		
<b>ADDRESS</b> Napier Hotel 1 Alma Road Sheerness Kent ME12 2NZ		
<b>RECOMMENDATION</b> that planning permission is Granted subject to conditions and receipt of SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development is not considered to result in undue harm to the visual amenity of the area. The noise impact assessment provided by the applicant demonstrates that noise levels associated with the public house below the proposed flats will not result in unreasonable harm to amenity of future occupiers. The proposal is therefore considered to meet the requirements of the Swale Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Town Council objection		
<b>WARD</b> Sheerness	<b>PARISH/TOWN COUNCIL</b> Sheerness Town Council	<b>APPLICANT</b> Newton Developments <b>AGENT</b> Richard Baker Partnership
<b>DECISION DUE DATE</b> 19/01/23	<b>PUBLICITY EXPIRY DATE</b> 09/05/23	<b>CASE OFFICER</b> Megan Harris

### **Planning History**

20/505466/FULL

Conversion of first floor and loft into 3no. one bedroom apartments, together with erection of three storey external staircase enclosure, three dormer windows, section of flat roof to south west elevation, changes to fenestration, creation of roof terraces and creation of external access and amenity area. Internal alterations to existing Pub and Restaurant.

Refused      Decision Date: 05.03.2021

#### **1. DESCRIPTION OF SITE**

- 1.1 The application site is comprised of a large detached two storey building located on a corner plot between Alma Road and Marine Parade, with a longstanding pub/restaurant use on the ground floor, and a three bedroom flat on the first floor. The flat and pub are currently both vacant.
- 1.2 The site lies within the defined built-up area boundary of Sheerness and within Flood Zone 3, as defined by the Environment Agency Flood Map as having a high probability of flooding. The surrounding area is characterised by mainly terraced properties, and immediately south of the site is a pair of semi-detached dwellings.

#### **2. PROPOSAL**

- 2.1 This application seeks planning permission for the conversion of the first floor and roof space into two no. two-bedroom flats. The ground floor will remain in pub/restaurant use,

with some minor alterations including the removal of the existing staircase from the kitchen, and the blocking up of two small windows on the southern side of the building.

2.2 Access to the flats will be provided by a proposed two storey external staircase enclosure, which will be located on the rear elevation of the building. The first floor will contain the kitchen, living/dining room, bedroom and bathroom for each flat, whilst two bedrooms (one for each flat) will be located within the converted loft space. Six rooflights are proposed to serve the bedrooms in the loft. The existing single storey extension at the rear of the building will be used to create two first floor roof terraces. The plans show a privacy screen will be located along the southern elevation of the terraces. At the rear of the building a cycle and bin store will be located.

2.3 A similar application was submitted at the site under 20/505466/FULL and was refused for the following reasons:

- (1) *The proposed external changes to the building, namely the external stair tower, additional flat roof at the third storey and dormer windows would constitute poor design, amounting to unacceptable features on the building in a manner harmful to its character and appearance, and the appearance of the area. The proposal is therefore contrary to policies CP4, DM14 and DM16 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'.*
- (2) *The proposal would introduce additional residential accommodation at the site which lies in Flood Zone 3 and in the absence of evidence to the contrary, could give rise to significant and unacceptable risk to human life in the event of flooding. The proposal would therefore be contrary to policies DM14 and DM21 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and to the advice of paragraphs 155 and 156 of the National Planning Policy Framework.*
- (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 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.*

2.4 This application seeks to overcome these reasons for refusal by removing the dormer windows, reducing the scale of the external stair tower and removing the proposed section of flat roof at the third storey. A Flood Risk Assessment has also been provided to address the second reason for refusal.

### **3. PLANNING CONSTRAINTS**

3.1 Environment Agency Flood Zone 3

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

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

**ST1** Delivering sustainable development in Swale

**ST3** The Swale settlement strategy

**ST6** The Isle of Sheppey area strategy

**CP3** Delivering a wide choice of high quality homes

**CP4** Requiring good design

**DM6** Managing Transport Demand and Parking

- DM7** Vehicle Parking
- DM14** General development criteria
- DM16** Alterations and extensions
- DM19** Sustainable design and construction
- DM21** Flooding, water and drainage
- DM28** Biodiversity and geological conservation

### **Supplementary Planning Guidance (SPGs)**

'The Conversion of Buildings into Flats & Houses in Multiple Occupation'

Parking Standards 2020 (which has been adopted since the Local Plan was published and supersede the County standards referred to in policy DM14).

## **5. LOCAL REPRESENTATIONS**

- 5.1 **Sheerness Town Council:** Object to the application due to lack of input from the heritage officer and concern that the building is of interest to the local area.
- 5.2 Letters were sent to neighbouring occupiers and a site notice was displayed near the site. No representations were received in response to this

## **6. CONSULTATIONS**

- 6.1 **Environment Agency:** No objections as residential development has been located at first and second floor level. This is considered suitable mitigation for flood risk at the site.
- 6.2 **Environmental Health:** Initially raised concern regarding the relationship between the ground floor public house use and the first floor flats. Following the submission of an acoustic assessment, EH are satisfied that suitable insulation and internal noise levels can be achieved at the site, subject to conditions requiring such details.
- 6.3 **KCC Minerals and Waste:** No objections.
- 6.4 **KCC Highways:** Advise that the proposal doesn't meet the criteria to warrant involvement from the Highways Authority.
- 6.5 **Natural England:** No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites.
- 6.6 **SBC Design and Conservation Manager:** Raises no objection to the application.

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

- 7.1 All documents associated with application 22/504907/FULL.

## **8. APPRAISAL**

### **Principle of Development**

- 8.1 The site is located within the built confines of Sheerness and is close to the town centre. The use of the upper floors for residential purposes is acceptable and supported in principle under policy ST3 of the Local Plan

### **Character and appearance**

- 8.2 Policies CP4 and DM14 of the Swale Local Plan 2017 require development proposals to be of high-quality design and to be in keeping with the character of the area. It states that

particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.

- 8.3 The building is an attractive Victorian structure, occupying a prominent corner position. The changes to the building will mainly be contained to the rear and whilst some views of this elevation are possible from Marine Parade, the development will not be prominent in the surrounding area. Following on from the refused scheme, the external stair tower has been re-designed and reduced in height to sit below the eaves on the main roof of the building. A pitched roof has also been added to the structure, which ensures it assimilates better with the existing building. The proposed dormer windows have been removed and replaced with rooflights, which limit the changes to the roof slope.
- 8.4 The building, due to its age and form would be considered as a non-designated heritage asset. The Council's Conservation and Design Manager raises no objections to the development, noting the external changes proposed as part of the application are minor and will not harm the character and appearance of the building or wider area, and that the number of rooflights are required in order to provide adequate light to rooms. Following some amendments to the position of rooflights, this element of the scheme is considered to be acceptable and would not cause harm to the character or appearance of the building or wider area.
- 8.5 Overall, it is considered that the external works would be limited and maintain the attractive form and character of the building. The previous reason for refusal has been overcome through the reduction in the enclosed staircase building and removal of dormer windows, and it is considered that the scheme would comply with policies DM16 and CP4 of the Local Plan.

### **Living Conditions**

- 8.6 Policy DM14 of the Local Plan states that development should respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not create loss of sunlight, overshadowing, overlooking or result in excessive noise, activity or vehicular movements or visual intrusion.
- 8.7 Firstly considering the living conditions for future occupiers of the development, it is noted that the floorspace for each flat would comply with the Council's SPG entitled 'The Conversion of Buildings into Flats & Houses in Multiple Occupation'. The floorspace (at approximately 65m<sup>2</sup>), does fall slightly below the 70m<sup>2</sup> requirement as defined in the Nationally Described Space Standards. However these standards have not been adopted by the Council. The layout is considered to be usable and would not undermine the living conditions of future occupants.
- 8.8 All habitable rooms within the flats on the first floor are served by adequately positioned windows. The two bedrooms in the loft space will be served by rooflights. Section drawings were provided during the course of the application to show the positioning of the rooflights within these rooms, and it is considered that suitable light and outlook would be provided sufficient for these secondary bedrooms.
- 8.9 The proposed flats benefit from a small area of outdoor amenity space as well as two roof terraces.
- 8.10 There is potential for noise disturbance to occupiers of the flats arising from the pub below. Whilst there currently is a flat on the first floor, this is only accessed through the pub and as such, is very likely to be occupied in conjunction with the pub.. This proposal will provide independent access to the two flats proposed on the upper floors, and as such these units are capable of and likely to be occupied independently of the pub.

- 8.11 An acoustic assessment was provided during the course of the application, and concluded that through the use of acoustic glazing and sound insulation, it would be possible to mitigate any unacceptable noise impact from the operation of the pub on the ground floor. This is acceptable to the Council's Environmental Health team. Relevant conditions are recommended below and subject to this, it is considered that adequate levels of amenity would be afforded to future occupiers of the development.
- 8.12 The additional built form proposed would be unlikely to cause any significantly harmful impacts to neighbouring dwellings. The staircase at the rear is set a sufficient distance from the new dwellings to the south of the site, and would not project rearwards of 1 Napier Terrace to the east, and would face onto the flank wall of this property. The proposed rooflights will not cause any unacceptable overlooking impacts.
- 8.13 There are potential overlooking impacts from the use of the existing flat roof at the rear as roof terraces. Any overlooking of 1 Napier Terrace would be limited due to the two storey wing extension at this neighbouring property which will limit views from the terrace. However the roof terraces could overlook the gardens of the properties to the south of the site, causing detrimental harm to future occupiers of this development. A privacy screen is shown on the plans along the south western side of the terraces to mitigate this impact. A condition is included below to ensure the screen is installed prior to the first use of the flats and is maintained in perpetuity.

