

Agenda

Planning Committee Meeting

Date: Thursday, 7 December 2023

Time 7.00 pm

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

Membership:

Councillors Mike Baldock (Chair), Andy Booth, Simon Clark, Kieran Golding, James Hall, Mike Henderson, James Hunt, Elliott Jayes (Vice-Chair), Peter Marchington, Claire Martin, Charlie Miller, Julien Speed, Paul Stephen, Terry Thompson, Angie Valls, Karen Watson and Tony Winckless.

Quorum = 6

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 6 December 2023.

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1. Emergency Evacuation Procedure

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- (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. Minutes

To approve the [Minutes](#) of the Meeting held on 9 November 2023 (Minute Nos. 393 – 405) as a correct record.

4. Declarations of Interest

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

Part B reports for the Planning Committee to decide

5 - 8

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 6 December 2023.

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

Issued on Tuesday, 28 November 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** at democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

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

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

7 DECEMBER 2023

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PART 2 Applications for which permission is recommended

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

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

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

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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DEFERRED ITEMS

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PART 2

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PART 5

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PLANNING COMMITTEE – 7 DECEMBER 2023**DEFERRED ITEM**

Report of the Head of Planning

Reports shown in previous Minutes are being deferred from that Meeting

DEF ITEM 1 REFERENCE NO – 23/502598/FULL		
PROPOSAL Replacement of existing chain link and concrete post fencing with 2.4-metre-high palisade fence (green in colour)		
SITE LOCATION Chalkpit 1 Highsted Road Sittingbourne Kent ME10 4BE		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Major		
REASON FOR REFERRAL TO COMMITTEE Councillor Bonney has requested that this application be determined by the Planning Committee		
CASE OFFICER: Matt Duigan		
WARD West Downs	PARISH/TOWN COUNCIL Rodmersham	APPLICANT Miss Julie Hadlow AGENT GH Dean and Co
DATE REGISTERED 07/06/2023	TARGET DATE 06/09/2023	
BACKGROUND PAPERS AND INFORMATION: 23/502598/FULL Replacement of existing chainlink and concrete post fencing with 2.4 meter high palisade fence (green in colour). Chalkpit 1 Highsted Road Sittingbourne Kent ME10 4BE (midkent.gov.uk)		

1. INTRODUCTION

- 1.1. This application was initially reported to Planning Committee on 12 October 2023 with a recommendation for approval.
- 1.2. Key concerns raised by the Planning Committee included the appearance of the proposed fence and the fact that the existing fence is very close to the road in places, leaving little room to the side of the road for pedestrians to retreat to if vehicles are traveling along the road. The proposed fence would be more rigid and follow the same line as the existing fence, meaning that in places there would be little or no room (in

places) for pedestrians to retreat to if a vehicle is travelling along the road. As a result of these concerns, the committee resolved that the item should be deferred for consultation by officers with the Applicant, Parish Council, Ward Member, and the Active Travel Co-ordinator.

- 1.3. A copy of the 12 October Committee Minutes is attached at Appendix 1 off this report. The previous Committee report is attached at Appendix 2 for reference purposes.

2. POST COMMITTEE RESPONSE

- 2.1. Following the Committee, the Applicant provided a response, which in summary stated:

- The chalk pit has been the subject of unauthorised access by people which is unsafe.
- Other forms of fencing (such as park style fencing) are unsuitable from a security perspective.
- Palisade fencing is used in other similar locations, such as Tunstall School and in the Parishes on Tonge and Milstead.
- Where the fence is located immediately on the roadside, we would be able to set the new fence back 1 metre in distance from the roadside which would still enable access for any works to be carried out behind the fence line.

- 2.2. In addition, a letter from the Applicant's insurance company was provided which in summary stated:

- The existing fence has suffered damage from vehicles and vandalism. Due to the nature of the land behind the fence (which includes a chalk pit), the landowner has a responsibility to keep the public safe by preventing access.
- The repeated vandalism provides a good reason for erecting a more robust deterrent than the existing chain link fence.
- From a risk management perspective, effective fencing does need to be in place to prevent unauthorised access.

- 2.3. In response to a request from the Parrish Council to use an alternative type of fencing (Jackson Fencing) the Applicant advised:

- The Applicant contacted Jacksons Fencing who provided a quote for the supply of the fence and powder coating. Unfortunately, the quote was a lot higher than that of the palisade fencing as it does not include installation or highways provisions which would make the use of this as cost prohibitive.
- Another problem is that each panel supplied by Jacksons Fencing is fixed and cannot be manipulated to allow for ground undulations in the same way that the palisade can (each individual rung can be independently moved). The Applicant would have to have each of the Jacksons Fencing panels as an individual panel to order to fit in specific places where ground undulates which unfortunately is not feasible.
- The Applicant advised that the use of Jacksons railings is not possible.

3. CONSULTATION

- 3.1. Following receipt of the Applicant's post committee response, and in accordance with the 12 October 2023 resolution, the Parish Council, Ward Member and the Active Travel Co-ordinator were consulted on the additional information on 1 November 2023.

Rodmersham Parish Council

- 3.2. In summary, a response was received from the Parish Council which welcomed the suggestion of siting the fence 1 metre back from the road.
- 3.3. The response also requested that the Applicant consider using a different type of fencing, which was considered to be more fitting in terms of its appearance and would allow wildlife to fit through the panels. The Applicant was asked to revise the proposed fence to use a different type of fencing as suggested by the Parish Council, however, the applicant advised that were unable to accommodate this request.

Ward Councillor (Monique Bonney)

- 3.4. In summary, a response was received from the Ward Councillor which raised the following concerns.
- Cars crash along this area of Highsted Road. These highlights the importance of pedestrian safety especially as this stretch of road is used to access the 2 footpaths ZU 29 and ZU30.
 - The Applicant had indicated they would select a different style of fencing, they now are not doing so.
 - Palisade fencing won't encourage walking and cycling in this area, even if set back because it's so visually intrusive, it will take years for landscaping to even partially cover it and the landscaping will also take away part of the buffer for pedestrians - it will create an intimidating environment out of kilter with the importance of the landscape character and the character of a rural country lane and it is not wildlife friendly.
 - The choice of the Barbican Range (from the Jackson Fencing catalogue) was suggested as being appropriate; it is produced in Green as well, plus it's Hedgehog friendly.
 - Why palisade fencing is easier to install than Barbican? And how easily it can be repaired when damaged?
 - Concern was raised that the public would not be happy walking along this stretch of road with palisade fencing to the side of the road. This is the main route from Rodmersham into Sittingbourne and it's important to get this right. This land was also mentioned in the landscapes report for being negatively managed, and under an emerging local plan this would be designated as a landscape of high value.

DISADVANTAGES OF STEEL PALISADE FENCING

Low quality steel is often used which can lead to issues with finish and rust. The fence will then have to be replaced or otherwise pose a security concern, which increases the long term maintenance costs, negating the benefits of the initial lower cost.

The width of steel palisade pales are wider than our Barbican range and can impede surveillance tools such as CCTV which is not conducive to a security environment.

Rivets and bolts can easily be knocked out or unbolted without leaving a clear visible sign that the perimeter has been breached. Although the one off cost to replace the pales is not too expensive, with repeat break ins/vandalism this can lead to a big expense over a period of time.

Steel Palisade often has a poor, inferior appearance and can create to a fortress-like appearance which can stand out as a potential target. It is worth considering a fencing option that blends into the aesthetics of the surrounding neighbourhood.

Active Travel Co-ordinator

3.5. The Active Travel Co-ordinator advised that wherever possible the fence line should be moved back towards the quarry edge allowing the creation of a refuge for pedestrians along the road. This will enhance the area, improving usage and security. The availability of space for pedestrians would increase safety on the bends of Highsted Road and help connect PROWs ZU30 and ZU29.

3.6. Comments were also received from the following consultees:

Environment Agency

3.7. No comments to make.

Mid Kent Environmental Health

3.8. No comments to make.

Lower Medway Internal Drainage Board

3.9. No comments to make.

Kent Police

3.10. No comments to make.

KCC Highways

3.11. This application has no implications from a Highways perspective.

KCC Flood and Water Management

3.12. No comments to make.

SBC Conservation and Design

3.13. No further comment to make in light of the additional information provided by the applicant.

KCC Ecological Advice Service (KCC EAS)

3.14. In summary, KCC EAS raised no objection subject to conditions to secure ecological mitigation and for a watching brief during construction.

4. ASSESSMENT

4.1. Concerns have been raised in relation to pedestrian safety along this stretch of Highsted Road. At the points closest to the road the fence will now be set back one metre thus ensuring that there are more refuge points for pedestrians. This set back from the road can be reasonably secured by way of safeguarding condition. KCC Highways and Transportation Department have not raised an objection in terms of highway safety.

4.2. Turning to the appearance of the fence, this remains as per that originally submitted (palisade style and green in colour). While concerns have been raised in consultation responses that the Applicant has not selected an alternative style of fencing, officers are mindful that from a planning perspective it is important to assess the acceptability of the proposal as submitted, which is for palisade fencing.

4.3. As set out within the committee report from October 2023, the impact of this upon the rural lane can be mitigated over time through the imposition of landscaping conditions and the requirement to paint the fence green. The full assessment of this is available at Appendix 1 of this report.

4.4. Taking this into account the proposal is considered to accord with the Local Plan 2017 and the NPPF, it is recommended that the scheme be granted permission subject to safeguarding conditions.

5. CONCLUSION

5.1. Subject to landscaping, the visual impact of the fence could be mitigated and would not be unacceptable. Subject to the replacement fence being set back from the road edge as proposed, space would be available for pedestrians to retreat when vehicles are passing. The set back would assist landscaping to be planted to the front of the fence, that over time would help to screen it.

6. RECCOMENDATION

Approval subject to 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 details and drawings: Planning Addendum 29/06/2023 (RAL 6005 moss green powder coating), Highsted Chalk Pit 1 Road Side Fencing Plan; Highsted Chalk Pit 1 Site Location Plan, Highsted Chalk Pits 1, 2 and 3; BBF-HR-PF 10; BBF-HR-PF 11; Site Boundary Replacement Fencing Location Plan, Highsted Chalkpit 1 Site Boundary, Post Committee Follow Up 23/502632/Full by HG Dean & Co.

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

- 3 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.

- 4 No development beyond the construction of foundations shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include 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.

- 5 Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with 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.

- 6 Prior to the erection of the fence a precautionary mitigation strategy must be submitted to the Local Planning Authority for written approval. The strategy must include the following:

- Details of habitats to be cleared.

- Plan of the habitats.
- Details of species likely to be present.
- Overview of mitigation required.
- Detailed methodology of works to implement mitigation.

Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that protected species are not harmed during construction.

- 7 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an Ecological Clerk of Works so that development is observed and protected species are not harmed. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that protected species are not harmed during construction.

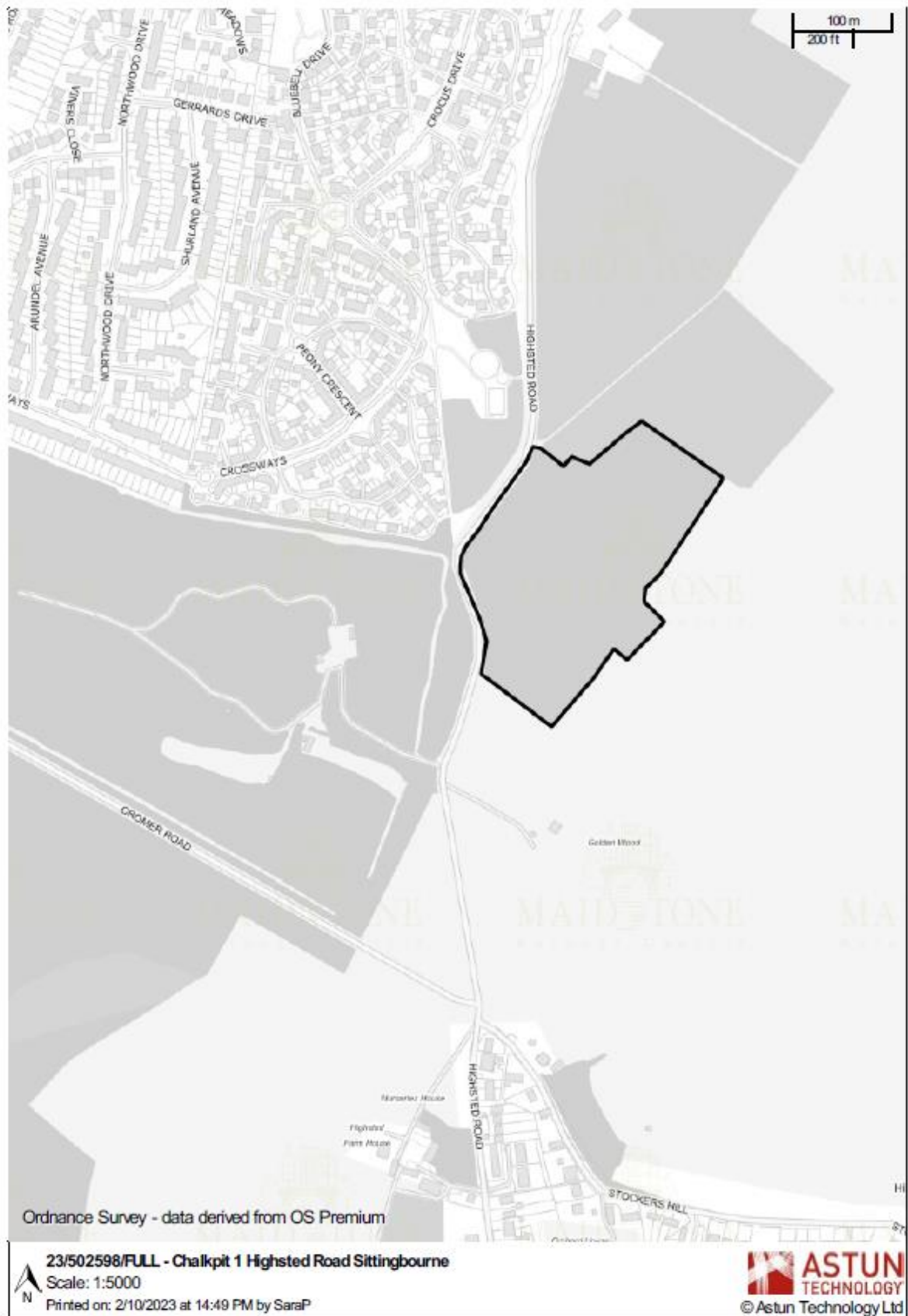
- 8 Where the existing fence is located within 1 metre of the roadside, the position of the proposed fence shall be set back 1 metre from the roadside.

Reason: In the interest of pedestrian and highway safety.

INFORMATIVE

The Council's approach to the application

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



Planning Committee

Thursday, 12 October 2023

SITE LOCATION 8 Oak Tree Close Eastchurch Sheerness Kent ME12 4JY		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Mr & Mrs Oyeniyi Oyelade AGENT JAT Surv Ltd

The Area Planning Officer introduced the application as set out in the report.

The Chair moved the officer recommendation to approve the application, and this was seconded by Councillor Lloyd Bowen.

The Chair invited Members to make comments and points raised included:

- There could be some overlooking towards the adjacent property from the proposed dormer windows;
- considered the Parish Council should have made representations at the meeting as they had referred the application to the Planning Committee;
- clarification sought on how the retractable pool roof would open and close and whether this would cause any noise issues; and
- this was a large site, and a relatively modest extension.

In response, the Area Planning Officer considered there would be no harmful overlooking due to the orientation of the windows in the proposed first floor. He said the neighbouring garage located between the application site and the adjacent property would also help mitigate any overlooking issues. It was not clear from the application information whether the roof enclosure would be operated manually or not.

Resolved: That application 23/502632/FULL be approved subject to conditions (1) to (3) in the report.

2.2 REFERENCE NO – 23/502598/FULL		
PROPOSAL Replacement of existing chain link and concrete post fencing with 2.4-meter-high palisade fence (green in colour).		
SITE LOCATION Chalkpit 1 Highsted Road Sittingbourne Kent ME10 4BE		
WARD West Downs	PARISH/TOWN COUNCIL Rodmersham	APPLICANT Miss Julie Hadlow AGENT Miss Julie Hadlow, GH Dean and Co.

The Planning Consultant introduced the application as set out in the report.

Tim Malpas, the Agent, spoke in support of the application.

Planning CommitteeThursday, 12 October 2023

Parish Councillor Duncan Burnett, representing Rodmersham Parish Council, spoke against the application.

A visiting Ward Member spoke against the application.

The Chair moved the officer recommendation to approve the application, and this was seconded by Councillor Lloyd Bowen.