### **Flooding**

- 8.14 Policy DM21 of the Swale Local Plan 2017 relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, development proposals should accord with national planning policy and planning practice guidance and avoid inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere.
- 8.15 The site lies within Flood Zone 3, and is at high risk from tidal and fluvial flooding. It is pertinent to consider whether the proposal would be appropriately located in relation to this identified flood risk. A Flood Risk Assessment has been provided and the Environment Agency have reviewed this document and raise no objections to the application.
- 8.16 Both national and local policy sets out that new residential development will only be permitted if it can be demonstrated that it satisfies the requirements of the sequential test, and where required, the exception test. However the NPPF does set out at paragraph 168 that applications for some minor development and changes of use should not be subject to the sequential or exception tests. In this case, the development involves the conversion of the first floor and loft space, and whilst the proposed external stair case does constitute new development, it only represents a minor increase in the floorspace of the building, and as such a sequential test is not required in this case as the development is essentially conversion of the upper floors of the building.
- 8.17 The applicant has submitted a Flood Risk Assessment which has been reviewed and considered acceptable by the Environment Agency. On this basis, flood impacts are considered acceptable and the previous reason for refusal has been overcome.

### **Parking/Highways**

- 8.18 Policies DM6 and DM7 of the Local Plan 2017 seek to ensure that new developments do not create unacceptable highways impacts and provide suitable parking.
- 8.19 As set out in the Swale Borough Council Parking Standards 2020, a two bedroom flat would generate a need for one parking space. The development provides no off-street

parking for the two flats, however due to the site's location close to the town centre boundary and close to local shops, services and public transport links it is considered to be a sustainable location for residential development. As such, although the proposal provides no parking, this is deemed acceptable.

- 8.20 The plans show an area for cycle storage at the rear of the building. No specific details of the form of cycle storage are provided, and a condition is recommended below requiring details of secure cycle storage to be submitted to the Council.

### **SPA Payment**

- 8.21 An Appropriate Assessment is set out 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 £314.05 per new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. This fee will be secured prior to the determination of the application.

## **9. CONCLUSION**

- 9.1 The proposal to convert the upper floors of the building to two flats is acceptable in principle given the location of the site within the built up area boundary of Sheerness and close to the town centre. It will not cause harm to visual or residential amenity and following the submission of a noise assessment and section drawings, the application has demonstrated that the development will provide an acceptable level of amenity for future occupiers. The application has overcome the previous reasons for refusal and as such it is recommended that planning permission is granted.

- 10. RECOMMENDATION** – GRANT planning permission subject to securing the required SAMMS contribution 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 in accordance with the following approved plans: 2995/2 Rev C, 2995/3 Rev B and 2995/4.

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

- (3) Prior to the commencement of the development, details of acoustic glazing to be used on the windows within the approved residential units shall be submitted to and approved in writing by the Local Planning Authority. The glazing must accord with the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings and the recommendations set out in the Acoustic Assessment carried out by Able Acoustics. The glazing shall be installed in accordance with the approved details prior to occupation of the units.

Reason: To protect the amenity of future occupiers

- (4) Prior to the commencement of the development, details of a scheme of internal sound insulation measures to insulate the residential units from noise arising from the ground floor commercial premises shall be submitted to and approved in writing by the Local



Planning Authority. The scheme must accord with the recommendations set out in the Acoustic Assessment carried out by Able Acoustics. The approved scheme shall be implemented in full prior to the occupation of any residential unit.

Reason: To protect the amenity of future occupiers.

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

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

- (6) Prior to the occupation of the units hereby permitted, details of secure, covered cycle storage for each unit shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

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

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

Reason: In the interests of water conservation and sustainability.

- (8) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of local amenity.

- (9) 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.

- (10) The privacy screens shown on drawing no. 2995/2 Rev C and 2995/3 Rev B shall be installed prior to the first use of the roof terraces hereby permitted and shall be maintained in perpetuity.

Reason: In the interests of residential amenity.

**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.



**PLANNING COMMITTEE – 25 MAY 2023****PART 3**

Report of the Head of Planning

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

<b>3.1 REFERENCE NO - 21/504388/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a permanent agricultural dwelling with associated parking.		
<b>ADDRESS</b> Woodland Farm High Oak Hill Iwade Road Newington Kent ME9 7HY		
<b>RECOMMENDATION</b> That planning permission is Refused		
<b>SUMMARY OF REASONS FOR REFUSAL</b> The Planning Committee resolved to grant planning permission for the development on 23 <sup>rd</sup> June 2022, subject to completion of a S106 Agreement to tie the new agricultural dwelling to the surrounding farmland operated as an egg farm. The applicant has not entered into this Section 106 Agreement, and without this the application is considered unacceptable. Furthermore, an application seeking prior approval for the conversion of part of an agricultural building on the farm to five dwellings has been recently submitted, and this suggests that there is potential for an existing surplus building to be reused or replaced on the site, rather than constructing a new dwelling, which will lessen the impact on the character and appearance of the surrounding countryside.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The resolution from the Planning Committee on 23 <sup>rd</sup> June 2022 did not include authority for officers to refuse the application under delegated powers in the event that a S106 Agreement was not completed.		
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Mr Jy Stedman <b>AGENT</b> Consilium Town Planning Services Limited
<b>DECISION DUE DATE</b> 05/11/21	<b>PUBLICITY EXPIRY DATE</b> 24/02/22	<b>CASE OFFICER</b> Megan Harris

**Planning History**

As set out in the committee report attached at Appendix 1. Since this report, the following application has been submitted at the site:

23/500946/PNQCLA

Prior notification for the change of use of agricultural barn to 5no. dwellings and associated operation development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the development. -contamination risks on the site. - Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses)- Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.

Pending Consideration

## 1. BACKGROUND

- 1.1 This application was reported to Planning Committee on 23<sup>rd</sup> June 2022 and was recommended for approval. A copy of this report is attached at Appendix 1. Members resolved to approve the application, subject to the applicant entering into a Section 106 Agreement which would tie the land and dwelling together to prevent one from being severed from the other. Such a mechanism via a S106 Agreement was considered necessary due to the relatively large size of the dwelling, the specific need for a permanent residential presence at the egg farm, and the specific ability of the egg farm enterprise to support, in financial terms, the costs associated with a dwelling of this size. Whilst the dwelling was deemed to be affordable for the farm enterprise itself, some concern was expressed about the potential for the dwelling to be severed from the unit and the likelihood that it would be unaffordable to the wider agricultural worker community. Whilst proposed condition 18 in the committee report attached at Appendix 1 ensures the occupation of the dwelling would be limited to agricultural workers, it does not prevent the farm being sold separately from the dwelling – nor can a planning condition achieve this. The Agreement would provide an appropriate mechanism to secure this. It was agreed with the Planning Committee that such a mechanism would meet the tests of reasonableness and necessity.
- 1.2 Whilst the applicant initially agreed to enter into this Agreement following the committee resolution, they subsequently raised concern over the drafted wording of the document, and in particular the fact that the land and dwelling would be tied together in perpetuity. It is considered that a time-limited mechanism that would free the dwelling from the terms of a S106 agreement at a set date would not be appropriate, nor are officers aware of any similar circumstances where an agricultural dwelling has been tied for a time-limited period only. In addition, it is noted that there is an application process under the Planning Acts to modify or discharge a S106 Agreement if it no longer serves a useful purpose.
- 1.3 The agent subsequently advised by email dated 28/11/22 that their client was willing to sign an agreement in the terms required by the Council. However, since this date and despite numerous attempts to chase progress, a signed agreement has not been submitted. A report was due to be considered by the Planning Committee in January, but was withdrawn from the agenda after the applicant's agent persuaded officers that their client had every intention of completing the S106 Agreement. Despite being given a clear deadline to do so, the Agreement has not been forthcoming. For this reason, the application is being reported back to Planning Committee.
- 1.4 As set out in the planning history section above, an application for prior approval for the conversion of part of an agricultural building to five dwellings has now been submitted at the site and is currently pending consideration. The implications of this application in relation to this scheme for a new agricultural dwelling is considered below.

## 2. DISCUSSION

- 2.1 The officer report attached at Appendix 1 did not include reference to the need for a Section 106 Agreement. However, a Planning Committee is entitled to reach a different planning outcome and judgement, including the use of planning conditions and S106 Agreements, provided that there are sound planning reasons for doing so. The key relevant tests for a planning obligation are as follows –

Necessary to make the development acceptable in planning terms – the Agreement is necessary to tie the dwelling to the need identified, i.e. as a farm dwelling, in an area where a new dwelling would not otherwise be permitted.

Directly related to the development – the Agreement sought directly relates to the dwelling and land holding that supports the farm enterprise and which has been used to support and justify the need for a dwelling of the size proposed as part of the planning application.

Fairly and reasonably related in scale and kind to the development – the Agreement only relates to the land holding and farm enterprise that supports the dwelling and is fairly and reasonably related.

- 2.2 It is considered that the Planning Committee exercised sound planning reasons for the requirement to tie the agricultural dwelling to the wider farm enterprise. Without this Agreement in place, it is possible that the dwelling could be severed from the surrounding farm enterprise in the future. It is unlikely that a dwelling of the scale and design proposed would be within the reach of a general farm worker as part of the wider agricultural community. If the dwelling was to be severed from the enterprise, Officers would be concerned that it could result in pressure to remove the agricultural occupancy restriction completely, which in turn would remove the justification for the dwelling at this current time.
- 2.3 The recent submission of an application for prior approval to convert an existing building at the farm to 5 dwellings also has significant implications for this application for a new agricultural dwelling. The prior approval application provides a clear indication that there is potential for an existing building on the site to be adapted for conversion to residential use, rather than the erection of a new building which would have a greater impact on the character and appearance of the countryside. The re-use of existing buildings should always be the first consideration in the countryside rather than the construction of new development, as set out in policy DM12 which states that the siting of an agricultural dwelling should firstly explore whether there are suitable buildings available for conversion at the enterprise. In light of this new position and change in circumstance, it is considered that the application no longer complies with policy DM12 of the Local Plan. These concerns have been relayed to the agent, but no response has been received. It is considered that this should now form a reason for refusal.
- 2.4 Officers have also raised concern that the prior approval application would have an impact on the business case put forward for the new agricultural dwelling, as the conversion would significantly reduce the scale of one of the poultry sheds at the site and brings into question whether the business plan provided as part of the full planning application is up to date. An agricultural dwelling of the scale proposed was justified in part due to the scale of the farming operation on the site, and a reduction in the size of the poultry shed on the site could suggest that the business may be reducing in size and potentially reduce the turnover / income projected to support the dwelling. The applicant has verbally advised that the number of hens kept on site will not be reducing, and that the remaining chicken shed on the farm will be altered internally to provide additional space for hens to make up for the space lost by the conversion. However no detail of this has been provided.