The Chair invited Members to make comments and points raised included:

- Acknowledged that a robust fence needed to be in place, but considered palisade fencing to be intrusive on a rural lane, although this could be mitigated over time with additional landscaping;
- this was an industrial type of fencing, very imposing especially taking into account the height of the verge, and it was not suitable for a rural lane;
- suggested the fencing be moved further back to allow pedestrians to walk on the verge;
- could see the benefits of the fence, but considered it would have an urbanising impact on the area;
- this was an improvement to the chain link fencing;
- the Parish Council and Ward Member should have been consulted prior to the application being submitted;
- could not see a reason to refuse the application;
- the applicant had made some changes along the way, i.e. painting the fence green to fit in with the surroundings, so considered there must have been some discussions;
- concerned that there was 'no give' with the palisade fencing, unlike the chain link fencing; and
- did not consider there was sufficient room for planting in front of the fencing as set out in paragraph 7.4.2 in the report.

In response to a question, the Planning Consultant explained that there was no pre-application discussion, although he did speak to the Ward Member. He said the original colour had been gun metal grey, but officers had been concerned that the fence would not blend in. He explained that the Parish Council and Ward Member had suggested park railing fencing, but the Applicant had said this was not feasible. The Planning Consultant confirmed that the fencing would be like-for-like in terms of its position.

Councillor Simon Clark moved the following motion: That the application be deferred for consultation by officers with the Applicant, Parish Council, Ward Member and the Active Travel Co-ordinator. This was seconded by Councillor Richard Palmer. On being put to the vote, the motion was agreed.

Resolved: That application 23/502598/FULL be deferred for consultation by officers with the Applicant, Parish Council, Ward Member and the Active Travel Co-ordinator.

APPENDIX 2

2.2 REFERENCE NO – 23/502598/FULL		
PROPOSAL Replacement of existing chain link and concrete post fencing with 2.4-meter-high palisade fence (green in colour).		
SITE LOCATION Chalkpit 1 Highsted Road Sittingbourne Kent ME10 4BE		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Major		
REASON FOR REFERRAL TO COMMITTEE Councillor Bonney has requested that this application be determined by the Planning Committee.		
CASE OFFICER Matt Duigan		
WARD West Downs	PARISH/TOWN COUNCIL Rodmersham	APPLICANT Miss Julie Hadlow AGENT Miss Julie Hadlow, GH Dean and Co.
DATE REGISTERED 07/06/2023	TARGET DATE 06/09/2023	
BACKGROUND PAPERS AND INFORMATION: 23/502598/FULL Replacement of existing chainlink and concrete post fencing with 2.4 meter high palisade fence (green in colour). Chalkpit 1 Highsted Road Sittingbourne Kent ME10 4BE (midkent.gov.uk)		

1. SITE LOCATION AND DECRPTION

- 1.1. The site is to the east of Highsted Road and is the northern most of three disused chalk quarries. The former quarries are subject to non-statutory designation as Highsted Quarries Local Wildlife Sites. The former quarry is dominated by secondary woodland, with a near continuous woodland canopy present.
- 1.2. Between Highsted Road and the northern most quarry is a fence to prevent access from the road to the disused quarry. The fence is supported by concrete pillars with chain link fence between the pillars and barbed wire to the top. The existing boundary treatment is 2.4m in height.

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- 1.3. The fence is set approximately 1m to the east of Highsted Road. Beyond the fence is scrub and trees, extending for approximately 1m beyond the fence, there after the land drops into the former quarry. The former quarry is approximately 12m deep.
- 1.4. While the overall size of the former quarry extends to 5.4Ha, the application relates to the portion of fencing along the side of the quarry adjacent to Highsted Road.
- 1.5. The existing and proposed replacement fence run to the side of Highsted Road, which is designated as a rural Lane. While the site itself is not within an area designated as an Area of High Landscape Value (AHLV), the eastern boundary of the site does adjoin an AHLV. It should be noted the proposed fence is along the western boundary of the site, as such it is set some distance from the AHLV.

2. PLANNING HISTORY

- 2.1. None relevant.

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the replacement of existing chain-link and concrete post fencing with 2.4-metre-high palisade fence (green in color).
- 3.2. The existing fence has failed in many places, due in part to damage from vehicles and it has also been cut in places. The Applicant has advised that at times people have sought to damage the fence to gain unauthorised access to the former quarry.

4. CONSULTATION

- 4.1. One round of consultation was undertaken, during which letters were sent to neighbouring occupiers; a notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. No letters of representation were received from neighbours in response to the consultation.
- 4.3. **Rodmersham Parish Council**:- In summary, Rodmersham Parish Council raised concern over the appearance of the proposed fencing as it would have an industrial appearance. Concern was also raised that the fence would cause harm to valued landscapes, Highsted Road (as a designated rural lane) and a designated Important Local Countryside Gap.
- 4.4. The Ward Cllr (Cllr Bonney) also made representations, raising concern with the appearance of the proposed fence and the need to ensure protected species would not be harmed. While the need to prevent unauthorised access was understood, the Cllr requested that the type of fencing be reconsidered to improve the visual appearance of the replacement fencing.

5. REPRESENTATIONS

SBC Conservation: - No objection to the proposal

APPENDIX 2

Mid Kent Environmental Health: - No objection subject to a condition relating to the hours of operation being restricted to protect the amenity of neighbouring occupiers.

KCC Ecology: - No objection to the proposal as the fence does not provide an optimum habitat for dormouse, badger, reptiles, foraging/ communing bats and bat roosts. A condition should be imposed requiring a watching brief to be undertaken during construction works to ensure that the works do not result in a breach of wildlife legislation.

KCC Flood and Water Management: - No objection to the proposal

KCC Highways: - No objection to the proposal

Lower Medway Internal Drainage Board: - No objection to the proposal

Environment Agency: - No objection to the proposal

Natural England: - No objection to the proposal

Southern Water: - No objection, however, it is noted that it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Kent Police: - No objection

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017

ST 1 Delivering sustainable development in Swale

CP 4 Requiring good design

CP 7 Conserving and enhancing the natural environment

DM 14 General development criteria

DM 24 Conserving and Enhancing Valued Landscapes

DM 25 The separation of settlements - Important Local Countryside Gaps

DM 26 Rural lanes

DM 28 Biodiversity and geological conservation

DM 29 Woodlands, trees, and hedges

7. ASSESSMENT

7.1. The main considerations involved in the assessment of the application are:

- Character and appearance
- Trees
- Ecology
- Transport and highways
- Living conditions

APPENDIX 2**7.2. Principle**

7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.2.2. The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.2.3. The proposal to replace the existing fence with a new fence does not raise issues or objections in principle. However, it should be noted that the NPPF seeks to promote public safety, it is considered that the replacement of the fence given its current condition will mitigate the risk of a member of the public falling into the former quarry.

7.3. Character and appearance

7.3.1. The application site is not located within a designated landscape, while the site is located adjacent to Kent and Swale Level Area of High Landscape Value (AHLV), the fence itself will be located on the opposite side of the site. As part of the evidence base of the emerging Local Plan the boundary of the AHLV was recommended to include the Chalk Pits. However, given the stage at which the emerging plans is, very limited weight can be afforded to this. For non-designated landscapes, the Local Plan seeks to minimise and mitigate adverse landscape impacts. Where adverse landscape impact remains, this impact needs to be weighed up against the social and economic benefits. Further to this, the site is located along a designated rural lane, the Local Plan seeks to avoid significant harm to the character of these lanes.

7.3.2. The application proposes a replacement fence that will stand at the same height as the existing boundary treatment. While it is accepted that the proposed fence will be less visually permeable, its impact upon the wider landscape and rural lane can be suitably mitigated by way of safeguarding conditions requiring the fence to be painted green and details of a landscaping scheme to be submitted.

7.3.3. It is noted that some concern has been raised by the Parish Council in relation to the conflict the Council's Countryside Gap policy (DM 25). This policy seeks to avoid the coalesce of settlements, given that the application proposes a replacement fence, it is considered that this policy is not applicable to the consideration of this application.

7.3.4. Taking the above into account, the proposal is considered to accord with policies DM24 and DM 26 of the Local Plan 2017 and the NPPF.

7.4. Trees

7.4.1. The NPPF recognises the contribution of trees to the intrinsic character and beauty of the countryside.

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7.4.2. The proposal would replace the existing fence in situ and would not require removal of trees of merit. There is scope for planting to the front of the fence to help soften its appearance and integrate the new fence into the verge, this can be secured by way of condition.

7.5. Ecology

7.5.1. National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".

7.5.2. In terms of the Local Plan, Policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

7.5.3. The site is designated as a local wildlife site, with the quarry itself being capable of supporting dormouse, badger, foraging/ commuting bats, trees with medium to high potential for roosting bats and bats. The application has been accompanied by ecological surveys, which set out that a desk study has been undertaken and that the site has been surveyed in accordance with Natural England's guidance.

7.5.4. KCC have been consulted and have reviewed the applicant's appraisal. It is acknowledged that while the area to which the works relate does not constitute optimum habitat a watching brief is required to ensure that the works proposed do not harm protected species. This can be reasonably secured by way of safeguarding condition.

7.5.5. Taking this into account the application is considered to accord with policy DM 28 of the Local Plan 2017 and NPPF.

7.6. Transport and Highways

7.6.1. The proposed fence would not in itself lead to any traffic generation once installed. There will be some construction traffic associated with the proposal, however, this is not considered to have a harmful impact upon the wider highways network. Taking this into account the proposal is considered to accord with policy DM 6 of the Local Plan 2017 and the NPPF.

7.7. Living conditions*Existing residents*

7.7.1. The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. There would be the potential for noise during the construction phase (once installed the new fence would not generate any noise of disturbance).

7.7.2. Given the application proposes a replacement fence of the same height as the existing coupled with the distance of separation from adjoining dwellings, any impact of the

APPENDIX 2

proposal upon the living conditions of dwellings in terms of loss of light, outlook, privacy, and increased overshadowing is considered to be acceptable.

7.7.3. In terms of the construction phase of development, Environmental Health has recommended that a condition be imposed restricting the hours of operation during construction to avoid any unacceptable noise impact upon nearby dwellings. This can be secured by way of safeguarding conditions.

7.8. Conclusion

7.8.1. The impact of the proposal upon the rural lane and wider landscape can be reasonably mitigated by way of safeguarding conditions. Furthermore, while the site is located within a Local Wildlife site, the area where the fence is located is not considered to be optimum habitat therefore any impact upon ecology can be suitably mitigated by way of safeguarding conditions.

7.8.2. Taking this into account coupled with the public safety benefit the proposal is considered to accord with policies ST1, CP4, CP7, DM14, DM24, DM25, DM26, DM28, and DM29 of the Local Plan 2017 and the NPPF. It is recommended that planning permission for the proposal be granted subject to safeguarding 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 details and drawings: Planning Addendum 29/06/2023 (RAL 6005 moss green powder coating), Highsted Chalk Pit 1 Road Side Fencing Plan; Highsted Chalk Pit 1 Site Location Plan, Highsted Chalk Pits 1, 2 and 3; BBF-HR-PF 10; BBF-HR-PF 11; Site Boundary Replacement Fencing Location Plan, Highsted Chalkpit 1 Site Boundary.

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

3 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.

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- 4** No development beyond the construction of foundations shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include 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.

- 5** Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with 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.

- 6** No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an Ecological Clerk of Works so that development is observed and protected species are not harmed. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that protected species are not harmed during construction.

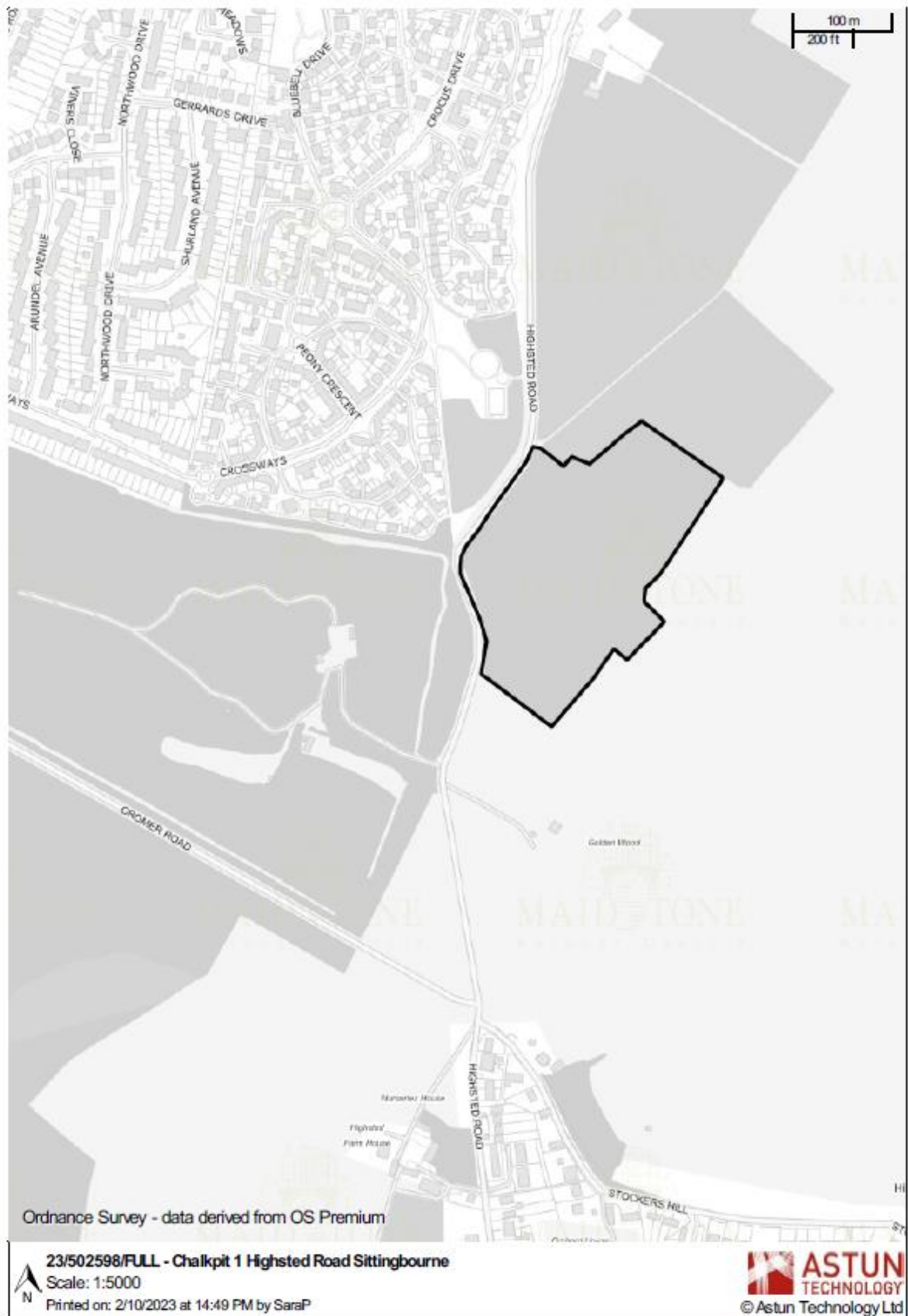
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INFORMATIVE

The Council's approach to the application

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

APPENDIX 2



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PLANNING COMMITTEE – 7 DECEMBER 2023**PART 2**

Report of the Head of Planning

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

2.1 REFERENCE NO – 23/503435/FULL		
PROPOSAL Erection of a two storey side and orangery extension. Installation of replacement railings to the front boundary. Installation of replacement windows to the cellar to the front elevation and to the play room to the side elevation. Installation of Solar Panels to the lower roofs to the rear of the existing dwelling. (Revised Scheme of 22/505090/FULL).		
SITE LOCATION 57 Ospringe Road Faversham Kent ME13 7LG		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions.		
APPLICATION TYPE Householder		
REASON FOR REFERRAL TO COMMITTEE Faversham Town Council objection		
Case Officer Mandi Pilcher		
WARD St Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr & Mrs Sam & Claire Roberts AGENT Jason Davies Architectural Services
DATE REGISTERED 24/07/23	TARGET DATE 18/09/23	
BACKGROUND PAPERS AND INFORMATION: 23/503435/FULL Erection of a two storey side and orangery extension. Installation of replacement railings to the front boundary. Installation of replacement windows to the cellar to the front elevation and to the play room to the side elevation. Installation of Solar Panels to the lower roofs to the rear of the existing dwelling. (Revised Scheme of 22/505090/FULL). 57 Ospringe Road Faversham Kent ME13 7LG (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 57 Ospringe Road is a detached property located within both the built up area of Faversham and the Faversham conservation area. It is also subject to an Article 4(2) Direction which removes permitted development rights including for, but not limited to, demolition of walls fronting highways, for new means of enclosure fronting highways and for new hardstandings within the frontages of dwellinghouses.

- 1.2 The property was likely built around 1840 – 1900 in yellow brick with timber sash windows. There is an area of garden to the front of the property enclosed by a brick wall and railings; the property benefits from a large rear garden.
- 1.3 The surrounding area is characterised by properties of a similar age, comprised of detached semi-detached and terraced dwellings.

2. PLANNING HISTORY

2.1 **22/505090/FULL** - Planning permission refused on 19.01.2023 for the Creation of driveway with a crossover, dropped kerb and replacement railings to front wall. Erection of a two storey side and orangery extension including installation of solar panels and changes to fenestration.

2.2 The above application had a number of similar elements to the current proposal but also included the removal of the front garden wall and the creation of a hard surfaced driveway (which the current proposal does not). The application was refused for the following reasons:

(1) The removal of the front garden wall and construction of a hard surfaced parking area in this well preserved part of Ospringle Road which is subject to an Article 4(2) Direction aimed at conserving the appearance of frontages, would cause demonstrable harm to the character of the Faversham Conservation Area and fails to comply with policies DM14 and DM33 of Swale Borough Local Plan - Bearing Fruits 2031 and Section 16 of the NPPF that aim to protect these areas.

(2) The creation of an off street parking space in this area would be detrimental to highway safety as the existing levels of on street parking drastically reduce the sight lines that can be achieved with no possibility of improvement. The achievable visibility is consequently inadequate to allow the safe movement of a vehicle onto the highway, to the detriment of safety. The proposals also do not provide adequate turning room to enable vehicles to exit the drive in a forward gear, again to the detriment of highway safety, therefore failing to comply with policy DM6 2 c. of the Swale Borough Local Plan - Bearing Fruits 2031.

2.3 **18/501005/FULL** – Planning Permission Refused on 26.04.2018 for a Proposed crossover to public footpath, new driveway and retaining wall structure with steps, demolition of part of existing low level wall to front boundary of property, erection of railings.

2.4 **17/500080/FULL** - Planning permission Withdrawn on 02.03.2017 for a Proposed crossover, new driveway and retaining wall structure with steps, demolition of part of existing low level wall to front boundary of property.

2.5 **17/500980/FULL** – Planning permission approved on 18.05.2017 for a Conversion of loft with the insertion of rear dormer.

3 PROPOSED DEVELOPMENT

3.1 Planning permission is sought for the following:

- A two storey pitched roof side extension on the west elevation. The side extension would sit back from the main front elevation of the property by 2.9m and would measure approximately 4.4m wide by 5.9m in depth. The overall height to the ridge is 7.5m and the external brickwork will match that of the existing dwelling, with a natural slate roof and brickwork corbelling to match the existing house.
- A single storey orangery sited to the western side of the existing long rear projection. It would have a footprint of approximately 3.8m x 3.5m and have chamfered corners. The overall height is approximately 3.3m including the roof lantern.
- Alterations to the low level wall fronting the property and located adjacent to the back edge of the public footpath. The existing front low level walls will be increased in height by two / three brick courses and have new coping stone installed. The front railings will be replaced with heritage style railings painted in dark grey.

- Replacement of two windows in timber, one to the cellar to the front elevation and one to the side elevation.
- Installation of solar panels on the roof of the rear projections of the existing dwelling.

4 CONSULTATION

- 4.1 Neighbouring occupiers adjoining the site were notified in writing, a site notice was displayed at the application site and the application was advertised in the local Press. No responses from neighbours were received.
- 4.2 **Faversham Town Council** object to the application for the following reasons:
- The extension design takes inspiration from another period of the house, which results in the proposed extension being incongruous;
 - The proposal is not suitable for the conservation area.
- 4.3 **Faversham Town Council** were subsequently reconsulted on the basis of amended drawings which altered the design detailing of the side extension and the use of natural slate instead of concrete tiles as originally proposed. The Town Council responded to state they still raise an objection on the basis of their original comments as set out above.

5 REPRESENTATIONS

- 5.1 **SBC Conservation:** - No objection.

6 DEVELOPMENT PLAN POLICIES

- 6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST3 The Swale settlement strategy

CP4 Requiring good design

CP8 Conserving and enhancing the historic environment

DM14 General development criteria

DM16 Alterations and extensions

DM33 Conservation Areas

- 6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Guidance – ‘Designing an Extension – A guide for Householders’ and ‘Conservation Areas.’

7 ASSESSMENT

- 7.1 This application is reported to the planning committee because the Town Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:
- The principle of development
 - Character and appearance / Heritage
 - Living conditions of neighbouring occupiers

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 Policy ST3 of the Local Plan supports the principle of development within the built up area boundary of established towns and villages within the Borough.
- 7.5 The site lies within built confines of Faversham and therefore the principle of development is considered acceptable subject to the consideration of other material planning considerations as discussed below.

Character and appearance / Heritage

- 7.6 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.7 Policies CP4, DM14 and DM16 of the Local Plan state that developments and extensions should be well designed and respond positively to the building and its surroundings. The Council's SPG entitled Designing an Extension – A guide for Householders recommends that two storey side extensions should be set back from the front elevation of the existing dwelling and stepped down from the existing ridge height, in order to appear subservient and preserve the original form and symmetry of the host dwelling.
- 7.8 In addition, the National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.9 Policy DM33 of the Local Plan requires proposals to preserve or enhance the conservation area's special character or appearance.
- 7.10 The site is located in the Faversham conservation area and the surrounding area is comprised of dwellings constructed in a variety of styles and designs. A large number of the dwellings in the surrounding area are terraced. As such it is considered that the enclosure of the gap caused by the two storey extension between the host property and the adjacent dwelling to approximately 1m would not be harmful in the context of the tight knit grain of development which exists in the streetscene.
- 7.11 In terms of the design of the two storey extension, it incorporates a pitched roof to match that of the existing dwelling. It is set back from the front elevation of the property with a ridge height lower than the main ridge of the property which is in accordance with the SPG. When the application was first submitted the two storey extension proposed timber barge boards as part of the roof design and concrete interlocking roof tiles. Officers sought amendments to the scheme to ensure the extension was more in keeping with the dwelling and the streetscene,

and as a result amended drawings were received which altered this detailing to brick corbelling to match the existing dwelling. The roof covering was also amended to natural slate. On this basis it is considered that the two storey side extension is appropriately designed in the context of the existing dwelling and would preserve the character and appearance of the conservation area.

- 7.12 The other elements of the scheme which are visible on the front elevation include the existing front low level walls to be increased in height by two / three brick courses and have new coping stone installed. The front railings will also be replaced with heritage style railings. It is considered that this will give rise to some benefits to the visual appearance of the front boundary treatment and as such would enhance the character and appearance of the conservation area.
- 7.13 The replacement of the windows with timber windows would be an appropriate use of materials and preserve the character and appearance of the conservation area.
- 7.14 In terms of the extension at the rear of the property, this has been acceptably designed with a brick plinth and timber windows. It is small in scale and would not be visible from public vantage points. As such it is considered that this element of the scheme would have no detrimental impact upon the streetscene and would preserve the character and appearance of the conservation area.
- 7.15 The scheme also proposes solar panels on the roof slopes of the existing rearward projecting parts of the property. Notwithstanding that these would likely be able to be installed under permitted development rights, there is no concern raised with these from a visual or heritage perspective.
- 7.16 On the basis of the above, the scheme has been appropriately designed and would sit comfortably in the streetscene. It is considered that some elements of the proposal would preserve the character and appearance of the conservation area whilst others would enhance it. On this basis the application complies with policies CP4, DM16 and DM33 of the Local Plan.
- 7.17 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Living Conditions

- 7.18 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, 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. Policy DM16 also requires that alternations or extensions to existing buildings protect residential amenity.
- 7.19 The proposed two storey side extension is approximately 1m off the neighbouring boundary of no.59 Ospringle Road and extends no further to the front or the rear of this adjacent property. Due to this there would be no significant impact on neighbouring amenities from this element of the proposal in terms of overshadowing or a loss of outlook.
- 7.20 The existing property already has a rear projecting element close to the boundary with No.55. The proposed single storey orangery will be sited on the opposite side of this and project no further than the existing projection. As a result the proposal would not give rise to any harm

in respect of the living conditions of the occupants of this neighbouring property. The neighbouring boundary to No.59 is approximately 4.9m away. Therefore although the orangery projects approximately 5m past the rear wall of this adjacent property, due to the offset no serious harm would be caused to the living conditions of the occupants of this property by virtue of this element of the proposal.

- 7.21 Taking the above into account the proposal is considered to have an acceptable impact upon the living conditions of surrounding dwellings in accordance with policies DM14 and DM16 of the Local Plan 2017.

Transport and Highways

- 7.22 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

- 7.23 In this case, although the property, as per a number of properties in Ospringe Road, does not benefit from any off-street parking, the proposal does not propose any additional bedrooms. As such, there will not be a material change to the parking requirements of the occupants of the dwelling and the scheme is acceptable in this regard.

8 CONCLUSION

- 8.1 This application follows a previously refused scheme under ref. 22/505090/FULL. The elements of that application that resulted in the refusal have now been removed from this current proposal. The other elements of the application closely follow the parts of the scheme which the Council previously considered acceptable, with the main alterations being to the detailing of the two storey extension which has now been enhanced.
- 8.2 On the basis of the above, the scheme is considered to be in compliance with policies ST3, CP4, DM14, DM16 and DM33 of the Local Plan and the Council’s SPG’s related to house extensions and conservation areas. It is recommended that planning permission be granted.

9 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 drawings CR252 23 03, CR252 23 08, CR252 23 09, CR252 23 11, CR252 23 12, CR252 23 10 rev A.

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

- (3) No development beyond construction of foundations of the two storey side extension hereby approved shall take place until details of the specific natural slates and associated ridge tiles to be used on the approved two storey side extension have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (4) No development beyond construction of foundations shall take place until details of the facing bricks to be used for the approved extensions have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (5) Before the relevant works commence, a 1:10 elevation detail and a 1:1 or 1:2 plan and vertical section for the windows to be inserted into the front elevation of the approved two-storey side extension shall first have been submitted and subsequently approved in writing by the Local Planning Authority (please see Informative A, below). The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

- (6) The facing brickwork to the front elevation of the two-storey side extension shall be carried out in Flemish Bond brickwork with contrasting (Staffordshire Blue or equivalent) quoining to the front corner to match the brickwork detailing to the existing front elevation. Furthermore, the mortar coursing of the new facing brickwork on the two storey side extension shall align with the mortar coursing to the existing brickwork.

Reason: In the interests of visual amenity.

- (7) The verge detailing to the front elevation of the approved two-storey side extension shall match the verge detailing to the existing front elevation gable.

Reason: In the interests of visual amenity.

- (8) The windows and external doors to be used in the approved extensions shall be constructed of timber and retained as such thereafter and the windows to be used in the approved scheme shall be painted to match the existing windows at the property.

Reason: In the interests of visual amenity.

- (9) The brickwork corbelling and brick arch window header detailing in the approved two-storey side extension shall exactly match the detailing shown on the existing front elevation of the dwelling.

Reason: In the interests of visual amenity.

- (10) The window opening on the front elevation of the two-storey side extension hereby approved shall have masonry sub cill detailing to match the equivalent detailing on the existing front elevation of the dwelling.

Reason: In the interests of visual amenity.

Informative A:

The sections to be provided shall include part of the surrounding masonry or joinery bordering the window opening and shall be set out clearly (annotated as necessary) to show the following details:

- Depth of reveal
- Window head and cill/sub-cill detailing
- Glazing section (thickness of glass and in case of double glazing, dimension of spacing between the panes of glass)
- Glazing bar profile(s)
- Window frame

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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



2.2 REFERENCE NO – 23/503582/ADV		
APPLICATION PROPOSAL Advertisement consent for 1no. fascia signs, 9no. totem signs, 2no. plaques, 4no. fence panel sign, 1no. development name sign and 5no. flag poles.		
ADDRESS Land At Wises Lane Borden Kent ME10 1GD		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Advertisements		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
CASE OFFICER Claire Attaway		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Karen Dunn AGENT DHA Planning
DATE REGISTERED 12/09/23	TARGET DATE 07/11/23	
BACKGROUND PAPERS AND INFORMATION 23/503582/ADV Advertisement consent for 1no. fascia signs, 9no. totem signs, 2no. plaques, 4no. fence panel signs, 1no. development name sign and 5no. flag poles. Land At Wises Lane Borden Kent ME10 1GD (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The proposal relates to three separate sites that form part of the Wises Lane mixed-use development (17/505711/HYBRID) that is currently under construction. The main site (Site 1) related to this application for advert consent lies alongside/opposite existing housing on Wises Lane and Dental Close and comprises of two show homes (Plots 2 and 3) and a sales cabin with a visitor car park. The second site (Site 2) lies on land in front of dwellings that have been constructed as part of the development referred to above and the third site (Site 3) lies upon land which will, once constructed, lie next to the access road through the development.

2. PLANNING HISTORY

- 2.1 **23/500263/REM** – Approval of reserved matters (Scale, Appearance, Landscaping, Layout) granted on 13.11.2023 for the Sittingbourne Rugby Club and Community Hub including, 2x RFU compliant rugby pitches and associated parking, pursuant to application 17/505711/HYBRID.
- 2.2 **22/504937/REM** – Approval of reserved matters (appearance, landscaping, layout and scale) granted on 6.11.2023 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.

- 2.3 **22/504823/REM** – Approval of reserved matters (Layout, Scale, Appearance and Landscaping) granted on 16.08.2023 for the western spine road (Phases 2B & 2C) pursuant to 17/505711/HYBRID.
- 2.4 **21/506308/ADV** – Advertisement consent granted on 11.04.2022 for the installation of two (x2) freestanding non-illuminated aluminium signage boards and two (x2) freestanding non-illuminated flagpole-bound signage flags. This temporary permission expired on 11.04.2023. The Planning Enforcement team is following this up and is a separate matter to the consideration of this current advertisement consent application.
- 2.5 **17/505711/HYBRID** – Appeal against non-determination allowed on 29.04.2021 for 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.

3. **PROPOSED DEVELOPMENT**

- 3.1 Advertisement consent is sought for various signage for a period of three years. The signs comprise of:

Site 1

- One fascia sign (Item 1) on sales cabin. This is a digitally printed vinyl sign with white text on a blue background and is applied to an aluminium composite panel measuring 6.5m wide x 0.5m high.
- Six totem signs of various sizes located around the visitor car park. These are on digitally printed vinyl with white text on a blue background which is applied to an aluminium composite panel. The main sign (Item A) fronts the road measuring 4.1m high x 1.6m wide. The secondary visitor parking signs (Items B and J) measure 1.25m high x 0.6m wide; the welcome sign (Item C) measures 1.68m high x 1.0m wide; the safety sign (Item D) measures 1.68m high x 1.0m wide and the site plan sign (Item H) measures 1.68m high x 1.0m wide.
- Two plaques (Items 4 and 5) on the show homes. These are wood-effect vinyl signs with silver letters applied to an aluminium composite panel measuring 0.5m wide x 0.2m high.

- Four fence panel signs (Item F) on digitally printed vinyl applied to aluminium composite panels measuring 1.7m wide x 1.1m high with a blue background and white text.
- One development name sign (Item 3). The brushed silver metal letters will be mounted to the flank wall of the showhouse.
- Three flag poles (Item G) consisting of a 5.4m high aluminium post and a blue polyester flag with white text.

Site 2

- One totem sign (Item 6). The digitally printed vinyl sign contains white text on a blue background which is applied to an aluminium composite panel. The directional sign measures 1.68m high x 1.0m wide
- Two flag poles (Item G) consisting of a 5.4m high aluminium post and a blue polyester flag with white text.

Site 3

- Two totem signs. The digitally printed vinyl sign contains white text on a blue background which is applied to an aluminium composite panel. The 5 star sign (Item L) measures 1.25m high x 0.6m wide and the S106 (Item E) sign measures 1.68m high x 1.0m wide.

4. **CONSULTATION**

- 4.1 Two rounds of consultation have been undertaken, first on 13.09.23 when the application was first submitted, and the second on 23.10.23 as the description was amended. During the consultation, letters were sent to neighbouring occupiers and a site notice was displayed at the application site. Full details of representations are available online.
- 4.2 One neighbour representation has been received in relation to the initial consultation raising concern that this signage is already in place.
- 4.3 No neighbour letters of representation were received in relation to the second consultation.
- 4.4 **Borden Parish Council:** Objected to the initial consultation on the following grounds:
- The adverts are already in place
 - The amount and size of the adverts are detrimental to the local environment
- 4.5 Following further consultation, Borden Parish Council made no further comments and confirmed that their initial comments stood.

5. **REPRESENTATIONS**

- 5.1 **KCC Highways:** No objection.

5.2 **Mid Kent Environmental Health:** No objection.

6. **DEVELOPMENT PLAN POLICIES**

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017** - policies:

ST3 The Swale settlement strategy

CP4 Requiring good design

DM14 General development criteria

DM15 New shopfronts, signs, and advertisements

6.2 **Supplementary Planning Guidance (SPG):** 'The Design of Shopfronts, Signs & Advertisements'.