## CONCLUSION

2.5 The applicant has failed to complete the S106 Agreement required by the Planning Committee to tie the new dwelling to the farm enterprise, and the development is considered to be unacceptable in the absence of this. In addition, given the recent submission of the application for prior approval and clear indication that there is a surplus building at the existing site that could be capable of conversion, and the potential impact of this on the turnover of the business, it is considered that the application now no longer complies with Policy DM12 of the Local Plan.

### 3. RECOMMENDATION – REFUSE for the following reasons:

- (1) In the absence of a Section 106 Agreement to tie the ownership and occupation of the proposed agricultural dwelling to the wider farm unit, there is an unacceptable risk that the dwelling could become severed from the farm unit and, due to its size and scale, be unaffordable to the wider agricultural worker community. If the unit is unable to be occupied by an agricultural worker, this would support the removal of the agricultural occupancy condition and ultimately could result in a large unrestricted residential dwelling in the countryside, which is contrary to both local and national policies to protect the countryside and avoid isolated new dwellings in the countryside. The application is therefore contrary policies ST3, DM12 and DM24 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.
- (2) The submission of an application for prior approval (ref.23/500946/PNQCLA) to convert a building within the farm to 5 dwellings strongly indicates that one of the agricultural buildings on the farm is available and capable of conversion to residential use. This was not disclosed to the Council as part of this application, nor has any explanation or evidence been provided as to why this building could not be re-used, adapted or replaced as an alternative to the proposed new-build agricultural dwelling, to provide the accommodation required for the enterprise. In addition, no updated information has been provided to the application to demonstrate the impact on the farm enterprise and turnover arising from the loss of this building for the housing of poultry. As such, the application has failed to adequately consider or demonstrate that there are no suitable buildings available for conversion on the site, or that the development has been designed to limit the extent of built form in this isolated countryside location within an Area of High Landscape Value, and the business case to support the development is outdated and insufficient to demonstrate that the enterprise can support a dwelling of the size proposed. As such, the new dwelling has not been justified and the development would be harmful to the countryside and landscape, contrary to policies ST3, DM12, and DM24 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

### The Council’s approach to the application

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



<b>2.6 REFERENCE NO - 21/504388/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a permanent agricultural dwelling with associated parking.		
<b>ADDRESS</b> Woodland Farm High Oak Hill Iwade Road Newington Kent ME9 7HY		
<b>RECOMMENDATION</b> Grant subject to conditions and SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> There is an essential need for the applicant to reside at the site in order to operate the business, and whilst the proposed dwelling is large in scale, it is proportionate to the size of the farm.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection and called in by Ward Member		
<b>WARD</b> Bobbing, Iwade And Lower Halstow	<b>PARISH/TOWN COUNCIL</b> Bobbing	<b>APPLICANT</b> Mr Jy Stedman <b>AGENT</b> Consilium Town Planning Services Limited
<b>DECISION DUE DATE</b> 05/11/21		<b>PUBLICITY EXPIRY DATE</b> 24/02/22

**Planning History**

14/506862/FULL

Variation of condition No.1 of planning permission SW/12/1221 to extend permission for mobile home for a further 3 years.

Approved Decision Date: 07.12.2015

SW/14/0502

Erection of poultry shed and grainstore, with associated access tracks, hardstandings, turning areas, land profiling and feed silos.

Approved Decision Date: 24.10.2014

SW/12/1221

Relaxation of condition (2) appended to planning permission SW/10/0631 to enable mobile home to be retained on site until the 25th January 2015

Grant of Conditional PP Decision Date: 13.11.2012

PN/11/0002

Prior notification for 3 agricultural buildings.

Prior Approval Required Decision Date: 11.02.2011

SW/10/0631

Erection of poultry house and temporary stationing of mobile home with associated improvement of existing access and provision of parking and turning areas.

Grant of Conditional PP Decision Date: 03.09.2010

## **1. DESCRIPTION OF SITE**

- 1.1 The site is an established egg farm, and the land owned by the applicant extends to roughly 24 hectares of land, incorporating 9.5 Ha of grassland and the remainder as woodland. The south eastern section of the site is grassland that slopes steeply down towards High Oak Hill. The north western section of the site is woodland. The site is elevated and has wide ranging views over the Newington valley. The land included within this application is 0.2 hectares in size and is roughly rectangular. It includes the existing access onto the site from High Oak Hill and the area is located to the north east of the site.
- 1.2 The existing farm buildings are comprised of two large poultry sheds housing 28,000 hens, a barn, storage building and mobile home. The mobile home is occupied by the applicant and his family and was originally granted temporary planning permission under application SW/10/0631. Temporary permission for the mobile home has been extended by a number of applications, most recently under application 14/506862/FULL, where a condition on this application required it to be removed from site on or before 10<sup>th</sup> December 2018. No further applications have been submitted to extend this time period and as such the mobile home is currently in breach of this condition.
- 1.3 The site lies within the countryside, 220m to the northeast of the Newington Church Conservation Area. The site also lies within an Area of High Landscape Value. High Oak Hill, the highway off which the access to the site is taken, is designated as a Rural Lane. Wardwell Woods, the adjacent woodland to the north, is designated as a Local Wildlife Site whilst Hawes Wood also to the north is designated as ancient woodland. The surrounding area is mainly characterised by agricultural fields, with the closest dwelling, The Bungalow, lying to the east of the site.

## **2. PROPOSAL**

- 2.1 This application seeks planning permission for the erection of a permanent agricultural dwelling at the site, which will replace the existing mobile home. The new dwelling will be located to the south east of the mobile home, on an area of maintained grassland. A gravel track will be created from the existing access road through the site, to provide vehicular access to the dwelling. Two parking spaces are shown to the front of the new dwelling, although additional parking could be achieved along the gravel driveway.
- 2.2 The property consists of a 4 bed detached dwelling, with projecting gables on the front and rear elevations and a single storey side extension on the north western side of the property. The ridge height of the dwelling will be 8.3m, whilst the eaves height will be 5m. Following the submission of amended plans reducing the scale of the dwelling, an open plan kitchen/dining room, lounge, office, boot room and cloakroom will be provided on the ground floor. On the first floor, four bedrooms and a bathroom will be provided. Proposed materials include facing brickwork, timber weatherboarding and clay roof tiles.

- 2.3 The planning statement sets out that the *“the owner of the business has lived on the site within the mobile home since 2010 and as created a very successful and important business providing free range eggs to the local area creating a successful rural company. As the company has expanded the on-site care of the poultry has become an ongoing necessity and the owners family has also grown and it is now difficult to balance a family life and the business from a mobile home, which is obviously restricted in size and amenities. The mobile home has been used on the site for over a ten-year period and whilst it was adequate for a single occupier it is now cramped and considered unsustainable for a family.”*

### **3. PLANNING CONSTRAINTS**

- 3.1 Ancient Woodland – Hawes Wood lies to the north west of the site
- 3.2 Local Wildlife Site – Wardwell Woods lies to the north west of the site
- 3.3 Potential Archaeological Importance
- 3.4 Newington Church Conservation Area lies to the south west of the site
- 3.5 Iwade Road is a designated Rural Lane
- 3.6 Area of High Landscape Value Swale Level

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

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings within the defined built up areas, or outside of those areas in certain exceptional circumstances such as for the provision of agricultural worker’s accommodation, or the provision of affordable dwellings to meet an identified local need.
- 4.2 Paragraph 78 of the NPPF, in particular, states that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities... Local Planning Authorities should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*
- *The essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
  - *Where such development would represent optimal viable use of a heritage asset; or*
  - *Where the development would re-use redundant or disused buildings...; or*
  - *The exceptional quality or innovative nature of the design of the dwelling. Such a design should be:*
    - o *Truly innovative...*

- o Reflect the highest standard of architecture;*
- o Significantly enhance its immediate setting...”*

- 4.3 Development Plan: Policies ST1, ST3, CP3, CP4, DM3, DM7, DM12, DM14, DM19, DM24, DM26, DM29 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017

## 5. LOCAL REPRESENTATIONS

- 5.1 Cllr Horton requested the application is called into committee if the planning department is recommending the application is approved.