7. **ASSESSMENT**

7.1 This application is reported to the Committee because Borden Parish Council has objected to the proposal. Under the Advertisement Regulations, the only matters for consideration are as follows:

- Amenity
- Public safety

Amenity

Visual amenity

7.2 Amenity is usually defined in terms of appearance of the advertisement itself and the characteristics of the area where it is to be displayed but does not include the content or subject matter of the advertisement display. The relevant policies and the Council's SPG entitled 'The design of shopfronts, signs and advertisements' advise that such development should respect the character of the surrounding area and avoid the scenario of creating excessive visual clutter.

7.3 The signage is non-illuminated and strategically positioned to inform and direct potential house buyers visiting the site. The design, and type of signage is broadly comparable to what the Council has permitted elsewhere on such major housing developments.

7.4 It is noted that the third location as set out above is adjacent to where the eastern section of the spine road would pass through the development. Although the spine road benefits from planning permission (and the western section benefits from reserved matters consent), the eastern section does not currently have reserved matters approval. As such, there is the possibility that if consent was granted for these signs then they could in theory be installed without the spine road. This would lead to signage being located in a currently undeveloped part of the site, giving rise to some visual harm. As a result of this, a condition is recommended to require the spine road to be open to vehicular traffic prior to these signs being installed.

7.5 Due to the size of the site relative to the adverts that are being proposed it is not considered that the signage results in an unacceptable level of visual clutter, neither is it harmful to the visual amenity of the surrounding area. It is also taken into account that

this is a temporary consent for three years, as controlled by condition below, and therefore the impacts will be limited. As such the proposal is considered to be in accordance with Policies CP4, DM14 and DM15 of the Local Plan.

Residential amenity

- 7.6 The proposed signs are non-illuminated. The SBC Environmental Health team raises no objection in terms of residential nuisance. On this basis, the temporary signage is not considered to cause significant harm to residential amenity and is considered to be in accordance with Policy DM14 of the Local Plan.

Public safety

- 7.7 The signage is situated alongside the roadside boundary and as such is visible to passing traffic. KCC Highways raise no objection to the application on highway grounds and have not recommended any conditions.

8. **CONCLUSION**

- 8.1 This application proposes temporary signage in relation to the consented housing development. The amount of signage does not result in an over proliferation of signage within this area and does not have an unacceptable detrimental impact upon either visual and residential amenity, nor result in any harm to highway safety, which are the statutory tests here. The signage therefore complies with policies DM14 and DM15 of the Local Plan and the NPPF.

9. **RECOMMENDATION**

ADVERTISEMENT CONSENT IS GRANTED Subject to the following conditions:

CONDITIONS

- (1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (2) No advertisement shall be sited or displayed so as to:
 - a. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - b. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - c. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- (3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- (4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (5) Where an advertisement is required under these Regulations to be removed, the

site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

- (6) The advertisements hereby permitted shall be removed no later than 3 years beginning with the date on which the consent is granted.

Reason: In the interests of visual amenity.

- (7) The signs labelled as 'E' and 'L' shall not be installed until the section of the spine road (as approved under 17/505711/HYBRID) adjacent to where the signs are located has been constructed and is open to vehicular traffic.

Reason: In the interests of visual amenity.

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

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



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2.3 REFERENCE NO – 23/501452/FULL		
PROPOSAL Section 73 - Application for minor material amendment to planning permission 20/505833/FULL relating to plot 1 including change of roof design to match integral garage, enlargement of utility room and removal of window. Removal of footpath to side of plot 1 (retrospective).		
SITE LOCATION Scocles Farm, Scocles Road, Minster-On-Sea, Kent, ME12 3RU		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Minster Parish Council objection		
CASE OFFICER Megan Harris		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Honey Hill Housing Ltd AGENT
DATE REGISTERED 11/04/23	TARGET DATE 05/10/23	
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RRVGEFTYM9400		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site consists of land that previously formed the southern half of the property known as Scocles Farm, on the west side of Scocles Road, Minster. It is bordered to the south and west by housing development at Thistle Hill, to the north by the other half of the farm (with Scocles Court (which is Grade II listed) beyond), and to the east by Scocles Road beyond which lies open farmland. The site falls within the built confines of Minster.
- 1.2 The site has been recently redeveloped following planning permission and contains 9 dwellings, the development of which is largely complete and occupied.

2. PLANNING HISTORY

- 2.1 **22/501378/FULL** – Application granted on 23.05.2022 for 'Section 73 - Application for minor material amendment to condition 2 (to allow changes to internal layouts and the position of some external windows) pursuant to 18/506573/FULL for - Erection of a pair of semi-detached dwellings as replacement for the dwelling permitted on Plot 8 of

planning permission 17/506294 granted on 2nd July 2018, with associated parking and landscaping.’

- 2.2 **21/504250/FULL** – Application refused on 17.12.2021 for ‘Section 73 - Application for minor material amendment to condition 2 (to allow alterations to the internal layouts, elevations and materials of Plots 8 and 9) and variation of condition 8 (external finishing materials) pursuant to 18/506573/FULL for - Erection of a pair of semi-detached dwellings as replacement for the dwelling permitted on Plot 8 of planning permission 17/506294 granted on 2nd July 2018, with associated parking and landscaping.’
- 2.3 **21/504219/FULL** – Application refused on 17.12.2021 for ‘Section 73 - Application for minor material amendment to approved plans conditions 1 and 2 (to allow alterations to the internal layouts, elevations and materials of plots 1-7) pursuant to 20/505833/FULL for - Section 73 - Application for Minor Material Amendment to approved plans condition 2 (amendments to plot 1, including raising ridge height, removal of hip end and erection of 4no. dormer windows to garage roof, changes to garage door and additional window in rear elevation of garage, and site layout plan, replacing parking barns with open parking spaces) and Variation of condition 21 (to remove reference to parking barn) pursuant to 17/506294/FULL for - demolition of existing agricultural buildings and erection of 8 no. three and four bedroom detached and semi-detached dwellings with associated garages, parking, landscaping and improvement of existing vehicular access.’
- 2.4 **20/505833/FULL** – Application granted on 12.02.2021 for ‘Section 73 - Application for Minor Material Amendment to approved plans condition 2 (amendments to plot 1, including raising ridge height, removal of hip end and erection of 4no. dormer windows to garage roof, changes to garage door and additional window in rear elevation of garage, and site layout plan, replacing parking barns with open parking spaces) and Variation of condition 21 (to remove reference to parking barn) pursuant to 17/506294/FULL for - demolition of existing agricultural buildings and erection of 8 no. three and four bedroom detached and semi-detached dwellings with associated garages, parking, landscaping and improvement of existing vehicular access.’
- 2.5 **20/505633/SUB** – Application granted on 01.02.2021 for ‘Submission of details pursuant to condition 5 (archaeology), condition 6 (contaminated land assessment) and condition 13 (closure report) of application 17/506294/FULL.’
- 2.6 **20/504638/SUB** – Application granted on 03.03.2022 for ‘Submission of Details to Discharge Condition 3 (Construction Method Statement) Condition 4 (Precautionary Ecological Mitigation and Enhancement Strategy) Condition 5 (Archaeology) Condition 6 (Contaminated Land Assessment) Condition 7 (Maintenance and Management of Any SUDS Features) Condition 8 (Materials) Condition 9 (Hard and Soft Landscaping) Condition 13 (Closure Report) and Condition 19 (Road Layouts) Subject to 18/506573/FULL.’
- 2.7 **19/504508/SUB** – Application part permitted, part refused on 04.12.2019 for ‘Submission of details application pursuant to Conditions 5 (archaeology), 8 (external

- finishing), 9 (Landscaping), & 19 (Roads, footways, paths, streetlighting) of application 17/506294/FULL.’
- 2.8 **19/502293/SUB** – Application part permitted, part refused on 08.07.2019 for ‘Submission of details in relation to condition 4 (Ecology), condition 6 (Contamination) and condition 7 (Scheme for long term maintenance and management of SUDS and site drainage) in relation to planning permission 17/506294/FULL and 18/506573/FULL.’
- 2.9 **18/506573/FULL** – Application granted on 07.03.2019 for ‘Erection of a pair of semi-detached dwellings as replacement for the dwelling permitted on Plot 8 of planning permission 17/506294 granted on 2nd July 2018, with associated parking and landscaping.’
- 2.10 **18/504780/SUB** – Application part permitted, part refused on 29.10.2018 for ‘Submission of Details to Discharge Condition 3 (Construction Method Statement) and Condition 4 (Ecological Mitigation Strategy) Subject to 17/506294/FULL.’
- 2.11 **17/506294/FULL** – Application granted on 02.07.2018 for ‘Demolition of existing agricultural buildings and erection of 8no. three and four bedroom detached and semi-detached dwellings with associated garages, parking, landscaping and improvement of existing vehicular access.’
- 2.12 **SW/12/1311** – Application granted on 05.01.2015 for ‘Redevelopment of existing redundant farm building including elements of demolition - redevelopment proposals to provide mixed residential development for a total of 19 No. Mixed dwellings of 2 storey and single storey construction together with their associated garages and parking barns and improvement of existing vehicular access.’ Permission not implemented.
- 2.13 The development undertaken on the site was not constructed in accordance with the original approved plans (17/506294/FULL and 18/506573/FULL). Applications to make minor material amendments to the development (21/504219/FULL and 21/504250/FULL) to incorporate a wide range of unauthorised changes made were subsequently refused by the Planning Committee in 2021, due to the reduction in design quality of the development and impact on character and appearance and the setting of Scocles Court.
- 2.14 Following this refusal, the developer has undertaken various works to the dwellings to revert elements of the development back to the original approved plans. Units 2-7 are now built as per the scheme approved under the planning permission. A further application to make a more limited and acceptable range of minor amendments to plots 8 and 9 was also approved in May 2022 (22/501378/FULL). As such there are no outstanding issues in relation to plots 2-9.

3. PROPOSED DEVELOPMENT

- 3.1 This current application has been submitted to seek retrospective planning permission for changes to the interior and exterior of the dwelling at plot 1, and to footpaths around the site. These changes are set out in more detail below:

- Removal of hip ends on the main roof, with roof designed with gable ends.
- Minor amendments to window design.
- Amendments to porch design, including slight increase in the width of the structure.
- Increase in width of utility room at the rear of the garage.
- Removal of pedestrian footpath to the side of plot 1.
- Amendments to the footpath on Scocles Road to provide pedestrian visibility for persons crossing the site access. The plans were amended during the course of the application to show this extension of the footpath in order to address concerns raised by KCC Highways.

3.2 There are a number of external finishes and architectural details to plot 1 shown on the drawings and which formed part of the previously approved design, which were not incorporated into the construction of the dwelling. The applicant has confirmed these changes will be made to the property and they include the insertion of a dentil course below the tile hanging, insertion of exposed rafter feet on the main roof and garage roof, inclusion of glazing bars on all windows, and use of tile hanging on the dormer windows and timber detailing to the apex of the dormer roofs.

4. CONSULTATION

4.1 Two rounds of consultation with neighbours have been undertaken upon receipt of amended plans. A site notice was also displayed at the site. Full details of representations are available online.

4.2 No representations from members of the public were received.

4.3 **Minster Parish Council** initially supported the application subject to a condition ensuring the footpath remains. They set out that any proposal not offering a continuous footpath to serve this site will be inadequate.

4.4 During the second round of consultation, the Parish Council objected to the proposal. They have concerns around public health and safety and consider that a footpath should be provided at both sides of the site entrance as well as a continuous footpath into the development.

5. REPRESENTATIONS

5.1 **Swale Footpaths Group** – Note proximity of site to public footpath ZS10.

5.2 **SBC Design and Conservation Team** – Note that the applicant has provided an amended drawing that shows a level of construction detailing closer to the approved scheme, and as such consider that it would now be reasonable to support this application.

5.3 **KCC Highways** – Advise that given the limited number of dwellings that are located in the site, there is no need for a footpath to be provided on both sides of the access road, and no objection is raised to the removal of the footpath adjacent to plot 1. Following the receipt of amended plans, the footpath on Scocles Road has been extended slightly into

the access to improve pedestrian visibility, and KCC Highways confirmed they have no objection to the application.

6. DEVELOPMENT PLAN POLICIES

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

ST 1 (Delivering sustainable development)
ST 3 (The Swale settlement strategy)
ST 6 (The Isle of Sheppey area strategy)
CP 3 (Delivering a wide choice of high-quality homes)
CP 4 (Good design)
DM 6 (Managing transport demand and impact)
DM 7 (Vehicle parking)
DM 14 (General development criteria)
DM 19 (Sustainable design and construction)
DM 28 (Biodiversity and geological conservation)
DM 32 (Listed Buildings)

6.2 **Supplementary Planning Guidance (SPG)**

Supplementary Planning Guidance Listed Buildings
Supplementary Planning Document - Swale Parking Standards

7. ASSESSMENT

7.1 This is an application for a minor material amendment to the scheme approved under 20/505833/FULL. Government advice states that a minor material amendment is likely to include an amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. The application remains as a development for 9 dwellings, in the same location and of the same scale as previously approved. The development remains essentially of the same nature as previously approved. Only the impact of the amendments specifically set out in the proposal section above should be considered as part of this application.

7.2 This application is reported to the Committee because a Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- Principle
- Character and Appearance, including Heritage Impact
- Living Conditions
- Transport and Highways

Principle

- 7.3 The principle of housing on this site has clearly been considered acceptable and is established through the planning permissions previously granted.

Character and Appearance, including Heritage Impact

- 7.4 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement under policies CP 4 and DM 14.
- 7.5 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan under policy DM 32.
- 7.6 The key issue is whether the amendments to the dwelling at plot 1 are of sufficient design quality and are visually acceptable, taking into account the character and appearance of the surrounding area, including the relationship with the listed building to the north. The Council has a statutory duty to have special regard to the desirability of preserving listed buildings, their setting and any features of interest which are present.
- 7.7 In terms of the general character of the area, the development is sited immediately adjacent to modern dwellings constructed as part of the wider Thistle Hill development. Plot 1 subject to this application is located at the front of the site and as such is highly visible from Scocles Road when compared to the other plots at the site. The dwellings with the Thistle Hill development immediately to the south and west of the application site have simple and plain elevations. Nonetheless, as the site essentially forms the edge of Minster as it gives way to countryside and is within the setting of Scocles Court a Grade II listed building, it is considered that a high standard of design is necessary.
- 7.8 The applicant has confirmed that they will install further detailing and architectural features to the property as described in paragraph 3.4 above, and which formed part of the previously approved plans. This detailing is shown on the submitted drawings.
- 7.9 The development still does not entirely accord with the design of the originally approved dwellings, but the remedial works already undertaken and proposed will result in the development being much closer in design and appearance to what was originally approved. The remaining amendments to the external design subject to this application relate to the use of gable ends in the roof, minor window changes and a small increase in the width of the porch. These are considered to be small scale changes that do not materially dilute or harm the appearance of the dwelling or surrounding area

- 7.10 The development has been constructed without a footpath to the side of plot 1 as previously approved. This strip of land has instead been incorporated into the curtilage of plot 1 with a fence installed along the boundary of this plot. From a visual perspective, the loss of this footpath and the relocation of the boundary fence to plot 1 has not altered the appearance of the development to any significant degree and is considered acceptable.
- 7.11 Scocles Court is a Grade II listed farmhouse building dating to the 18th Century. It is accepted that the setting of the building has been heavily eroded by the existing surrounding development, and that the development has further urbanised the area around the listed building. Plot 1 is located approximately 50m from the listed building, and there is currently intervisibility between the new development and listed building along Scocles Road, albeit that this also includes other surrounding residential development in the background.
- 7.12 Permission has been granted (19/504831/FULL) for a development of 11 dwellings on the parcel of land between the application site and the listed building. This includes a barn conversion and a new parking barn in close proximity to the listed building, and the erection of new dwellings which include a number of traditional design features. When this development is built, it is unlikely that intervisibility would exist to any material degree between the application site and the listed building.
- 7.13 The Conservation Officer does not raise objection to the more limited range of amendments now sought under this application, and the development would not result in harm to the setting of the listed building. As such the development is considered to be acceptable in heritage impact terms.
- 7.14 On the basis of the above, the amendments are considered acceptable in terms of visual and heritage impacts, and in accordance with policies CP4, DM14 and DM32 of the Local Plan.

Living Conditions

- 7.15 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.16 Plot 1 has been constructed to the same scale and positioning as the approved scheme. A rear window has been removed from the dwelling, and the utility room window at the rear has been enlarged. Taking into account the window remains in the same position and is just larger in scale, it is not considered the change will cause any harm to the living conditions of neighbours. The other changes listed in the proposal section above involve minor design changes and would not cause harm to residential amenity. Taking this into account, the scheme is considered to be acceptable, and would accord with Policy DM 14 of the Local Plan.

Transport and Highways

7.17 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.18 The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

7.19 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

7.20 The impact of traffic generated from the site on the wider highway network has previously been considered acceptable, and this would not change through the amendments sought.

7.21 The development has been constructed without a footpath to the side of plot 1, and instead a fence line runs along the boundary of this plot immediately adjacent to the access road. The development is still served by a footpath on the northern side of the access road. Given the small scale of the development, KCC Highways have no concerns about the removal of the footpath adjacent to Plot 1 on highways safety grounds.