## 6. CONSULTATIONS

- 6.1 Newington Parish Council object to the application, providing the following comments:

*“Proposal for an impressive and imposing house; location will be visible from the village and harm the visual amenity of views of the woods on the hillside north of the village.*

*The planning statement gives a chronology of the chicken farm, but also contains errors:*

*It was considered at the time by the Local Planning Authority that this was essential to the functioning of the enterprise and provide security*

*This was the case made by the applicant. The local planning authority only granted temporary permission for a mobile home in a specified location, not visible from the village, and granted a temporary extension in 2014 – which has lapsed and could be the focus of enforcement action.*

*The Planning statement includes:*

*1.3 The proposal has been the subject of pre-application correspondence with the Local Planning Authority (Megan Harris) and the written response received dated on 14 April 2021 (21/500434/PAMEET) is attached in Appendix 1*

*There is no appendix 1 in the planning statement and so Newington Parish Council does not know what advice has been sought or given.*

*The planning statement quotes the NPPF*

*The new National Planning Policy Framework (NPPF) (2021) and National Planning Practice Guidance (NPPG) encourage the provision of new dwellings within the defined built up areas, or outside of those areas in certain exceptional circumstances **such as for the provision of agricultural worker’s accommodation** (emphasis added), or the provision of affordable dwellings to meet an identified local need.*

*This proposal is not within the defined built up area and it is certainly not an ‘affordable dwelling’. We question the need for on-site accommodation given the availability of*

*devices to monitor and control equipment remotely. We note the pattern, across the country, of farmers selling desirable farmhouses and managing the farm equipment and security through use of 'apps' and do not understand why this could not be employed here.*

*The current on-site accommodation in a caravan was agreed for temporary extension in 2014. We regret that there has been neither a submission for further extension nor enforcement action by the local planning authority. We see nothing in the planning statement to suggest that changes or proposed changes to the farming methods require enhanced accommodation.*

*Kent Wildlife Trust confirms the site as ancient woodland 'irreplaceable habitat'. In addition to the endangering of woodland habitat the proposal would mar the visual amenity of this woodland from the village. If there were to be clear business case proving irrefutable necessity for on-site permanent accommodation, we suggest this should be through a modest unobtrusive bungalow positioned where the caravan is currently sited"*

6.2 Bobbing Parish Council – No comments.

6.3 Health and Safety Executive – Does not advise against the granting of planning permission on safety grounds.

6.4 Rural Planning Consultant – *"In 2011/12 Mr Stedman established a new free-range hen venture on some 16.4 ha, based on a 12,000 bird flock housed in a newly permitted poultry building. Planning permission was later granted under SW/14/0502 for a further free range poultry house for another 16,000 hens, plus two feed silos, the erection of a grain/feed store, and associated works.*

*The unit continues to require the on-site presence of a responsible owner/manager and provide a good level of profit. In principle, there is sufficient functional and financial justification for the provision of a suitable permanent dwelling here. The main issue to consider, in my view, is whether the particular dwelling proposed is appropriate, having regard to its role as a dwelling that would be restricted to agricultural occupancy, and would be permitted as an exception to the usual policy restraint on building houses in isolated countryside locations...*

*The house currently proposed remains much bigger, in my experience, than those usually permitted as a farm dwelling. It would include (ground floor) entrance hall with stairway, farm office, lounge, farm kitchen, farm boot room; (first floor) 4 double bedrooms, on with en-suite facilities, family bathroom, laundry room, and galleried landing. I estimate the gross external area to be some 276m<sup>2</sup>.*

*Whilst the office and boot room, for example, might to be argued to be farm-business related rather than private family accommodation, these rooms appear large for the*

*purpose. It would be impossible, I suggest, to control exactly how individual rooms are used once the house were built. In any event I see no particular reason why the house needs to be so large in order to meet the functional requirements of the business and provide a reasonable family home.*

*The Planning Statement goes on to give a building cost estimate of “£270,000 based on an estimated cost of £150 per square metre”. Again this is clearly an error and presumably what is meant is £150 per sq ft (1,810 x £150 = £271,500). However as the actual size is some 2951 sq.ft, the equivalent estimate would be £442,650.*

*Furthermore this is only a rough figure and no detailed estimate based on the particular design, and proposed materials, appears to have been submitted, nor any evidence of loan availability.*

*Accounts have been submitted for the four years up to 05 April 2020. There are no accounts submitted for the last financial year, but assuming the results remain comparable, it would appear that a good level of profit is being achieved. Nevertheless the net results from this sort of enterprise are very susceptible to relatively small changes in factors such as egg output, egg price, and feed price, and I would still be concerned, over the longer term, that the sort of large and expensive dwelling that is currently proposed would be affordable from the income that the farm business can sustain. This could lead to difficulty in complying with the usual agricultural occupancy condition and pressure for the removal of such a condition.*

*In conclusion, therefore, in my view the proposed dwelling does not properly comply with Local Plan policy DM12 and other guidance as to what sort of dwelling is normally considered appropriate for a farmhouse on a holding such as this.”*

The agent provided further financial details and the likely cost of the dwelling, and the Rural Planning Consultant was reconsulted. He reiterated his concerns that the dwelling was overly large, but didn't refer specially to a concern about the cost of the dwelling.

- 6.5 Environmental Health – No objections subject to standard hours of construction condition and provision of an electric vehicle charging point.
- 6.6 Forestry Commission – refer to standing advice.
- 6.7 Natural England – Development will result in the construction of a new dwelling within 6km of the SPA and as such mitigation is required. Refer to standing advice on ancient woodland.
- 6.8 Kent Wildlife Trust – *“Given the close proximity of the development to the LWS/ancient woodland we advise that measures for avoiding impacts during the construction phase should be specified, and secured via a suitable planning condition. It is anticipated that impacts from construction will include disturbance of wildlife through increased noise*



*and lighting, contaminated surface water runoff, as well as degradation of ancient woodland habitat through dust which may have direct impacts on plant health and survival. We advise that lighting and drainage strategies, which account for sensitive wildlife receptors, be submitted and secured. Further, a construction management plan should identify measures to avoid impacts to the protected site.*

*It is Kent Wildlife Trusts view that a 50m buffer strip comprising managed traditional orchard habitat, in combination with a suitable mitigation strategy for the construction stage, should be sufficient to avoid degradation of the LWS/ancient woodland.”*

The distance between the propose dwelling and LWS/ancient woodland is 32m, and as such only a 32m buffer zone is provided. I sought clarification from Kent Wildlife Trust to understand whether they are satisfied with a 32m buffer zone. They provided the below comments:

*“It is my opinion that if a 32m buffer zone was suitably maintained for the benefit of wildlife and therefore served as a functional buffer zone then it is likely to be sufficient to protect the woodland from the development of a single dwelling. This is reliant on suitable conditions securing the protection of the buffer zone and the implementation of a management plan which has been prepared by an ecologist.”*

- 6.9 KCC Ecology – *“As the site is regularly grazed/mown grassland we are satisfied that it is unlikely that protected species will be impacted by the proposal and as such do not require specific species surveys to be carried out.*

*The proposal is within 50m of the Hawes Wood and Wardwell Wood, Newington Local Wildlife Site (LWS) and Ancient Woodland (AW) and therefore there is potential for the operational and construction phase to negatively impact the LWS and AW. To address the impacts from construction we advise that measures must be included within the construction management plan to minimise impacts due to increase in dust or water run off.*

*To address the impacts from the operational phase we recommend that the lighting is designed to minimise impacts associated with external lighting – we recommend that the measures within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals are also relevant to minimising impacts on the LWS and AW.*

*One of the principles of the National Planning Policy Framework is that “opportunities to improve biodiversity in and around developments should be integrated as part of their design” In addition to the inclusion of ecological enhancement features within the building /site we recommend we recommend that a strip of vegetation directly adjacent to the LWS/AW is, largely, left unmanaged to enable plants and grasses to grow and set seed. This will create a buffer between the site and the LWS/AW and provide additional habitat for insects which, in turn, will support the pollination within the orchard.*

*We recommend that if planning permission is granted an ecological enhancement plan is submitted as a condition of planning permission. Suggested wording at the end of the report.”*

6.10 KCC Highways – Proposal doesn't meet the criteria to warrant involvement from the Highways Authority.

6.11 KCC Archaeology – *“The proposed development lies in an area with archaeological potential especially arising from remains on the nearby high land. The proposed new development would involve ground excavations in presently undeveloped land. Given the potential for impact on archaeology I recommend that provision is made for a programme of archaeological works through the following condition should consent be granted.”*

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

7.1 Plans and documents relating to application 21/504388/FULL.

## **8. APPRAISAL**

### **Principle of Development**

8.1 The site is located outside any built-up area boundary, and therefore falls within the lowest, least acceptable tier of the settlement hierarchy, as set out by policy ST3. Both the Local Plan and the NPPF make clear that to promote sustainable development in rural areas, new isolated homes should be avoided, except in special circumstances, such as to meet an essential need for a rural worker to live permanently at or near their place of work in the countryside.

8.2 Policy DM12 of the Local Plan (which relates to dwellings for rural workers) states that:

*“Planning permission will be granted for new, permanent, rural worker dwellings in the countryside, subject to:*

- 1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;*
- 2. There being no suitable existing dwelling available nearby or in a nearby settlement;*
- 3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and*
- 4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to*

*existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.”*

8.3 The relevant sections of the supporting text to this policy are as follows:

*“Whether a new dwelling is essential in a particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved... Any dwelling permitted must be appropriate for the need and to its rural location... In cases where a dwelling is considered by the Council to be essential to support an enterprise, it will normally be appropriate for permission to be initially granted for a caravan or temporary structure for a limited time period, usually for a minimum period of three years... a financial test will be necessary to demonstrate that the enterprise is economically viable and to provide evidence of the size of the dwelling that the unit can sustain.”*

8.4 I note that a functional need for accommodation on this holding, in principle, has been accepted previously in the form of the temporary permissions for the mobile home. The business has grown since the mobile home was first placed at the site. The applicant established the free-range hen venture in 2011/2012, based on a 12,000 bird flock. Planning permission was later granted under SW/14/0502 for a further free range poultry house for another 16,000 hens, plus two feed silos, the erection of a grain/feed store, and associated works. The planning statement sets out that the expansion of the business has resulted in care of the poultry becoming an on-going necessity, and the applicant’s family has also grown, and as such the existing mobile home is not large enough to balance family life and business matters. Financial accounts for the last four years have also been provided with the application, demonstrating that the business has provided a good level of profit and the construction of the dwelling can be funded by accruing previous years profits and also taking a mortgage.

8.5 The Rural Planning Consultant has reviewed the application and in his opinion, the unit continues to require the on-site presence of a responsible owner/manager and provides a good level of profit and as such in principle, he considers there is sufficient functional and financial justification for the provision of a suitable permanent dwelling here. I concur with this view, and am satisfied that an essential need for a rural worker to live permanently at their place of work has been demonstrated.

8.6 The Rural Planning Consultant does however have concerns about the scale of the dwelling, which originally had a floorspace of 230sqm. The agent was informed of these concerns, and reduced the scale of the dwelling to 212sqm. The Rural Planning Consultant remains concerned about the scale of the dwelling, and as such careful consideration is required to identify whether any planning harm will arise from a dwelling of this scale at the site.

8.7 Cancelled Planning Policy Statement 7 sets out in Annex A that *“Agricultural dwellings should be of a size commensurate with the established functional*

*requirement. Dwellings which are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long term, should not be permitted. It is the requirements of the enterprise, rather than the owner or occupier, which are relevant to determining the size of the dwelling that is appropriate to a particular holding.*” The supporting text to policy DM12 in the Local Plan does set out that in the absence of further national guidance on the issue of housing for rural works, the Council will continue to have regard to Annex A.

8.8 However it is important to note that this assessment of scale has not been carried forward into the current NPPF, and therefore in my view, little weight can be given to the advice set out in PPS7, as it is now defunct and there is no such reference to scale of rural workers dwellings within current national policy and guidance. This position has been supported by planning appeal decisions elsewhere in the country, where Inspectors have allowed larger agricultural dwellings that can be sustained by the income from the business, whilst being larger than “typical” agricultural dwellings - such as an appeal for an agricultural dwelling in Doncaster (PINS ref 3243097). Similar to policy DM12 in the Swale BC Local Plan, the relevant policy in this appeal case also referred to the defunct PPS7 guidance, and the Council used this supporting text to support the refusal of the agricultural dwelling, which was considered to be excessive in scale. The Inspector considered there was some policy basis for this view, but gave it limited weight given PPS7 is cancelled and the NPPF doesn’t refer to the scale of agricultural dwellings. The Inspector went on to conclude that whilst the dwelling was large, there was an essential need for a dwelling on the holding, which was long established and viable. They set out there was no dispute that the appellant can support the construction of the dwelling in relation to the income sustained in the long-term, and allowed the appeal. In the appeal decision, the Inspector noted that an average 4 bed dwelling was 192 sqm and that a typical agricultural workers dwelling was in the region of 180sqm. This proposal at Woodland Farm is for a dwelling of 212sqm, although it is noted that elements of the building would be used as a farm office and boot room.

8.9 The proposed dwelling is undoubtedly large and greater in size than a typical agricultural workers dwelling. However, I pay regard to the fact that it is clear that an agricultural dwelling is required at the site, which has been operating for over ten years and has grown considerably, as have the profits. I also note the enterprise can sustain the construction costs of the dwelling, and ultimately believe the scale of the dwelling, whilst large, is commensurate with the established functional requirement of the holding, in line with policy DM12.

### **Visual Impact**

8.10 The site is identified as being within an Area of High Landscape Value Swale Level, ‘Iwade Arable Farmlands’, where under the assessment within the Swale Landscape Character and Biodiversity Appraisal (June 2010), the landscape condition of the area is described as ‘Poor’ and the sensitivity is ‘Moderate’.

- 8.11 The development will be located on an open area of grassland, which is on an elevated position at the site. As such, there is potential for views of the development from the valley to the south west. The development is set back from the ridge of the hill however, and due to this and the presence of existing trees within the site, limited views of the development will be possible from the valley in my opinion. The dwelling will be situated to the south east of the existing mobile home, in a more exposed location when compared to the mobile home. The planning statement sets out the dwelling has been repositioned to provide a direct view of the entrance of the site, which will offer additional security which is currently not experienced. I consider the positioning of the dwelling, whilst more exposed to views from the bottom of the valley to the south west, will not be significantly prominent in the landscape and as such have no concerns with its location.
- 8.12 Views of the development from Iwade Road, a designated rural lane will be possible, however given the distance of approximately 80m between the property and the road, and the established planting that is located along Iwade Road, I do not consider that the proposal will be prominent from the lane. At 8.3 metres in height, I am satisfied that this falls within the typical height range for a two-storey dwelling.
- 8.13 Turning to the design of the dwelling itself, the application originally proposed a ‘mock Tudor’ style dwelling, with white render and timber vertical panelling. I did not consider this would accord with the rural context of the site, and recommended horizontal timber weatherboarding would be more appropriate here. The agent subsequently amended the plans to show this, and I include a condition below to ensure specific material details are provided to the Council. Overall, I consider the design of the property is acceptable and will not appear out of place. I do include a condition below ensuring the mobile home is removed from site once the new dwelling is occupied, to avoid the concentration of multiple dwellings at the site.

### **Heritage Impact**

- 8.14 The site lies outside of the Newington Church Conservation Area, but due to the open nature of the site and surrounding countryside, will be visible from part of the Conservation Area. Due to the distance (approx. 270m) and change in land levels between the site and Conservation Area, it is not considered there will be harmful impacts to the setting of the Conservation Area.
- 8.15 With regards to the impact on designated and non-designated heritage assets in the surrounding area I consider that due to distance and intervening tree and hedge cover, Oak Hill Farmhouse (a non-designated heritage asset) would not be impacted by the proposed dwelling. Snakesbury Cottage (at the north eastern edge of the Newington Church Conservation Area) on the other hand does appear to have greater intervisibility with the proposed development. However, the significant distance between this building and the proposed development area does mean that any impact on the setting of this non-designated heritage asset would be very limited. As such, I have no concerns in this

regard, despite the strong weight that is required to be given through legislation and national and local policies to the protection of heritage assets.

### **Residential Amenity**

- 8.16 Due to the location of the proposed dwelling and limited neighbouring properties in the surrounding area, I do not envisage the proposed dwelling will have any unacceptable impacts on residential amenity. The closest residential dwelling, The Bungalow will be located approximately 57m from the new dwelling, and due to this distance, any impacts on this neighbouring property will be very limited.

### **Highways**

- 8.17 The development will utilise the existing access onto the site, and a separate gravel driveway will be created leading from the main access to the new dwelling. Three parking spaces need to be provided for a property of this scale in the countryside, and the hardstanding to the front of the dwelling can comfortably accommodate these spaces. As such, I have no concerns from a highway amenity perspective.

### **Landscaping and Ecology impact**

- 8.18 The site is located to the south west of Hawes Wood and Wardwell Wood, which are designated as ancient woodland (AW) and a Local Wildlife Site (LWS). Natural England and the Forestry Commission have both referred me to their standing advice, whilst Kent Wildlife Trust and KCC Ecology have provided more specific comments on the application.
- 8.19 Kent Wildlife Trust originally set out that a 50m buffer zone should be created between the proposed dwelling and the AW/LWS, however the positioning of the dwelling results in a 32m buffer strip. I sought clarification from Kent Wildlife Trust regarding the 32m buffer strip, taking into account the detailed comments also received from KCC Ecology. The advice from KCC Ecology is that the development is set an acceptable distance from these protected sites, and subject to the land between the new dwelling and the woodland being maintained as a buffer zone, they do not consider the development will cause harm to these features. In particular, KCC Ecology set out that they recommend that a strip of vegetation directly adjacent to the AW/LWS is, largely, left unmanaged to enable plants and grasses to grow and set seed. This will create a buffer between the site and the adjacent woods and provide additional habitat for insects which, in turn, will support the pollination within the orchard. Kent Wildlife Trust have subsequently revised their comments and confirm that a 32m buffer strip is acceptable subject to conditions securing the strip and long term management of this feature.
- 8.20 For clarity, the agent has been asked to annotate the buffer area on the block and site plans, as well as the residential garden, to ensure that it is clear that the domestic curtilage of the dwelling will not interfere with this ecologically important strip of land. These plans have been provided.

- 8.21 Taking into account the consultee comments, I impose a condition ensuring that an ecological enhancement plan is submitted to the Council, which will include details of the rough grassland buffer requested by KCC Ecology, and will secure the long term management of this area. I consider this condition will ensure the development does not harm the Ancient Woodland or Local Wildlife Site, in accordance with the advice from these expert consultees.
- 8.22 It is anticipated that impacts from the construction of the development will include the disturbance of wildlife through increased noise and lighting, potential for contaminated surface water runoff, as well as the generation of dust which may have direct impacts on plant health and survival. Both Kent Wildlife Trust and KCC Ecology have raised these matters, and request a construction management plan is submitted to mitigate these potential issues. I impose this condition below and consider with it in place, it will ensure the protection of the AW and LWS during the construction of the development.
- 8.23 The Council's Tree Consultant has also commented on the scheme and notes the application is not accompanied by any arboricultural information, however based on the proposed site layout plan and current aerial views of the site via Google imagery the position of the new dwelling is not likely to affect any significant trees. Therefore, there are few arboricultural constraints when it comes to the position of the new dwelling. He does however recommend a condition is imposed requiring the submission of a tree protection plan to ensure the projection of the woodland buffer and any surrounding trees. I impose this condition below.
- 8.24 Additional landscaping is shown on the proposed block plan to the north east and north west of the dwelling. I include the relevant conditions below to ensure full details of hard and soft landscaping are submitted to the Council.

### **SPA Payment**

- 8.25 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 dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle. I have set out an Appropriate Assessment below.

### **Other Matters**

- 8.26 The site lies in an area of potential archaeological importance, and KCC Archaeology have requested a programme of archaeological work is submitted. I impose this condition below.

## **9. CONCLUSION**

9.1 I consider that there is a clear need and justification for a permanent agricultural dwelling at the site, and that this represents an appropriate exception to the general restriction on isolated new dwellings in the countryside. The proposal, whilst large, is considered to be of appropriate siting and scale, and the development would not harm the protected ancient woodland and Local Wildlife Site to the north of the site, subject to conditions. On the basis of the above, I recommend planning permission is granted.

**10. RECOMMENDATION** – That planning permission be GRANTED Subject to payment of the SAMMS contribution to mitigate impacts upon the SPA and subject to the following conditions:

### **CONDITIONS**

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

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

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3277 - 002 Rev F, 3277 - 003 Rev E, 3277 - 004 Rev E and 3277 - 005 Rev D.

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

- (3) 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 in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

- (4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted



to and approved by the Local Planning Authority.

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

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

- Suppression of dust
- Contaminated surface water run
- Noise and lighting

Reason: In the interests of wildlife and biodiversity.

- (6) No development shall take place until a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall be carried out in accordance with BS5837:2012.

Reason: To ensure protection of the woodland buffer and any surrounding trees.

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

Reason: In the interest of visual amenity.