7.22 During the course of the application, amended plans were provided to address concerns raised by KCC Highways regarding pedestrian visibility for persons crossing Scocles Road at the access point to the development. The footpath has been extended slightly into the access road, to allow pedestrian visibility down the access road. KCC Highways have no objections to the scheme following the amendments.

7.23 The Parish Council’s concerns about the loss of part of the footpath is noted. However, taking into account the development is small scale with limited highway movements, that a footpath remains on the northern side of the access road, and that KCC raise no objection on highways safety grounds, it is considered that the Parish Council’s concerns would not form any basis for refusal of the application.

8. CONCLUSION

8.1 The changes to the design of the dwelling at plot 1 are limited and would not represent any undue decrease in design quality when compared to the approved scheme. The proposals would not cause any undue harm to visual amenity or the setting of Scocles

Farm. The removal of the footpath adjacent to plot 1 is acceptable in terms of highway safety and convenience.

- 8.2 It is therefore recommended that the application be approved and that a new decision be issued re-stating all of the original planning conditions. Conditions 1, 7 and 12 have been amended to refer to the amended plans submitted with this application.

9. CONDITIONS

1. No development shall take place other than in accordance with the following drawings: 17.35-PL1-AWD.01A, 18.35-PL1-WD.03D, 17.35.PL4000D, 17.35.SK 11C, 17.35.SK 13B, 17.35.SK 14B, 17.35.SK 15B, 17.35.SK 16C, 17.35.SK 17C, 17.35.SK 18 and 17.35.SK 25.

Reason: For the avoidance of doubt.

2. The architectural and external detailing to the elevation of plot 1 as shown on drawing 18.35-PL1-WD.03D shall be installed on the dwelling within 6 months of the date of this decision. For the avoidance of doubt, such detailing shall incorporate –

- Tile hanging to dormer windows
- Installation of timber detailing to roof of dormer windows
- Installation of exposed rafter feet to roof eaves
- Installation of dentil course to front elevation
- Installation of glazing bars to windows.

Reason: In the interests of visual amenity.

3. The development hereby permitted shall be carried out in accordance with the details submitted and approved under 18/504780/SUB, 19/502293/SUB, 19/504508/SUB and 20/505633/SUB (condition 3: construction method statement, condition 4: ecology, condition 5: archaeology, condition 6: contaminated land, condition 7: SUDS, condition 8: external finishing materials, condition 9: hard and soft landscaping, condition 13: closure report and condition 19: road layouts).

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

4. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out within 3 months from the date of this decision unless an alternative timescale has been agreed in writing with the Local Planning Authority.

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

5. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with 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.

6. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

7. Within 3 months from the date of this permission, the footway link shown on drawing 17.35.PL4000D shall be constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian and local amenity.

8. Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

9. The access details shown on the approved plans shall be completed within three months from the date of this permission, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

11. The car parking spaces shown on drawing 17.35.PL4000D shall be kept available at all times for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

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

12. Unless approved otherwise by this permission and notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway.

Reason: In the interests of visual amenity.

13. Notwithstanding the provisions of Class A, Part 1, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the flank wall of unit no.7 as shown on the approved layout plan.

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

INFORMATIVES

- (1) This application only proposes amendments to the external design and internal layout of plot 1 and the removal of the footpath to the side of this plot, and should therefore be read in conjunction with approved applications 17/506294/FULL and 20/505833/FULL.
- (2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highwayland/highway-boundary-enquiries>

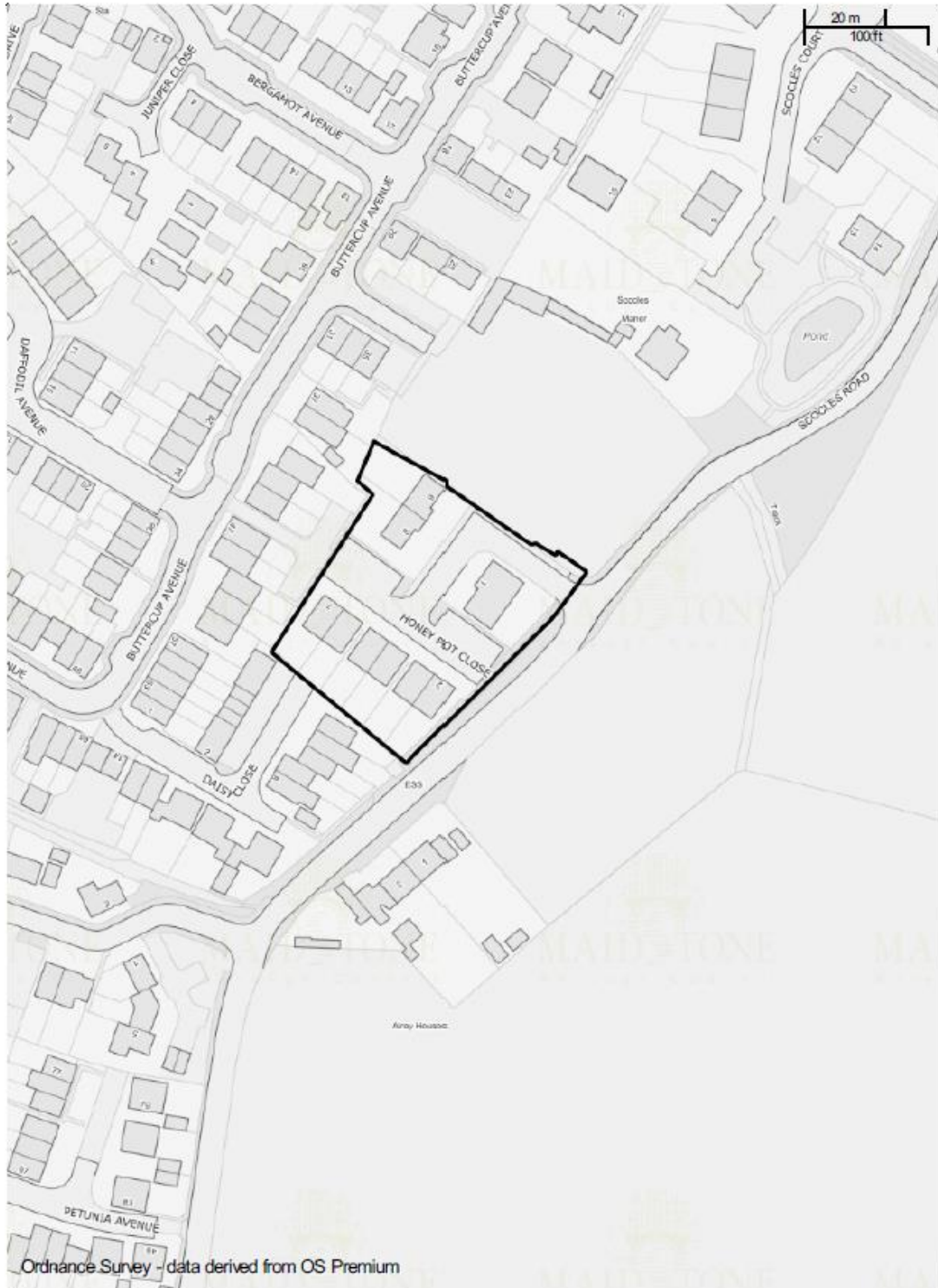
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement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

- (3) Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 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.



Ordnance Survey - data derived from OS Premium

23/501452/FULL - Scocles Farm Scocles Road Minster ME1 3RU
Scale: 1:1250
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2.4 REFERENCE NO – 23/500616/FULL		
PROPOSAL Erection of a two storey side extension to House in Multiple Occupation (HMO)		
SITE LOCATION 1 Norwood Walk West Sittingbourne Kent ME10 1QF		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Householder		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to Planning Committee by Councillor Baldock Parish Council objection		
Case Officer Rebecca Corrigan		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Bobbing	APPLICANT Mr Tatler AGENT Oast Architecture Ltd
DATE REGISTERED 09.02.2023	TARGET DATE 12/12/23	
BACKGROUND PAPERS AND INFORMATION: 23/500616/FULL Erection of a two storey side extension to House in Multiple Occupation (HMO) (Revised description) 1 Norwood Walk West Sittingbourne Kent ME10 1QF (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site is situated within the defined built-up area boundary of Sittingbourne and comprises of a two-storey end of terrace property which forms part of a small terrace on the southern side of Norwood Walk West. The property is currently in use as a house in multiple occupation (HMO), comprising of a communal kitchen / diner and 4 bedrooms. The property has a small front garden and a side and rear wraparound garden.
- 1.2 The property is located within a pedestrianised part of the estate, and in common with neighbouring properties has no direct on-site parking. One car parking space is available to the property within a communal area of garages sited adjacent to the railway line to the north. Unrestricted street parking takes place within the locality on the adjoining service roads.

2. PLANNING HISTORY

- 2.1 No relevant planning history

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a two storey side extension. This would create a communal lounge/diner at ground floor level and one additional bedroom with en-suite facilities at first floor level. The resulting development will provide a 5 bedroom House in Multiple Occupation (HMO)
- 3.2 The side extension would project 3.7m from the side wall of the property and have a length of 7.7m. It would be set back 0.5m from the front elevation of the building with a hipped roof profile and an eaves height of 5m to match existing. The plans have been amended through the course of the application to incorporate a hipped roof rather than a gable end roof profile, and to clarify that the property is and will continue in use as a HMO and not a single dwelling.

4. CONSULTATIONS

- 4.1 Three rounds of consultation were undertaken, during which letters were sent to neighboring occupiers: Full details of representations are available online.
- 4.2 A total of 21 letters of representation were received following the public consultation. Of these 14 were received from separate addresses. Objections were raised in relation to the following matters:
- Visual impact – overdevelopment, loss of openness, out of character
 - Amenity – overbearing impact, loss of outlook
 - Loss of privacy
 - Overshadowing and loss of light
 - Additional bathrooms have the potential to cause drainage problems
 - Highway safety concerns
 - Insufficient available parking
 - Noise and disturbance through construction
 - Internal layout is not as described – the house is a House in Multiple Occupation
 - Loft extension is not included in the application
 - Reduction in security in the area due to loss of visibility

- 4.3 Bobbing Parish Council – Raise objection for the following reasons:

- The proposed extension would block light to neighbouring properties.
- The proposed extension would overlook neighbouring properties.
- Could lead to more parked cars increasing congestion on the road.
- The property would be out of character for the area.
- Southern Water have problems with sewage in the area and it is known by residents that the drainage capacity is not the correct specification for the area.
- The increase in property size could add to the existing problem.

5. REPRESENTATIONS

- 5.1 **Southern Water** - Raise no objection but advise that the developer is intending to build-over a public foul sewer which is crossing the site..

6. **DEVELOPMENT PLAN POLICES**

6.1 **Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017**

Policy ST1 Delivering sustainable development in Swale

Policy ST3 The Swale settlement strategy

Policy CP4 Requiring good design

Policy DM7 Vehicle parking

Policy DM14 General development criteria

Policy DM16 Alterations and extensions

6.2 **Supplementary Planning Guidance/Documents**

Supplementary Planning Guidance (SPG): “Designing an Extension A Guide for Householders”.

The Swale Borough Parking Standards 2020

7. **ASSESSMENT**

7.1 This application is reported to the Committee at the request of Cllr Baldock and because Bobbing Parish Council has objected to the proposal. Considering these comments and on the basis of the scheme that has been submitted, the committee is recommended to carefully consider the following points: -

- The Principle of Development
- Character and Appearance
- Living Conditions
- Transport and Highways
- Flood Risk, Drainage and Surface Water
- SAMMS

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 The site is situated within the defined built-up area boundary of Sittingbourne where the principle of extending a residential property is generally accepted subject to compliance with policies CP4, DM14 and DM16 of the Local Plan.

7.5 A number of objections have been received which relate to the property being in use as a House in Multiple Occupation (HMO). The application was revised to clarify this, the description was changed and the revised drawings now show the existing and proposed

internal layout as a HMO.

- 7.6 It is important for members to note that the use of a dwelling as a HMO by up to 6 persons does not require planning permission, and is permitted development under Class L of Part 3 of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended). As such the existing use of the property is lawful. The property is still a dwellinghouse (albeit one used as a HMO rather than by a single household) and the principle of extending a dwelling in an urban area is acceptable, subject to the more detailed considerations set out below.

Character and Appearance

- 7.7 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement. Policies CP4, DM14 and DM16 of the Local Plan state that developments and extensions should be well designed and respond positively to the building and its surroundings. The Council's SPG entitled *Designing an Extension – A guide for Householders* recommends that two storey side extensions should be set back from the front elevation of the existing dwelling and stepped down from the existing ridge height, in order to appear subservient and preserve the original form and symmetry of the host dwelling. In this instance the extension would be set back 0.5m from the front elevation of the building and the ridge line would be 0.5m lower than the original ridge height. This is in accordance with the SPG "Designing an Extension A Guide for Householders".
- 7.8 The side extension would project 3.7m from the side wall of the property and have a length of 7.7m. A distance of more than 3m is to be retained to the side boundary of the property. The roof design has been amended to incorporate a hipped roof profile which reduces the overall bulk of development and is also consistent with other end of terrace properties in the area which are also designed with a hipped roof profile. The width of the extension would be subservient to the main house, and would not be out of keeping with the prevailing form of development in the area which comprises blocks of terraced houses.
- 7.9 Overall, the proposed two storey side extension is considered to integrate successfully with the host property and would not cause any harm to the visual amenities of the surrounding area.

Living Conditions

- 7.10 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.

Potential impact upon No's 44 and 46 Norwood Walk

- 7.11 The proposal would extend the property closer to these dwellings. A distance of 11m would be maintained to the front elevation of No 46, and the extension would not be sited directly in the line of this property. The front elevation of No 44 would directly face the extension. A distance of approx. 12.6m would be retained between No. 44 and the extension. Taking into account this distance and that this property already faces towards

the flank wall of the application dwelling, the impact upon outlook is considered acceptable.

- 7.12 No's 44 & 46 are sited on a lower land level than the application property by approximately 1m and objections have been raised that the development would result in a loss of light to these properties. However, the development would comply with guidelines as set out in the BRE Daylight and Sunlight Good Practice Guide, and the impact on light provision to these neighbouring dwellings is considered acceptable.
- 7.13 Concerns have also been raised from objectors that the proposal has the potential to result in loss of privacy. However, no windows are proposed within the side elevation of the proposed extension and as such no direct overlooking would occur to these properties.

Potential impact upon No's 13-17 Woolett Road

- 7.14 The proposed extension would be located to the north of no's 13-17 (odd) and would be sited at a distance of approx. 16m from the rear elevations of these properties. The extension would not project further south than the main house and at this distance would be unlikely to cause any harmful impacts relating to light and outlook.
- 7.15 In terms of overlooking, the extension would be closer than the 21m distance normally applied to back-to-back dwellings. However this is no worse than the existing situation, and importantly the first floor rear facing window would be to a bathroom and can be restricted by condition to be an obscure glazed window.

Potential impact upon 27 Norwood Walk West

- 7.16 Given the location of this dwelling 16m from the extension and across public footways, no adverse amenity impacts would be likely to occur.

Potential impact upon 3 Norwood Walk West

- 7.17 Although the application site is attached to No 3, the extension would be erected on the other side of the site and would not cause any impacts to this property in terms of light, privacy or outlook.
- 7.18 Although the proposal would increase the number of bedrooms by 1, from 4 to 5 in total, this would be unlikely to increase activity or intensify the use of the site to an unacceptable level.
- 7.19 Overall, the proposal is not considered to cause unacceptable amenity impacts and would not be in conflict with Policy DM14 of the Local Plan.

Transport and Highways

- 7.20 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable."

- 7.21 The NPPF also states that:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

- 7.22 A number of objectors have raised concerns in relation to the increased demand for parking arising from the proposal. None of the properties on Norewood Walk have on-site parking due to the estate design with pedestrianised walkways. As a result it is acknowledged that parking occurs on local residential roads. Notwithstanding this, any additional parking demand from the development would be limited and it would be difficult to argue that additional pressure from one extra bedroom would be sufficiently harmful to refuse the scheme on highways grounds.

Flood Risk, Drainage and Surface Water

- 7.23 Concerns have been raised that the foul drainage system in the area is poor. Southern Water have not raised any concerns regarding capacity. Although a condition is requested relating to protection of any public sewers on the site, this is a matter that is controlled directly by Southern Water and as such it is not considered necessary to impose a planning condition.

Impacts upon SPA and Ramsar Sites

- 7.24 Members will be aware that the Council (together with other North Kent authorities) operates a strategy to manage impacts arising from recreational pressure on the coastal SPA and Ramsar sites. A tariff-based system is in place to collect contributions to fund the management of recreation uses in these areas. The strategy includes a charging schedule in place for other types of development that do not neatly fall to be considered as “dwellings”, including for Houses in Multiple Occupation.
- 7.25 For completeness 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 additional room for a HMO. One additional bedroom is proposed here, and therefore a total fee of £314:05 is required. The agent has paid this mitigation fee and therefore the application is acceptable in this regard.