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

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

- (9) No development beyond the construction of foundations shall take place until a lighting scheme has been submitted to and approved in writing by the Local

Planning Authority. Such scheme shall demonstrate that it has been designed to ensure there will be minimal light spill on to the site boundaries and the surrounding area. The lighting scheme should following the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals.

<https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>

Reason: In the interests of biodiversity.

- (10) No development beyond the construction of foundations shall take place until an ecological enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the ecological enhancement features to be incorporated into the wider site and shall include measures for a rough grassland buffer zone between the dwelling and Hawes Wood, as shown on drawing no. 3277 – 002 Rev F, and a management plan for its long-term maintenance and retention. The scheme must be implemented as approved prior to first occupation of the dwelling hereby permitted and maintained in accordance with the management plan thereafter.

Reason: In the interests of biodiversity.

- (11) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:- Monday to Friday 0730 - 1800 hours, Saturdays 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.

- (12) The area shown on the submitted layout shown on drawing no. 3277 – 002 Rev F as vehicle parking shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the development hereby approved is first occupied, and shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

- (13) Prior to the occupation of the dwelling hereby permitted, one electric vehicle

charging point shall be provided. The Electric Vehicle charger must be provided to Mode 3 standard (providing up to 7kw). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

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

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

- (15) 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.

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

Reason: In the interests of water conservation and sustainability.

- (17) The existing mobile home shall be removed from the site within a period of three months following first occupation of the dwelling hereby permitted.

Reason: In the interests of visual amenity.

- (18) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed locally in agriculture as defined in Section 336(i) of the Town and Country Planning Act 1990 or in forestry and any dependent of such a person residing with him (but including a widow or widower of such a person).

Reason: The site lies outside any area in which planning permission would normally be granted for a new dwelling and this permission is only granted because the dwelling is considered essential in the interests of forestry or agriculture.

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

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

### **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 (to be secured by either the SAMMS payment form 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 (<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.

Report to Planning Committee 25 May 2023

ITEM 3.1

APPENDIX 1

Report to Planning Committee – 23 June 2022

ITEM 2.6

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 – 25 MAY 2023**

**PART 5**

Report of the Head of Planning

**PART 5**

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

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- **Item 5.1 – Rides House Warden Road Eastchurch**

**APPEAL DISMISSED**

**DELEGATED REFUSAI**

**Observations**

The Inspector agreed with the council that the development would be distant from services and facilities and would not deliver sustainable development.

- **Item 5.2 – Dickens Inn Fourth Ave Eastchurch**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The Inspector considered the location to be suitable for tourist accommodation, being within a defined holiday park area. However the Inspector considered that the barn-like appearance and scale of the development would be prominent and unrepresentative of its surroundings, and harmful to the character and appearance of the area.

- **Item 5.3 – Cripps Farm Plough Road Minster**

**APPEAL DISMISSED /COSTS REFUSED**

**COMMITTEE REFUSAL**

**Observations**

A good decision relating to an application refused by the planning committee in accordance with the officer recommendation. Although planning permission had previously been granted for a garage within the rear garden of Cripps Farm, the garage had been built 7 metres further back and into open countryside to the rear. The Inspector found that the garage as built had encroached into the open countryside in a harmful manner. An application for costs against the council was also refused.

- **Item 5.4 – Manor Farm Key Street Sittingbourne**

**APPEAL ALLOWED**

**AGAINST OFFICER RECOMMENDATION**

**Observations**

The Inspector allowed this appeal (for advertisement consent) on the basis that the sign would not undermine views across the local landscape, nor would it appear overly prominent within the context of its setting. The Inspector also took into consideration that consent was sought for a period of 6 months only.

- **Item 5.5 – Toft Wray Lower Norton Lane Teynham**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The Inspector agreed with the Council that the proposal would result in a building significantly larger in volume, bulk, and mass than the existing dwelling. As a result, its increased prominence across open countryside would be harmful to the character and appearance of the surrounding area. The Inspector acknowledged that the site was not in a designated landscape, and the architectural detailing and facing materials were considered acceptable but these matters did not outweigh the harm. The appellants argument that the existing dwelling could be extended under permitted development rights which they considered would be more harmful than the proposal was given limited weight.

- **Item 5.6 – Halfacre House Lynsted Lane Lynsted**

**APPEAL ALLOWED**

**DELEGATED REFUSAL**

The Inspector disagreed with the Council that the extended annex accommodation could operate as a self-contained dwelling based on the facilities within the existing annex, the fact that it shared a driveway and garden with the main house, and due to the appellant stating that the annex would not be used independently. On that basis the Inspector considered that a condition could be imposed to ensure that the accommodation is used only as ancillary to the principal dwelling. The Inspector also disagreed with the Council that the proposal represented poor design and considered the development to visually connect with the overall appearance of the existing structure without dominating it and was appropriately sited.



The Planning Inspectorate

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## Appeal Decision

Site visit made on 29 March 2023

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31<sup>st</sup> March 2023

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**Appeal Ref: APP/V2255/W/22/3295953**

**Rides House, 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 Bill Love against the decision of Swale Borough Council.
  - The application Ref 21/506332/FULL, dated 23 November 2021, was refused by notice dated 10 March 2022.
  - The development proposed is erection of a new dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. Whether the proposed dwelling would be in a suitable location having regard to relevant development plan policies.

### Reasons

3. The appeal site comprises a vacant plot of land. It is immediately adjacent to a pair of dwellings that are nearing completion following the grant of planning permission at appeal in 2021 (Ref: APP/V2255/W/20/3262303).
4. The new house would be outside of any built-up area boundaries. According to Policy ST3 of the Swale Borough Local Plan this is where development will not generally be permitted. Policy CP3 indicates that homes will be steered towards the locations identified in Policy ST3 which are focused on the main urban centres in the Borough. As such, the proposal would be at odd with the policies that govern the spatial distribution of development.
5. The proposed dwelling would be approximately 1.6km from the built-up area boundary of Warden where there are very few facilities. There is a greater range at Eastchurch which is about 2.5km away. The bus service is infrequent. Because of these factors and although there is a public house nearby, it is likely that future occupiers would be reliant on private vehicles for most trips. As a result, the proposal would not fulfil the aim of Policy CP2 of promoting sustainable transport as there would be very limited access to modes other than the car. This is another aspect of the proposal that counts against it.
6. The proposed chalet bungalow would add to the loose knit ribbon of development along this part of Warden Road. There are also some buildings behind the frontage. The dwelling and its associated parked vehicles and domestic paraphernalia would have an urbanising effect. However, in context,

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

Appeal Decision APP/V2255/W/22/3295953

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there would be no negative impact on the wider landscape or the countryside overall as the existing pattern of sporadic buildings would be perpetuated.

7. The Council is concerned about similar proposals coming forward but any would be judged on an individual basis against relevant policies and so the question of precedent has no bearing on this assessment.
8. Nevertheless, in conclusion, the proposal would not be in a suitable location having regard to relevant development plan policies. In turn, it would not accord with Policy ST1 which seeks to deliver sustainable development by, amongst other things, expecting that the settlement strategy is adhered to.

#### **Other Considerations**

9. The supply of deliverable housing sites in Swale is equivalent to 4.6 years of the housing requirement. The proposal would address that shortfall, albeit to a modest degree. Furthermore, the presumption in paragraph 11 d) of the National Planning Policy Framework is relevant.
10. The appellant claims that the site comprises previously-developed land as part of the curtilage of Rides House. This is not a case where the remains of a permanent structure have blended into the landscape. Even though the Local Plan is silent in this respect, the provisions of the Framework do not mean that residential development should always be supported on previously-developed land. Nevertheless, the fact that the site is brownfield land is a consideration that marginally favours the proposal. Paragraph 69 of the Framework supports the development of windfall sites but the implication is that this is aimed at suitable sites within existing settlements.

#### **Final Balance**

11. The adverse impacts arising from the proposal relate to its unsatisfactory location when judged against the settlement strategy policies for Swale. This conflict with the development plan is a matter of significant weight against the proposal. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the site is not at all well placed in this respect and this is a further objection.
12. On the other hand, the proposed development would contribute to the supply of housing in a Borough where this is deficient and would be on previously-developed land. These benefits would nonetheless be limited in scale and substance and the proposal would undermine the adopted strategy for the location of development. This is contrary to the expectations of the Framework. At the end of the day, the proposed dwelling would be divorced from any settlement and day-to-day facilities and the site is not one that is suited to additional residential development.
13. As such, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This means that the presumption in favour of sustainable development does not apply.
14. Many of the findings made are similar to those in my decision for the adjoining site but the balance dictates a different outcome. This is because that scheme was to replace an existing dwelling which had permission for an extension whereas the appeal site is undeveloped land. Furthermore, the 2021 appeal

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proposal derived some support from what is now paragraph 80 of the Framework. Therefore, the two cases can be distinguished from one another.

15. The appellant has made a payment to mitigate the detrimental impact arising from recreational disturbance to birds at the Medway Estuary and Marshes Special Protection Area. However, as the appeal is to be dismissed, there is no need to consider whether this would be effective or to undertake an appropriate assessment in accordance with the Conservation of Habitats and Species Regulations.

#### **Conclusion**

16. The proposal would not accord with the development plan and there are no material considerations, including the provisions of the Framework, to outweigh that finding. Therefore, for the reasons given, the proposed dwelling is unacceptable and the appeal should fail.

*David Smith*

INSPECTOR

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## Appeal Decision

Site visit made on 29 March 2023

**by David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 3 April 2023**

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**Appeal Ref: APP/V2255/W/22/3298519**

**Dickens Inn, Fourth Avenue, Eastchurch, ME12 4EW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs B W Trask against the decision of Swale Borough Council.
  - The application Ref 21/504668/FULL, dated 19 August 2021, was refused by notice dated 12 November 2021.
  - The development proposed is 6no. holiday cottages in a single block together with associated parking spaces.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. These are:
  - Whether the proposed holiday cottages would be in a suitable location having regard to relevant development plan policies;
  - The effect on the character and appearance of the surrounding area; and
  - Whether adequate provision would be made for on-site parking and whether there would be any impact on highway safety.