8. CONCLUSION

- 8.1 This application would not cause adverse harm to either visual or residential amenities and the addition of one additional bedroom at the property would not have significant impacts on the parking provision of nearby roads. The application is considered to accord with relevant development plan policies and it is recommended that this application be approved.

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 drawing title number(s): A103 (received 10th November 2023), A104 (received 6th February 2023), A105 (received 31st March 2023), A106 (received 6th February 2023).

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 extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

- 4) Before the development hereby permitted is first used, the proposed window in the first floor rear elevation shall be obscure glazed and this window shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

- 5) No more than 6 residents shall occupy the property as a House in Multiple Occupation, as defined under Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To avoid unacceptable impacts upon Special Protect Areas and Ramsar sites within the area without suitable mitigation being put in place, and because occupation by more than 6 persons would require a separate application for planning permission being a change of use from Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a sui generis use.

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

Reason: In the interest of residential amenity.

Informative

You are referred to the response received to the Council from Southern Water dated 23rd May 2023. As per the contents of the advisory note, you are advised to liaise directly with Southern Water regarding the location of the public sewer prior to the implementation of development. This planning permission does not remove or override any requirement for approval from Southern Water in respect of development over or near a public sewer.

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

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

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

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

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

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

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

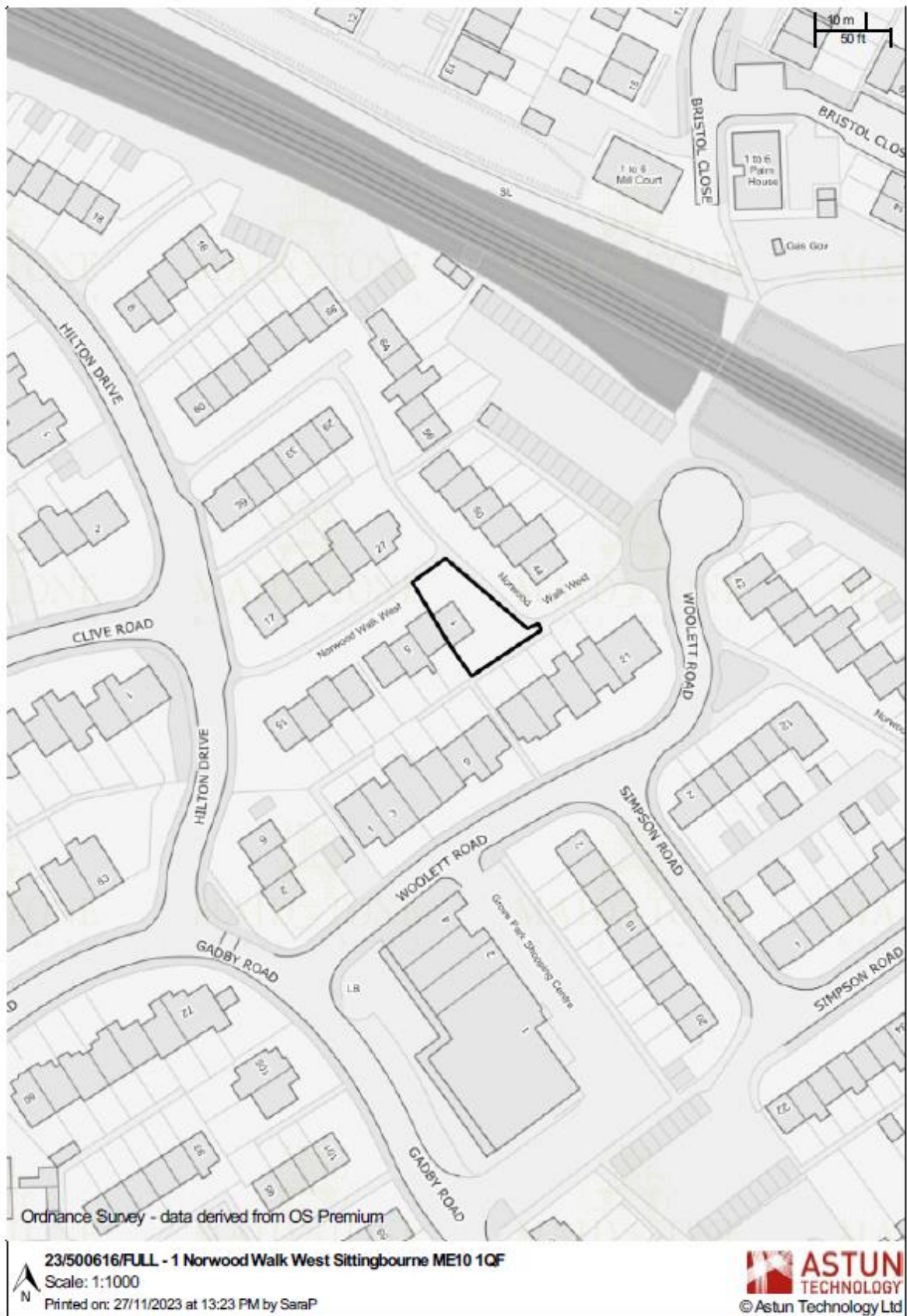
However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

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

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

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

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



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2.5 REFERENCE NO – 20/501573/FULL		
PROPOSAL Minor material amendment to SW/01/0623 (Approval of Reserved Matters for Residential Development Pursuant to Outline Planning Permission SW/97/0623) to allow changes to approved site levels and landscaping.		
SITE LOCATION Nichols Transport Lydbrook Close Sittingbourne Kent ME10 1NW		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Major		
REASON FOR REFERRAL TO COMMITTEE The application has been referred to Committee by a local councillor		
CASE OFFICER Andrew Byrne		
WARD Homewood	PARISH/TOWN COUNCIL N/A	APPLICANT Ms Rachael Miller AGENT Jefferson Sheard Architects
DATE REGISTERED 03/06/20	TARGET DATE	
BACKGROUND PAPERS AND INFORMATION: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q87IXQTYHUC00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site relates to a parcel of land of approximately 1.6 Ha and is roughly rectangular in shape. It is located at the end of Lydbrook Close and was formerly part of a brick works and chalk pit, later used for many years as a haulage depot, which has now closed.
- 1.2 The site is located within the built confines of Sittingbourne and is surrounded by residential development on all sides. Due to levels changes and the former use of the site as a chalk pit, the site lies at a considerably lower level than adjacent properties on Borden Lane, Hobart Gardens and Adelaide Drive. The site is located within a Groundwater Source Protection Zone and is allocated in the Local Plan as a housing site (Policy A20).
- 1.2 The site is being developed for housing under planning permission granted in 1997 and 2001 (see paragraph 2.10 onwards for further detail relating to this and why these historic permissions remain extant).

2. PLANNING HISTORY

- 2.1 **SW/97/0623** – outline application for residential redevelopment of the site – Granted
24.06.1998
- 2.2 **SW/01/0623** - Approval of Reserved Matters for Residential Development Pursuant to Outline Planning Permission SW/97/0623. Granted 22.06.2001:
- 2.3 **18/503416/NMAMD** - Non-material amendment to planning permission SW/01/623 - to omit some of the garages as boxed in red on the submitted plan and to remove the proposed tree from the road/'block paved square' outside of plots 6 & 7 circled in red. Approved.
Decision Date: 11.10.2018
- 2.4 **18/505356/NMAMD** - Non-material amendment to planning permission SW/01/623, consisting of minor changes to the siting of the proposed dwellings at Lydbrook Close, Sittingbourne. Approved Decision Date: 31.01.2019
- 2.5 **19/500487/NMAMD** - Non-Material Amendment to amend the gable details from a timber Barge board detail to a dry verge detail subject to SW/01/0623. Approved Decision Date: 04.03.2019
- 2.6 **19/500505/NMAMD** - Non-Material Amendment to seek approval for the removal of the brick plinths to House Types C, D, E, F, G, H, J and the Flats subject to SW/01/0623. Approved Decision Date: 05.03.2019
- 2.7 **19/500680/NMAMD** - Non-Material Amendment for minor alteration to position of plots 3 - 5 (north-east corner of site) subject to SW/01/0623. Refused Decision Date: 05.03.2019
- 2.8 **20/500892/NMAMD** - Non-material amendment in relation to planning permission SW/01/0623. Update the reserved matters to include a list of the drawings included within the original planning application. So that the works are carried out in accordance with those drawings. Approved Decision Date: 27.03.2020
- 2.9 **20/504103/NMAMD** - Non-material amendment in relation to planning permission SW/01/623. Inclusion of bin and bike store to rear of flats. As amended by revised site plan received on 27/10/20. Approved Decision Date: 23.12.2020
- 2.10 This site has a rather unusual planning history. Outline planning permission for residential development was granted for the site under SW/97/0623 and reserved matters approval for the erection of 49 dwellings was granted under SW/01/0623 in 2001. Pre-commencement conditions were subsequently discharged and the foundations for one unit were excavated and laid. The works were covered, and the site then subsequently continued its longstanding use as a haulage yard. The council sought and received a legal opinion at the time, which confirmed that the works undertaken had represented a material and lawful commencement of the development, and that the development could be re-started later when the haulage yard use ended. Confirmation was given by letter to the developer at the time that the development had been lawfully commenced.
- 2.11 The haulage yard use ended a few years ago. Although a planning application for a higher density residential development was submitted in 2017, this was subsequently withdrawn following agreement to sell the land to another developer (the current applicant), who intended to carry out the development in accordance with the permissions granted under

SW/97/0623 and SW/01/0623 and which had been commenced on the site as set out above.

- 2.12 Several applications for non-material amendments to the approved development have also subsequently been submitted to and determined by the Council, the majority of which were determined not to materially affect or change the approved scheme.
- 2.13 Development of the site re-commenced in/around 2019. However, during the course of the construction, it became evident that the land levels within the site had been raised, the extent of which were materially different to the levels as approved under the historic planning permissions. It is primarily the effects of this change that requires permission, as well as amendments to landscaping.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks amendments to a reserved matters approval for the erection of 49 dwellings (including a small number of flats) on the site. Outline Planning permission had been granted under SW/97/0623 and subsequently the reserved matters approval under SW/01/0623. Construction of the development is almost complete. The approved scheme is for a range of detached, semi-detached and terraced units, consisting mainly of 2 storey dwellings with some limited 3 storey dwellings, and is being delivered as an affordable housing scheme by Moat Housing.
- 3.2 The current application seeks amendments to the site levels and landscaping of the site and is retrospective. Whilst the general layout and design of the houses has remained essentially as permitted (with some changes approved as non-material amendments), the development has not proceeded in accordance with the approved site levels. These have been raised across the majority of the site with levels progressively increasing in height from north to south, and generally raised by between 300mm and 1800mm. The application seeks the approval of this change as a minor material amendment to the approved scheme. The application states that the primary reason for raising levels has been to accommodate statutory services and drainage for the development – which can only enter via Lydbrook Close, and to enable better structural stability to the banks around the perimeter of the site.
- 3.3 The application also seeks amendments to the landscaping of the site, and it is noted that several trees and shrubs on the raised banks around the edges of the site have been removed. The application submits that this was due to works required to the bank, and the current application includes new landscaping on the slope and at the top of the bank (where appropriate) as well as within the development.

4. REPRESENTATIONS

- 4.1 Two rounds of consultation with neighbours have been undertaken. A site notice was also displayed at the site. Full details of representations are available online.
- 4.2 Six letters of objection have been received in objection to the development
- Lack of information to explain changes sought (the applicant subsequently provided more detailed information)
 - Removal of trees along the boundary and impact upon privacy

- Flooding impacts on Lydbrook Close
- Need for fencing / screening on boundaries
- Damage to existing road and footpath
- Additional visual impact of development from land raising

4.3 Former Councillor Truelove referred this application to Planning Committee. Whilst he is no longer a serving councillor, the referral was made when he was a councillor and triggers the requirement to report the application to committee under the Council's Scheme of Delegation.

5. CONSULTATIONS

5.1 **Environment Agency** – No objection provided that the surface water strategy remains as agreed previously with the developer. Advise that as agreed, no surface water will discharge into land impacted by contamination, an unsaturated zone of at least 8m will be maintained below the infiltration system, and water entering the infiltration system will pass through pollution prevention measures.

5.2 **KCC Drainage** – No objection raised

5.3 **Natural England:** – Advise that as the application is for a minor material amendment to an existing approved residential development, it would not be reasonable to require a retrospective contribution to the SAMMS strategy.

5.4 **SBC Tree Officer** – No objection to the landscaping proposals

5.5 **Southern Water** – advise that there is an increased risk of flooding arising from foul sewerage flows unless network reinforcement is provided by Southern Water. This will be part funded through the New Infrastructure Charge, and Southern Water's Capital Works programme. Advise that a condition is imposed to ensure occupation of the development is phased to align with network reinforcement.

Officer note: Conditions relating to foul drainage were not imposed on either the outline or reserved matters approvals previously granted. In the context of this S73 application for minor amendments to the approved reserved matters, it is not considered reasonable to impose the condition requested, given the nature of the changes proposed and that the number of dwellings has not changed.

6. DEVELOPMENT PLAN POLICIES

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

- ST 1** (Delivering sustainable development)
- ST 3** (The Swale settlement strategy)
- ST 5** (The Sittingbourne area strategy)
- CP 3** (Delivering a wide choice of high-quality homes)
- CP 4** (Good design)
- A 20** (new allocations on sites within existing settlements)
- DM 6** (Managing transport demand and impact)
- DM 7** (Vehicle parking)
- DM 14** (General development criteria)
- DM 19** (Sustainable design and construction)
- DM 28** (Biodiversity and geological conservation)

6.2 **Supplementary Planning Guidance (SPG)**

Supplementary Planning Guidance Designing an Extension – A guide for Householders
Supplementary Planning Document - Swale Parking Standards

7. ASSESSMENT

- 7.1 This application is reported to the Committee following referral by a Councillor (serving at the time of referral).
- 7.2 This application has been made under S73 of the Town and Country Planning Act, which specifically relates to the development of land without compliance with conditions previously attached, and is also the mechanism to determine applications for minor material amendments to planning applications. It is important to note that on such applications, the local planning authority can only consider the question of the conditions subject to which planning permission should be granted. Matters relating to the principle of residential development and wider related impacts are already accepted under the terms of the existing outline permission (SW/97/0623) and are not for further consideration under this S73 application which seeks amendments only to the reserved matters approved under SW/01/0623. Likewise, it is only the specific changes sought to the approved reserved matters that should be considered - and this is not an opportunity to re-consider the reserved matters including design and layout in detail – and which remain the same as approved (although some non-material amendments to the scheme have been approved, as set out in the planning history section). The key changes for consideration by the council are to land levels and landscaping. As the surface water drainage has been revised following the levels changes, this is also subject to consideration (as such details were required to be provided with the reserved matters application under the terms of the outline permission).
- 7.3 The original permission was not subject to any S106 Agreement and as such no contributions towards infrastructure, affordable housing or a SAMMS payment in relation to impacts upon the SPA are secured. Again, these matters are not material to the specific

changes sought under the current application and cannot be required or negotiated into the S73 application – given the existing permission was for the same number of dwellings without such infrastructure and obligations. However, it should be noted that the applicant is Moat Homes, a local affordable housing provider, and these units are being constructed as an affordable housing development, albeit outside of any requirement to provide affordable housing through the planning process.

- 7.4 An Appropriate Assessment is included at the end of this report, which confirms that this S73 application would not have any likely impacts beyond those related to the development that already benefits from planning permission.
- 7.5 Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:
- The Principle of Development
 - Character and Appearance
 - Living Conditions
 - Landscaping

Principle

- 7.6 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.7 The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.8 Policy ST 3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the borough. Policy A20 specifically allocates this site for housing development. The principle of residential development is clearly established both through the local plan and the planning history of the site, including the ability to continue with the extant permissions granted in 1997 and 2001.

Character and Appearance

- 7.9 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.10 The key visual change relates to the effect of raising land levels across much of the site. In this respect, it is important to note that much of the site lies considerably below the levels of adjacent dwellings Adelaide Drive, Hobart Gardens and Borden Lane. The exception to this

is the relationship with Lydbrook Close which is roughly at the same level at the point of access.

- 7.11 The changes in levels that have been undertaken and are now subject to this application have progressively raised land levels across the site from north to south (other than a section on the north west corner where three dwellings have been constructed at a level approximately 700mm lower than the approved level). This has resulted in levels changes ranging from approx. 100mm to “Building B” in the north east corner and adjacent to Lydbrook Close, increasing to raised levels of approximately 1.8 metres to the land and buildings on the southern boundary of the site. However, it can be seen from the drawings that despite such significant changes, the levels remain considerably lower than adjacent land levels and that in wider visual terms, the raised levels do not result in the dwellings being visually prominent or dominant in the surrounding area. On the eastern and southern boundaries, the floor levels of dwellings closest to these boundaries as built are approximately 4-5 metres below the land levels on Borden Lane and Hobart Gardens. Likewise, the dwellings close to the west boundary are approximately 3.6-4 metres below the levels of properties on Adelaide Drive. The levels change on the north boundary is much more subtle and between 100mm-300mm.
- 7.12 It is also considered that arguably the increase in levels has improved the relationship between the new dwellings and the banks on the site boundaries – as these banks are no longer quite as high or substantial in scale in relation to the new development as they were under the approved scheme. Some parts of the bank are now held back with gabion and retaining walls to help manage the levels changes, as well as use of a geocell material designed to be laid over sloping land to stabilize it.
- 7.13 Overall, the levels changes are not considered to be harmful to the wider character and appearance of the area in accordance with the Local Plan 2017 and the NPPF.

Living Conditions

- 7.14 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.15 Despite the site level changes, the dwellings built on the raised levels remain considerably lower than the land levels of surrounding dwellings on the east, south and west boundaries. As set out in the section above, the drawings demonstrate that the floor levels of the dwellings adjacent to the eastern boundary are approximately 4-5m lower than the land levels to rear gardens of adjacent properties on Borden Lane. In addition, these adjacent rear gardens are over 40 metres in length, with boundary enclosures and screening, meaning that views and impacts arising from the development are very limited.
- 7.16 Likewise levels on the west boundary are some 3.6m-4m lower than the rear gardens of adjacent dwellings on Adelaide Drive, albeit that the garden lengths to these properties are more modest at 13 metres. A similar levels difference of 4-5m would be maintained to Hobart Gardens to the south.
- 7.17 Much of the development is two storeys in scale. Given the difference in levels, and the existence of existing boundary fencing and screening, this has not resulted in any material

loss of privacy or light to neighbouring properties. Whilst it is true that the roofs of parts of the new development are more visible above some fence lines, this does not amount to an unacceptable visual impact.

- 7.18 There are some three storey elements within the scheme, notably Block N towards the southern boundary and Block D to the east boundary. In both instances, the effect of the levels changes does increase inter-visibility between the development and existing properties. In the case of Block D, the top floor windows enable some limited views towards the rear of a small number of dwellings on Borden Lane. This would be at a distance in excess of 50 metres, which is not considered to be unacceptable (considering that privacy distances applied are typically 21m). Furthermore, landscaping is proposed to further reduce this impact.
- 7.19 In the case of Block N, the top floor would face some dwellings on Hobart Gardens at a distance of approx. 33 metres. Again, this is not considered to be unacceptable, and landscaping is proposed on the bank to mitigate this further.
- 7.20 The difference in levels changes between the approved scheme and the “as built” scheme on the north boundary with existing dwellings on Lydbrook Close is much more subtle, with the differences being between 100mm and 300mm. The dwellings on the west side of Lydbrook Close are again sited progressively at a higher level than the application site, whereas the dwellings on the east side of Lydbrook Close are at a similar level. The closest existing dwelling at 21 Lydbrook Close is sited 9.4, and 16.5m respectively from buildings A and B within the development site which are both two storey dwellings. Given this distance and the orientation of these buildings, the minor increase in height arising from the levels changes is not considered to be unacceptable.
- 7.21 As such, the development is not considered to cause any unacceptable impacts on living conditions, and would accord with Policy DM14 of the Local Plan.

Landscaping

- 7.22 The proposed landscaping includes tree, hedge and shrub planting within the development layout, a scheme of landscaping to the sloped embankments and, where appropriate, further landscaping at the top of the bank, as well as hard landscaping details including boundary enclosures and surface treatments. The soft landscaping proposals have been designed for the sloping land and a maintenance route has been devised to ensure that the landscaping can be properly managed. The landscaping would further soften and screen the development from surrounding neighbouring properties. The Council's Tree Officer is satisfied with the landscaping details proposed, and these are considered acceptable.

Drainage

- 7.23 Although not part of the list of reserved matters, the outline planning permission granted under SW/97/0623 required details of surface water drainage to be submitted with the reserved matters application. The changes to site levels have brought about amendments to the surface water drainage scheme previously approved under SW/97/0623.

7.24 The surface water drainage scheme as installed is a soakaway system including the installation of a cellular storage system under the area of open space. This system is acceptable to both the KCC Drainage team and the Environment Agency.

8. CONCLUSION

8.1 The minor material amendments are to the reserved matters previously approved under SW/01/0623 and specifically to levels changes and landscaping, and related changes to the drainage proposals. Taking into account that the development of 49 dwellings has the benefit of an extant planning permission and that this application is only seeking the specific changes above, the development is considered acceptable and in accordance with the local plan. As such, it is recommended that planning permission be granted.

9. CONDITIONS

- (1) The development hereby permitted shall be carried out in accordance with the following approved plans: 04, 05, 06, 07, 08, 09, 10, 11, 12 Rev A, 13, 19, 1292-JSA-XX-XX-DR-A-03201 Rev P1, 1292-JSA-XX-XX-DR-A-91201 Rev C2, 1292-JSA-XX-XX-DR-A-02004 Rev C16, 1292-JSA-XX-XX-DR-A-02005 Rev C5, 1292-JSA-XX-XX-DR-A-02501 Rev C11, 1292-JSA-XX-XX-DR-A-02502 Rev C10, 1292-JSA-XX-XX-DR-A-02503 Rev C10, 1292-JSA-XX-XX-DR-A-02504 Rev C10, S16-SFL-EX-00-DR-L-0501 P10, S16-SFL-EX-00-DR-L-0502 P02, 5366-D1 Rev A, 5366-D10 Rev A, 5366-D11 Rev A, 5366-D4 Rev A.

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

- (2) The external finishing materials to be used on the dwellings hereby permitted shall be as approved by the local planning authority under 18/506405/SUB.

Reason: In the interests of visual amenity.

- (3) The hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawings 1292-JSA-XX-XX-DR-A-02004 Rev C16 (for hard and soft landscaping within the development layout), 1292-JSA-XX-XX-DR-A-02005 Rev C5, 1292-JSA-XX-XX-DR-A-02501 Rev C11, 1292-JSA-XX-XX-DR-A-02502 Rev C10, 1292-JSA-XX-XX-DR-A-02503 Rev C10, 1292-JSA-XX-XX-DR-A-02504 Rev C10, S16-SFL-EX-00-DR-L-0501 P10 (for landscaping on the banks around the edges of the site), S16-SFL-EX-00-DR-L-0502 P02. Hard landscaping shall be completed in accordance with the approved details prior to first occupation of the development. Soft landscaping shall be completed in accordance with the approved details within 6 months following the completion of the development or occupation of the first dwelling (whichever is sooner). Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within ten 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.

- (4) The proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with the details approved by the Local Planning Authority under 18/505321/SUB and 18/505486/SUB.

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

- (5) The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling, before it is occupied, shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To ensure the development is served by an adequate means of access.

- (6) The development hereby approved shall not be brought into use until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure that the development is served by an adequate means of access.

- (7) Unless specifically shown on the approved plans, no walls or fences shall be erected fronting onto any road, square, footway or other open area without the express consent of the local planning authority.

Reason: In the interests of visual amenity

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

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

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

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

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

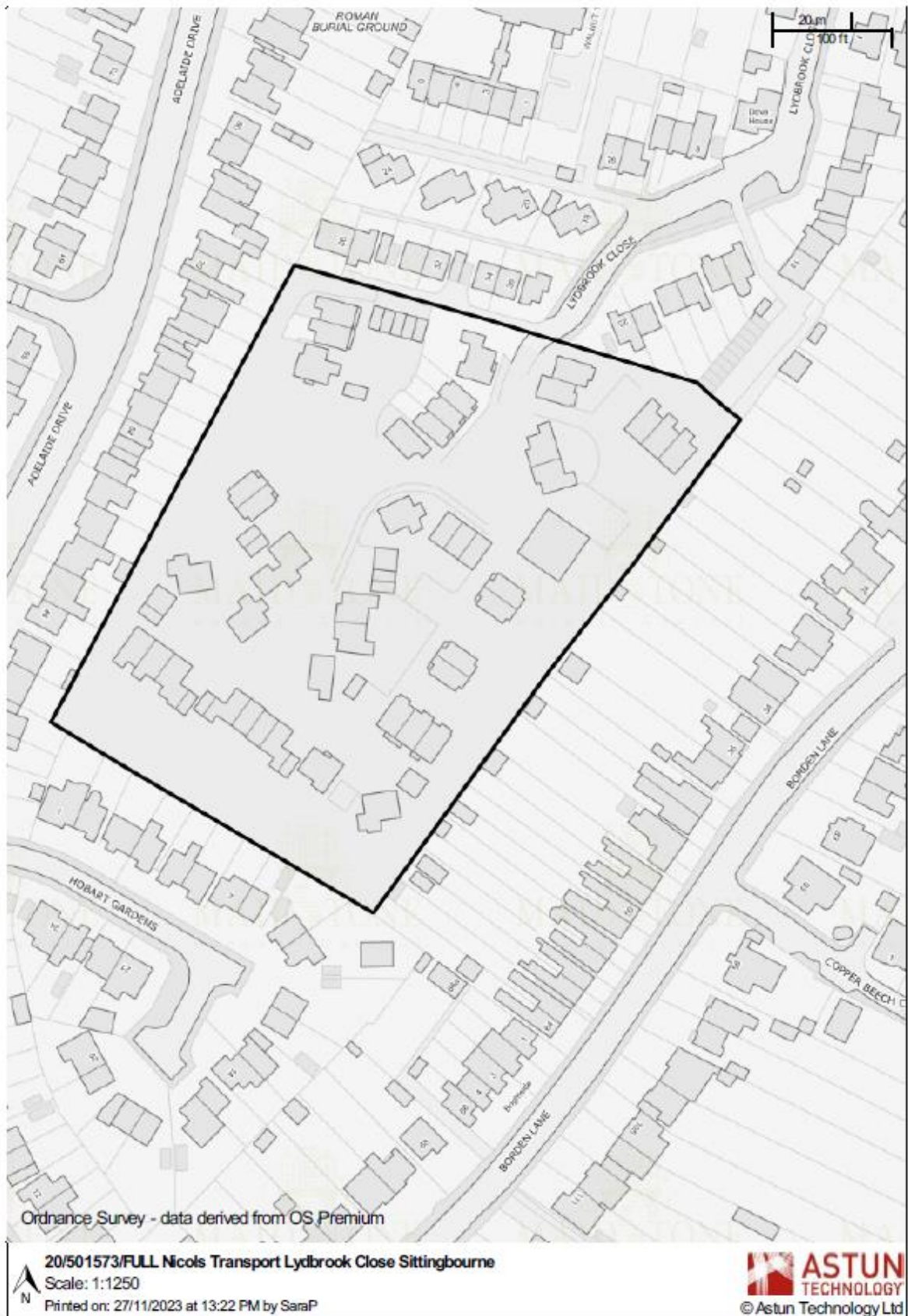
The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

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

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

However, this application has been made under S73 of the Planning Act to make minor material amendments to an existing permitted scheme for 49 dwellings. Whilst the permitted scheme does not make any contributions to impacts upon the SPA, the nature of the amendments sought under the S73 application would not be likely to increase any impacts or pressure on the SPA over and above those that would occur from the existing permission. Based on this and the correspondence with Natural England in relation to this application, it is concluded that off-site mitigation is not required.



2.6 REFERENCE NO – 22/505369/FULL		
PROPOSAL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking		
SITE LOCATION Former RAF Mast Site Courtenay Road Dunkirk Kent ME13 9LH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Cllr Gould requested the application be reported the Planning Committee for determination.		
Case Officer Alice Reeves		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr A Hanton AGENT Origin Power Services Limited
DATE REGISTERED 14.11.2022	TARGET DATE 14.04.2023	
BACKGROUND PAPERS AND INFORMATION: 22/505369/FULL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking Former Raf Mast Site Courtenay Road Dunkirk Kent ME13 9LH (midkent.gov.uk)		

1. BACKGROUND

1.1 This application was previously reported to the Planning Committee on the 9th November 2023, with a recommendation of approval. However, at that meeting Members resolved to approve the application subject to the inclusion of conditions requiring:

- The generator to be battery powered rather than diesel powered;
- The inclusion of solar PV panels

1.2 The original Committee report is attached to this report as Appendix A.

1.3 The planning agent was contacted in relation to these proposed conditions and commented as follows:

“...with respect to a battery rather than a diesel generator this is not acceptable. The reason why is because currently the technology for energy storage is not at the stage where long duration batteries are feasible for commercial developments. This is because they only generate for a short period of time – 2-4 hours depending on the battery supplier - and there would need to be a grid connection for the import of electricity which is not available as there is no grid capacity in this area for import. I know this because this is the sector I predominantly work in – renewables and energy storage.

On solar panels, this may be feasible but at this stage it is unknown whether the specification for the roof will be suitable for rooftop PV.

I would therefore suggest a condition that requires the applicant to submit an energy statement as a pre-commencement condition”.

2. CONSULTATIONS

2.1 Climate Change Officer:

“Based on experience of rural power supplies and grid capacity close to this site I am happy with the agent’s argument against the battery proposal”.

3. APPRAISAL

3.1 Following the resolution at the 9th November Planning Committee Officer’s entered into discussion with the Planning Agent regarding the additional conditions requiring a battery powered generator and the inclusion of solar panels. Given the Agent and Council’s Climate Change Officer’s comments it is considered that the inclusion of these conditions is not possible. The Agent has however, agreed to amend the wording of condition 25 which now requires the development to reach a BREEAM “Very Good” Standard.

3.2 The proposal would not conflict with any Local Plan policy and would go above and beyond the policy requirement of achieving a BREEAM “Good” Standard. Taking this into consideration along with the rural employment generated at the site and the support from Historic England on heritage grounds, the proposal is supported by the Local Plan 2017 and the NPPF.

4. CONCLUSION

4.1 Based on the above, it remains the view of officers that the proposal is acceptable. It is therefore recommended that the application be granted subject to the conditions outlined in the original report and the amendment of condition 25 for the development to achieve a BREEAM “Very Good” Standard.

5. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

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

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

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

1078/101D, 1078/102D, 1078/103D, 1078/104C and 1078/105C.

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

- (3) The area shown on drawing 1078/101D as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the first use of the development hereby permitted.

Reason: in the interests of highway safety and convenience.

- (4) Prior to the commencement of development a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- (5) The first 5m of the access from the edge of the highway shall be laid to a bound surface.

Reason: In the interests of highway safety.

- (6) The entrance gates to the access shall open away from the highway and be set back a minimum of 5.5m from the edge of the carriageway.

Reason: In the interests of highway safety.

- (7) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any such trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests 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.

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

- (9) 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.

- (10) 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.

- (11) All mitigation for cotoneaster, reptiles, bats, and breeding birds will be carried out in accordance with the details contained in Section 4 of the 27th October 2022 Corylus Ecology, Preliminary Ecological Appraisal and Bat Building Report.

Reason: In the interests of preserving and encouraging biodiversity.

- (12) No development beyond the construction of foundations shall occur until a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan (to ensure that there is at least a 17.22% net gain in biodiversity as a result of the development, and the inclusion of habitat features) have been submitted to and agreed in writing by the Local Planning Authority.

The Biodiversity Gain Plan shall include a detailed planting plan, durable bird and bat boxes aimed at species of conservation concern and a review (and where required, update) of the Biodiversity Net Gain Report and Small Sites Metric Calculation Tool Spreadsheet Version 4.0 by Corylus Ecology, dated 18th July 2023 and showing a 17.22% net gain respectively.

The Biodiversity Management and Monitoring Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to monitor how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The Biodiversity Management and Monitoring Plan shall also include details of 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.

Reason: In the interests of preserving and encouraging biodiversity.

- (13) No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21

The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme.

Reason: In the interests of residential amenity.

- (14) No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

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

Reason: In the interest of visual amenity.

- (16) All first floor windows in the building shall be obscure glazed and non-opening apart from those parts above 1.7m above finished internal floor level.

Reason: In the interests of residential amenity.

- (17) Prior to first use of the building information boards relating to the history and significance of the site shall be installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

- (18) Prior to the commencement of the development, a detailed design of the facility, along with the acoustic performance of all components associated with the facility and mitigation measures to be employed (an Acoustic Design Report), shall be submitted to and approved by the Local Planning Authority. The design shall demonstrate that the nearest sensitive receptors shall not be adversely affected by noise generated by the development.

Reason: In the interests of residential amenity.

- (19) Prior to first use of the development, a Verification Report shall be submitted to and approved in writing by the Local Planning Authority which demonstrates that all relevant noise mitigation measures recommended in the approved Acoustic Design Report have been implemented.

Reason: In the interests of residential amenity.

- (20) Within 1 month of first use of the Data Storage Facility, post installation sound level assessments shall be undertaken and the results submitted to the Local Planning Authority.