### Reasons

#### *Location*

3. The appeal site is an unused plot of land fronting Warden Road near to The Dickens Inn. It is adjacent to a bungalow and there is an extensive holiday park to the rear. Built development along this section of the road is fairly sporadic and the land on the southern side is largely farmland. The proposed development would be outside any built-up area boundary.
4. As such, the site is within the open countryside for policy purposes. This is where development will not usually be permitted according to Policy ST3 of the Swale Borough Local Plan. However, there is an exception if it is supported by national planning policy. Proposals should also contribute to protecting the countryside and the vitality of rural communities. The site is within a Holiday Park area where the upgrading and improvement of existing static holiday caravan and chalet sites is supported by Policy DM4. However, the proposal is not for a new holiday park or an extension to an existing one and therefore the provisions of that policy do not directly apply.

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5. Nevertheless, the appeal site is in an area where some types of holiday accommodation would find favour. In addition, Policy DM3 establishes that planning permission will be granted for the sustainable growth and expansion of business and enterprise in the rural area. This reflects paragraph 84 a) of the National Planning Policy Framework which also mentions new buildings. For tourism and leisure, Policy DM3 refers to an expansion of tourist and visitor facilities in appropriate locations, where identified needs are not being met by existing facilities in the locality or where they are able to increase facilities available to local communities. Therefore, as accepted by the Council, the policy background potentially allows for new tourist accommodation on the site.
6. The Council is concerned that the design and layout of the holiday units means they would be capable of occupation as dwellings. However, conditions could be imposed to limit the use and there is no evidence from elsewhere on the Isle of Sheppey of irresistible pressure to convert holiday units to dwellings. In any event, the proposal should be considered as submitted.
7. The appellant has provided a business case but this does not show a clear unmet need and market for the proposal as there is no information about demand. However, the Tourism Officer is broadly supportive and notes that this sort of development will have its place in the holiday mix due to the greater recent emphasis on domestic tourism. There is therefore sufficient evidence that the proposed new build holiday accommodation would fill a gap in existing provision and so be compatible with the thrust of Policies DM3 and ST3. As such, the proposal would be in a suitable location having regard to relevant development plan policies.

#### *Character and appearance*

8. The proposed units would be in a single building with a barn-like appearance and featuring a catslide roof to the front elevation. The design takes its inspiration from barns found in Eastchurch and from the factories and sheds connected with the local history of aviation. However, to the casual observer such links would be entirely tenuous due to the absence of recognisable agricultural buildings or aircraft related structures in the vicinity.
9. Because of its bulky roof, overall scale and position close to the road well forward of the adjoining bungalow, the proposal would be prominent in the local scene. As it would be unrepresentative of existing built development nearby, the building would be an unexpected and alien intrusion. There is no objection solely on the basis that the proposal would be visually superior to the mobile homes and chalets to the rear. However, it would not reflect the surroundings where buildings generally have a simple, domestic appearance. The proposal would impose an artificial and contrived design approach that would be wholly out of place in its setting.
10. Although the proposal would be a building of rural character and would screen views into the holiday park, this does not overcome the objection identified. Therefore, the character and appearance of the surrounding area would be harmed. Policy DM3 expects new buildings to be appropriate to their context but that would not be the case. The expectations in Policy ST3 regarding the protection of the countryside would also be failed.



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### *Parking*

11. One vehicle parking space would be laid out at the rear of each cottage with any overspill accommodated within the car park of the public house. Such an arrangement is entirely feasible and there is no evidence that this area is regularly full. Furthermore, those staying at the cottages would presumably be advised in advance of the availability of a single dedicated space and would be likely to tailor their travel arrangements accordingly. Therefore, the likelihood of pressure to park along Fourth Avenue or Warden Road would be very small.
12. Local Plan Policy DM7 indicates that the County Council's vehicle parking standards will be applied to new development proposals and Policy DM14 has similar expectations. The standards were published in 2006 and so are now dated. They set a maximum of two spaces per dwelling and so would not strictly be breached as they refer to maxima. Even if the proposed provision is treated as contrary to these policies there would not be an unacceptable impact on highway safety.

### **Other Considerations**

13. The proposed development would upgrade the general quality of holiday accommodation that is found in this part of Sheppey. This would potentially increase the range of tourists attracted to the area and would be economically advantageous as visitors would be likely to spend locally. Furthermore, the units would help a food and drink business to diversify. Meals and day-to-day management would be provided from the public house. It is stated that the extra revenue from the holiday units would enable The Dickens Inn to continue to operate which, in turn, would benefit the local community and visitors alike. However, no financial evidence has been given to support that claim.
14. Nevertheless, the Framework indicates that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs. Moreover, the pandemic has highlighted the importance of developing financial resilience and the entertainment sector has been hard hit. However, the importance to be given to such considerations in this case is tempered by the prospect that holiday units could be developed in a building that was better suited to its surroundings.
15. The appellant's habitat appraisal shows that this would be a low ecological impact proposal and makes recommendations for enhancements. The original objection on biodiversity grounds has therefore been addressed.

### **Final Balance**

16. The proposal would harm the character and appearance of the surrounding area. Consequently, it would fall foul of policies concerned with the rural economy and with the settlement strategy and would not accord with the development plan as a whole. The benefits of providing additional tourist accommodation on Sheppey would be significant but they are not of sufficient strength to outweigh the harm identified and the development plan conflict.
17. The appellant has completed a unilateral undertaking which secures a payment to mitigate the detrimental impact arising from recreational disturbance to birds at the Swale, Thames and Medway Estuary Special Protection Area. However, as the appeal is to be dismissed, there is no need to consider

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whether this would be effective or to undertake an appropriate assessment in accordance with the Conservation of Habitats and Species Regulations.

**Conclusion**

18. For the reasons given above, the proposal is unacceptable and the appeal should not succeed.

*David Smith*

INSPECTOR



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## Appeal Decision

Site visit made on 22 March 2023

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2023

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**Appeal Ref: APP/V2255/W/22/3302925**

**Cripps Farm, Plough Road, Minster-on-Sea, Kent ME12 4JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Buckley against the decision of Swale Borough Council.
  - The application ref. 22/501078/FULL, dated 1 March 2022, was refused by notice dated 24 June 2022.
  - The proposed development is for a detached double garage to dwelling and change of use of agricultural land to residential.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. At my site visit, I saw that the development has been completed and I note that the application has been submitted retrospectively.

### Main Issue

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

### Reasons

4. The appeal site consists of a detached, two-storey house in a short row of other residential properties. To the north is open countryside, whilst towards the southwest on the opposite side of Plough Road is an estate of modern dwellings.
  5. Policy ST3 (5) of Bearing Fruits 2031: The Swale Borough Local Plan July 2017 (LP) states that in the open countryside 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.
  6. The result of the proposal is to extend residential development into the open countryside. The new domestic curtilage juts out into the neighbouring field, creating an unnatural distortion in the boundary between the two different land uses. The location of the garage beyond the existing residential garden, by its very nature, leads to an adverse, urbanising impact on the rural land. To my mind, this would not contribute to protecting the intrinsic value and setting of the countryside as outlined in LP policy ST3 (5).
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7. I am aware that planning permission has been granted under Council reference 19/502305/FULL for various works on the appeal site, including a detached garage of similar size and appearance, albeit approximately seven metres to the south and therefore within the residential curtilage. The appellant states that the garage had to be relocated due to the effect of the garage on the root system of a nearby mature tree.
8. Whilst I appreciate that the appellant was attempting to ensure the retention of the tree in perpetuity, I have not been provided with any compelling evidence to justify the new location of the garage beyond the residential curtilage. The rear garden of Cripps Farm is substantial in extent, and I have no robust argument before me as to why the garage could not have been constructed elsewhere within the grounds of the main house.
9. Although policy DM13 of the LP relates to proposals to extend the gardens of dwellings in the rural area, the supporting text to the policy makes clear that in cases approved by the Council, a planning condition would normally be imposed to remove permitted development rights for garden buildings and other domestic works, to protect the landscape from further harm. With this in mind, I agree with the Council that the application is not supported under this policy as it has been used to construct a large detached outbuilding, and includes no landscaping proposals.
10. I acknowledge that the site is not within a designated landscape as set out at policy DM24 of the LP. I also note that minimisation and mitigation of adverse landscape impacts could be secured, however there are no details before me in this regard to suggest that the harm I have identified above could be offset.
11. Overall, I recognise that the relocated garage is in close proximity to the position of the approved garage, and is some distance from the public highway. However, this does not counterbalance the in-principle harm that arises to the rural character and appearance of the area. In my view, to allow this appeal would be to set aside countryside strategy as the primary method of directing development within this part of Swale Borough. In the absence of any overriding justification, it would potentially lead to similar arguments being made for other residential sites in close proximity to countryside boundaries, which would diminish the relevance of countryside strategy, and would be the antithesis of sustainable development.
12. I therefore conclude that the proposal would result in harm to the character and appearance of the surrounding area. It would be contrary to Policies ST3, DM13 and DM24 of the LP, which collectively seek to secure new development of acceptable scale and appearance and to contribute to protecting the intrinsic value and setting of the countryside.

### **Conclusion**

13. Having regard to the above and all other matters raised, I conclude that the appeal should be dismissed.

*C Hall*

INSPECTOR



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## Costs Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2023

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### Costs application in relation to Appeal Ref: **APP/V2255/W/22/3302925** **Cripps Farm, Plough Road, Minster-on-Sea, Kent ME12 4JH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr D Buckley for a full award of costs against Swale Borough Council.
  - The appeal was against the refusal of planning permission for a detached double garage to dwelling and change of use of agricultural land to residential.
- 

### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant states that the Council has acted unreasonably, in that it has prevented the development when it should have been permitted. Consequently, the appellant has been put to unnecessary expense of having to pursue the appeal, causing delay and distress.
4. Whilst I understand the sense of frustration which this may cause, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal. The reason for the refusal set out in the decision notice relating to the character and appearance of the development and the adverse impacts on the countryside is complete, specific and relevant to the application. The officer report sets out an assessment of the indicated harm in these respects and how, amongst other things, the location of the garage beyond the residential curtilage conflicts with relevant adopted planning policies.
5. Accordingly, the information before me indicates that the Council did not behave unreasonably in relation to its conduct during the decision-making process, and I do not consider that there has been a failure to properly evaluate the application to the extent that the appeal could have been avoided. The Council's position has been further clarified in its costs response statement, providing adequate and clear explanation of the various issues raised by the appellant.

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6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*C Hall*

INSPECTOR



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## Appeal Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2023

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**Appeal Ref: APP/V2255/Z/22/3306661**

**Manor Farm, Key Street, Sittingbourne, Kent ME10 1YU**

- The appeal is made under Regulation 17 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
  - The appeal is made by Miss Teresa Rolfe against the decision of Swale Borough Council.
  - The application ref. 22/502679/ADV, dated 11 May 2022, was refused by notice dated 24 August 2022.
  - The proposal is for a 2440mm x 2440mm signage board.
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### Decision

1. The appeal is allowed and express consent is granted for a 2440mm x 2440mm signage board as applied for at Manor Farm, Key Street, Sittingbourne, Kent ME10 1YU. The consent is subject to the five standard conditions set out in the Regulations and the following additional condition:

1) The signage board permitted by this consent shall be removed from the site no later than six months from the date of this decision.

### Preliminary Matter

2. At my site visit, I saw that the sign is in place and I note that the application has been submitted retrospectively.

### Main Issues

3. The main issues in the determination of this appeal are the effect of the proposal on the visual amenity of the area.

### Reasons

4. Amenity is not defined within the Regulations, nonetheless relevant factors include the general features of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. In assessing amenity, it is reasonable to consider characteristics of the local area.
5. The appeal site comprises an expanse of rough grass, scrubland and trees and lies alongside Chestnut Street. In the vicinity of the site, the highway and its infrastructure has a dominant presence with a large roundabout, underpass, wide carriageways, directional signs, metal railings and lighting columns all in close proximity.

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6. The sign is set on cylindrical supports and is of simple design. The white lettering is unfussy and set upon a darker background which is uniform in colour. Although large, it is set back from the main road and against a backdrop of trees and other vegetation. It would neither undermine views across the local landscape, nor would it appear overly prominent within the context of its setting, and I am mindful that permission is sought for six months only. On balance, I consider that the sign would not be materially detrimental to the visual amenity of the area.
7. In accordance with the Regulations, I have taken into account the provisions of the development plan in so far as they are relevant. Policies DM14 and DM15 of the Swale Borough Local Plan July 2017 and the provisions of the SPD seek to ensure advertisements respond positively to the character of a locality and minimise harm to amenity. As such, these are considered material considerations insofar as they are relevant to visual amenity.
8. I conclude, therefore, that the advertisement would not have a harmful effect on the visual amenity of the area. The scheme would meet with the objectives of the above policies.

#### **Conclusion**

9. For the reasons given above the appeal succeeds.

*C Hall*

INSPECTOR





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## Appeal Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2023

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**Appeal Ref: APP/V2255/W/22/3307761**

**Toft Wray, Lower Norton Lane, Teynham ME9 9LB**

- 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 Leigh Gregory against the decision of Swale Borough Council.
  - The application ref. 22/503762/FULL, dated 1 August 2022, was refused by notice dated 20 September 2022.
  - The proposed development is for the construction of a replacement dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the surrounding area.

### Reasons

3. The appeal site lies on the eastern side of Lower Norton Lane and relates to a detached bungalow with driveway and off-street parking. Although small amounts of development are scattered along the road, the predominant character of the area is rural open countryside.
4. The appellants state that the floor area of the original dwelling is 112m<sup>2</sup> and the proposed replacement dwelling would have a floor area of some 215m<sup>3</sup>. These figures are not disputed by the Council in its appeal statement, and I have therefore dealt with the appeal on this basis. I also note that in principle the replacement of the existing dwelling is accepted by the Council.
5. The existing dwelling is a modest bungalow that has a natural affinity within the landscape setting. Conversely, the appeal proposal would have a greater depth, width and height, which would contrast significantly with the more diminutive proportions of the existing property, and to my mind the use of a crown roof is indicative of deep plan form. The end result would be a building that would be significantly larger in volume, bulk and mass than that which presently exists on site, and nearly doubling the floor area. Although an increase in floor area is not expressly precluded by relevant local plan policies, I note that policy DM11 of Bearing Fruits: The Swale Borough Local Plan July 2017 (LP) states that the rebuilding of an existing dwelling in the rural area will be permitted only if, amongst other things, the proposed new dwelling is of a similar size and proportion, and an appropriate scale, mass and appearance in relation to the original dwelling and location.

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6. Due to intervening landscaping and established tree belts, visibility of the appeal site from the A2 is limited. Views are principally along the driveway and from a distance, for example the row of dwellings in the direction of Lower Road and Deerton Street. In these views, the existing dwelling is relatively unobtrusive. In contrast, the greater length, depth and height of the appeal proposal and the more solid, rectangular form of the elevations would be of increased prominence across the open topography. Cumulatively the extent and bulk of the proposals would result in a harsh intrusion into the pleasant verdant locality. This would fail to reflect the character and appearance of the site or improve the setting.
7. I recognise that the appeal dwelling is not located in a designated landscape, the architectural detailing is acceptable, and the use of traditional external materials would not appear incongruous. Nevertheless, these matters do not outweigh the harm that I have outlined above. I also observed large dwellings on the opposite side of Lower Norton Lane, however the presence of other properties elsewhere in the vicinity does not justify the inordinate scale of the scheme before me.
8. The appellant also states that the appeal dwelling could be extended under the permitted development rights. It is contended that any such additions would be more harmful than the appeal scheme, and as such this represents a viable fallback position. However, I have not been presented with any detailed information in this respect; there is no certificate of lawful development for any such proposals and no guarantee that any potential scheme would be built were the appeal dismissed, and I therefore attribute this matter limited weight.
9. I therefore conclude that the proposal would result in harm to the character and appearance of the surrounding area. It would be contrary to Policies ST1, ST3, CP3, CP4, DM11, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan July 2017, which collectively seek to secure new development of acceptable scale and appearance and to protect the intrinsic value and setting of the countryside. It would also be inconsistent with the National Planning Policy Framework, which states that good design is a key aspect of sustainable development.

### **Conclusion**

10. Having regard to the above and all other matters raised, I conclude that the appeal should be dismissed.

*C Hall*

INSPECTOR



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## Appeal Decision

Site visit made on 22 March 2023

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2023

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**Appeal Ref: APP/V2255/D/22/3311774**

**Halfacre House, Lynsted Lane, Lynsted, Kent ME9 0EN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Barbara Pelou against the decision of Swale Borough Council.
  - The application ref. 22/503371/FULL, dated 7 July 2022, was refused by notice dated 7 September 2022.
  - The proposed development is for a two storey extension to an existing annex building, enlarging the annex accommodation for use in connection with the main dwelling.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a two storey extension to an existing annex building, enlarging the annex accommodation for use in connection with the main dwelling at Halfacre House, Lynsted Lane, Lynsted, Sittingbourne ME9 0EN in accordance with the terms of the application ref. 22/503371/FULL, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3174\_PL\_02, 3174\_PL\_03, 3174\_PL\_04.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing annex building.
  - 4) The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Halfacre House, Lynsted Lane, Lynsted, Sittingbourne ME9 0EN.

### Main Issues

2. The main issues are:
  - whether the proposal would constitute a separate dwelling or would be capable of being used as such; and
  - the effect of the development on the character and appearance of the existing building and surrounding area.

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### **Reasons**

#### *Separate dwelling*

3. The appeal site relates to a two-storey detached house with detached annex building on Lynsted Lane in a rural area.
4. I note the Council's concerns that the resultant annex building could potentially be used as a self-contained unit that has no functional connection to the main house, and would therefore represent a new dwelling in the countryside. However, I saw at my visit that the existing accommodation within the annex already has the trappings of independent living, with a lounge, kitchen, bedroom and bathroom, yet there is no suggestion that the existing annex represents a new dwelling. I also observed that the annex and principal residence share the driveway and garden areas. Additionally, the appellant has clearly stated that the extended annex would not be used in isolation or as an independent residential unit.
5. Taking all this into account, I am of the view that matter of functional use can be satisfactorily addressed through the imposition of a condition to ensure that the accommodation is used only as ancillary to Halfacre House.
6. On this basis, the proposal would not be an independent unit of accommodation and there would be no conflict with Policies DM14, DM16 and DM24 in Bearing Fruits 2031 – The Swale Borough Local Plan, adopted July 2017 (LP), which seek to prevent new dwellings in the countryside to protect rural locations and landscapes.

#### *Character and appearance*

7. The height of the extension would continue the ridge line of the existing annex, and the front and rear elevations would be flush with the host building. Although the scheme would therefore lack subservience, the creation of the central gable features would serve to articulate the original structure from the proposed addition. These would add interest to the development, with new pitched dormer windows to match those in the existing roof slopes.
8. Consequently, I am of the view that the proposal would visually connect with the overall appearance of the existing structure without dominating it, and also respond to its design characteristics. It would be appropriately sited in relation to the building and unobtrusive when seen in combination with its overall form and scale.
9. I therefore conclude that the proposal would harmonise with the character and appearance of the existing building and surrounding area. It would meet Policy DM14 of the LP and the adopted Swale Borough Council Designing an Extension: A Guide for Householders SPD February 2011, which seek to secure development of acceptable scale and appearance.

### **Conditions**

10. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the National Planning Policy Framework. In addition to the standard implementation condition, the approved plans are listed for certainty. Additionally materials are required to match the existing building in order to ensure that the external appearance of the proposal is satisfactory. A further

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condition would ensure that the accommodation is used only as ancillary to Halfacre House.

**Conclusion**

11. On the basis of my reasoning above, the appeal is allowed.

*C Hall*

INSPECTOR

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By virtue of paragraph(s) 5, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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