If the results of the post installation sound level assessments show the specified

sound levels at the specified receptors identified are exceeded, further mitigation details and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the first use of the Data Storage Facility. The approved further mitigation details shall be installed to the approved timetable and retained thereafter.

Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

- (22) The use of the building hereby permitted shall be restricted to the electronic storage of data and it shall not be used for any other storage or distribution purpose (within Class B8) or for any other purpose including any uses otherwise provided for by the operation of the Town and Country Planning (Use Classes) Order 1987 (as amended) or The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

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

- (23) 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.

- (24) Prior to the use of the development hereby permitted commencing, 1 of the parking spaces shall be fitted with an active electric vehicle charging point; with the remainder provided as passive charging spaces.

All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wi-Fi connection). 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 sustainable development and encouraging sustainable modes of travel.

- (25) The building hereby permitted shall be constructed to meet a minimum of BREEAM "Very Good" Standard or an equivalent standard, and prior to first use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

Reason: In the interests of energy efficiency and climate change.

The Council's approach to the application

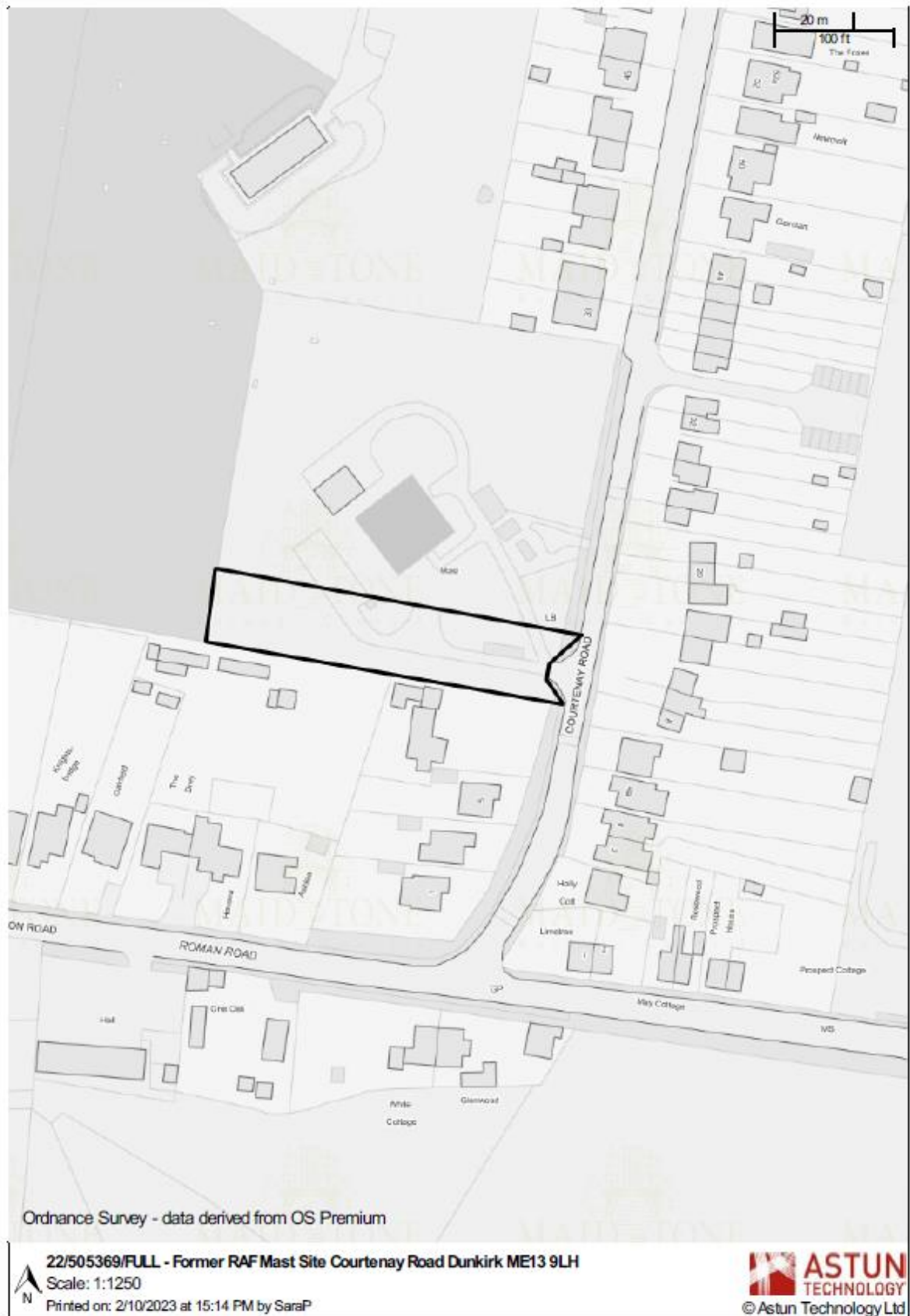
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where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

In this instance:

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

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

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



APPENDIX A

2.4 REFERENCE NO – 22/505369/FULL		
PROPOSAL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking		
SITE LOCATION Former RAF Mast Site Courtenay Road Dunkirk Kent ME13 9LH		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Minor		
REASON FOR REFERRAL TO COMMITTEE Cllr Gould requested the application be reported the Planning Committee for determination.		
Case Officer Alice Reeves		
WARD Boughton and Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr A Hanton AGENT Origin Power Services Limited
DATE REGISTERED 14.11.2022	TARGET DATE 14.04.2023	
BACKGROUND PAPERS AND INFORMATION: 22/505369/FULL Proposed removal of containers and brick toilet and erection of data storage facility building with associated off street parking Former Raf Mast Site Courtenay Road Dunkirk Kent ME13 9LH (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is a broadly rectangular shaped strip of land with an area of approx. 2784sqm. There are containers and a brick building containing a toilet occupying the site. The site is located in the designated countryside but immediately adjacent to the built up area boundary of Dunkirk and within a Kent Level Area of High Landscape Value and the Bleans Woods Special Landscape Area.
- 1.2 The site is located between the former RAF radar mast which lies to the north and residential dwellings to the south and east. The mast is a grade II listed structure and lies within a secure compound. The existing mast is host to a range of telecommunication equipment. To the northwest of the mast, and mostly beyond the immediate fenced compound is a larger area of land that once formed the RAF Dunkirk Chain Home Radar Station, featuring a range of buildings and groundworks and the remains of other former masts, which is a Scheduled Ancient Monument.

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- 1.3 The site occupies part of the frontage of Courtenay Road which is otherwise a residential area.

2. PLANNING HISTORY

16/507586/FULL – Planning permission granted on 09.11.2018 for “*Removal of containers and brick toilet and erection of a data storage facility building with associated off-street parking*”. This permission was not implemented.

SW/14/0393 - Appeal against non-determination dismissed on 03.03.2015 for “*Erection of data storage facility (B8) and permanent historical exhibition*”.

SW/11/1370 – Planning permission refused on 08.02.2013 and dismissed at appeal on 13.11.2013 for “*Erection of data storage facility (B8) and permanent historical exhibition*”.

SW/10/1128 – Planning permission refused on 28.10.2010 for “*Erection of offices and data storage building*”.

This application thus follows four previous applications for a data storage facility on the site, two of these went to appeal. Both appeal decisions state that the principle of this facility on the site is acceptable but the first appeal was dismissed due to impact on the living conditions of no. 7 Courtenay Road, and the second was dismissed as it failed to preserve the setting of the listed mast. Most recently an application for a data storage facility, with amended design, was approved by Members at Planning Committee in 2018. A condition was placed on the previous approval requiring all noise mitigation measures within the submitted Acoustic report being installed prior to first use of the building.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a two-storey building to be used as a data storage facility with associated parking within the fenced compound. This is the same proposal as previously approved under ref. 16/507586/FULL.
- 3.2 The data storage building would be located in the south-western corner of the site, car parking and a turning area would be provided to the front of the proposed building and would be accessed by the existing access of Courtenay Road. The plant room would be in the basement.
- 3.3 Six parking spaces are proposed as well as one disabled car parking space. Cycle parking facilities are also proposed as well as additional landscaping to the boundary.
- 3.4 The proposed building would be set back from the road by 57m and set 5m away from the southern boundary of the compound beyond which are residential properties on

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Courtenay Road and London Road. The building would measure 31m x 13m and at its highest point would measure 7.7m in height.

- 3.5 The design takes inspiration from the site's military history and buildings of that era, whilst taking the form of a modern building using grey aluminium windows and being finished in a grey / green render. The windows to the first floor will be obscure glazed and non-openable other than high level windows.

4. **CONSULTATION**

- 4.1 Neighbouring occupiers adjoining the site were notified in writing and a site notice was displayed at the application site. Full details of representations are available online.

- 4.2 Two letters were received in relation to the consultation objecting to the application. Concerns/comments were raised in relation to the following matters:

- Building is two storey and out of place in a rural setting.
- Light pollution.
- Noise of generators and cooling fans.
- Dunkirk has intermittent power cuts and when the diesel generator is used nearby residents will be subject to greater noise pollution as well as air pollution from the generator exhaust.

- 4.3 **Dunkirk Parish Council:** Objects to the application on the following grounds:

- Uncertainty regarding noise levels which are considered unacceptable;
- Noise report shows ventilation fans at 56db will exceed the 26+4db background noise level and will require silencers;
- Report suggests these potentially have an impact on performance and are untested;
- Use of generator will cause issues of noise;
- Further investigations need to be made regarding noise attenuation examples at other data storage facilities.

5. **REPRESENTATIONS**

- 5.1 **SBC Conservation:** - No objection.

- 5.2 **Mid Kent Environmental Health:** - No objection on the basis that the noise feasibility assessment demonstrates that the proposal is technically feasible in this location. It does not amount to a fully developed acoustic design and a condition is required for this to be submitted and approved prior to development, along with conditions related to external

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lighting and details of ventilation systems. Further discussions took place with Environmental Health regarding additional noise related conditions which were considered appropriate - these include a detailed design of the building and its acoustic performance, the submission of a verification report to ensure all measures set out within the Acoustic Design Report have been implemented, and post completion sound levels. If these sound levels are found to exceed those set out in the Acoustic Design Report, further mitigation measures and an implementation programme will be required to be submitted.

- 5.3 **KCC Ecology:** - No objection was raised subject to relevant conditions.
- 5.4 **KCC Highways:** - Stated that the proposal does not meet the criteria to warrant involvement from the Highway Authority.
- 5.5 **Historic England:** - Supports the application on heritage grounds. The proposal does not pose harm to the heritage significance of the nearby listed mast or scheduled World War II Chain Home Radar Station. The development has been carefully positioned to avoid any encroachment into key views of the listed tower or the associated transmitter group. Supportive of the additional proposal to provide information boards to inform the public of the heritage significance of the site.
- 5.6 **KCC Archaeology:-** No objection subject to suitable archaeological conditions.

6. DEVELOPMENT PLAN POLICIES**6.1 Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

- ST3** (The Swale Settlement Strategy)
- CP1** (Building a strong, competitive economy)
- CP4** (Requiring good design)
- CP6** (Community facilities and services to meet local needs)
- DM3** (The rural economy)
- DM7** (Vehicle Parking)
- DM14** (General development criteria)
- DM19** (Sustainable design and construction)
- DM24** (Conserving and enhancing valued landscapes)
- DM26** (Rural Lanes)
- DM28** (Biodiversity and geological conservation)
- DM32** (Development involving listed buildings)
- DM34** (Scheduled Monuments and archaeological sites)

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6.2 Boughton and Dunkirk Neighbourhood Plan (BDNP)

Policy BE1 (Proposals for new and expanded businesses)

Policy BE2 (Landscape and heritage character for new commercial development)

Policy BE3 (Vehicle parking for new commercial development)

Policy E7 (Preciously developed sites)

Policy E8 (Biodiversity Net Gain)

Policy E9 (Local distinctiveness)

Policy E10 (Design)

6.3 Supplementary Planning Document: Swale Borough Council – Parking Standards 2020

7. ASSESSMENT

7.1 This application is reported to the Committee at the request of Cllr Alastair Gould (Ward Member). The main considerations involved in the assessment of the application are:

- The Principle of Development
- Landscape and Visual
- Heritage
- Design of the proposed development
- Ecology
- Transport and Highways
- Living Conditions

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 The principle of this type of development has been accepted by two Planning Inspectors in their decisions and by Members in approving the most recent application. It is acknowledged that the site is outside the built-up area boundary and as such is subject to rural restraint policies. It is explained in the submitted statements why this site is suitable and such arguments have been accepted by Planning Inspectors and this Council previously. The wider site is rare in that it contains the historic listed mast which

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has a clear line of site to central London, and in close proximity to the A2/M2 corridor which has a fibre optic cable linking the site to central London. This makes the site uniquely suitable for secure data storage and, according to both Planning Inspectors and the Council previously, suitable for this use, subject to other matters being acceptable.

- 7.5 Whilst the fenced compound is located in the designated countryside it is flanked on three sides by development and is previously developed land. It is considered that this site is not particularly sensitive as the built up area boundary wraps around the site to the south and east. The NPPF at paragraph 85 supports the reuse of brownfield sites and encourages this irrespective of whether or not they are located in the countryside, and is supportive of modern communications development. Additionally, the BDNP, at policy BE1 is supportive of proposals upon previously developed sites. On the basis of the above the principle of development is acceptable in this location.

Landscape and Visual

- 7.6 The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Policy DM24 of the Local Plan seeks to conserve and enhance valued landscapes and states that conservation and enhancement of the landscape needs to be demonstrated. The site itself is located within an Area of High Landscape Value (AHLV) - Kent Level.
- 7.7 As stated above, this is previously developed land and adjacent to an existing Grade II listed Mast. The proposed development is in keeping with the existing use of the wider site. Further landscaping to the site, secured by condition below, will ensure that the proposed building sits comfortably on this parcel of land and will soften its appearance within the landscape. On this basis, and particularly taking into account the context of this site it is considered that the proposal complies with policy DM24 as the existing landscaping within the AHLV will be enhanced.

Heritage

- 7.8 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.9 The proposed building has been sited to avoid any encroachment into key views of the listed mast or the associated transmitter group which is a Scheduled Monument site.

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The design of the proposed building seeks to blend with the utilitarian form of the existing and former buildings and the overall character of the site.

- 7.10 The proposed data storage centre would be dependent on the continued existence of the listed mast to enable wireless data transfer, and to that extent the development should help to sustain maintenance of the mast. The development is justified on its own merits due to the suitability of the location for telecommunications based development.
- 7.11 The submitted Heritage Statement and site plan details the siting of an information board to outline the heritage significance of the site and the part it played in war efforts during WWII.
- 7.12 In considering the impact of this development upon designated heritage assets, Members should note that the Council's Conservation Officer raises no objection to the proposal whilst Historic England support the proposals. Based upon the above it is concluded that proposal preserves the setting of the Grade II Listed structure and the Scheduled Ancient Monument in accordance with policies DM32 and DM34 of the Local Plan and the NPPF.
- 7.13 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

Design of the proposed development

- 7.14 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.15 It is considered that the proposed design fits with the use for which the building will be used. The immediate area is surrounded by modern housing and the proposed finish of the building includes modern materials and different roof heights to add contrast and interest. The design is suitable for the location and the height is consistent with that of nearby dwellings. Whilst the render colour of grey/green has been suggested in the submission, a condition has been recommended below to require samples of the colour finish ensuring that this will sit well in the surroundings. As a result, the scheme is considered to accord with policy CP4 of the Local Plan 2017 and the NPPF.

Ecology

- 7.16 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act

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1981. This is endorsed by policies CP 7 and DM 28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

- 7.17 Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible'. The National Planning Policy Framework states that 'if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for then planning permission should be refused.'
- 7.18 National planning policy aims to conserve and enhance biodiversity, and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.19 In terms of the Local Plan, policy DM 28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.20 Policy E9 of the Boughton and Dunkirk Neighbourhood Plan also requires development within the plan area to demonstrate a 10% biodiversity net gain. This was not originally addressed within the application and was requested by Officer's. A Biodiversity Report was subsequently submitted which has demonstrated that a 17.22% biodiversity net gain is achievable on site. This will be achieved by:
- Managing grassland in zones on rotation
 - Grassland enhanced by sowing the grassland with a shade growing, meadow wild flower mix
 - 134.5m of native hedgerow to be planted on the boundaries
 - Locally sourced, native trees to be planted in the treeline including oak, beech, wild cherry, crab apple and holly.
- 7.21 After receipt of the Biodiversity Report, KCC Ecology were re-consulted and advised that acceptable ecological information has been provided to determine the application,

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subject to conditions as set out below. This includes a condition requiring the submission of a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan to include 30 year objectives, management responsibilities, maintenance schedules and methodology to monitor how the net gain is progressing. As a result, the scheme is compliant with policy DM28 of the Local Plan 2017 and policy E9 of the Boughton and Dunkirk Neighbourhood Plan and the NPPF.

Transport and Highways

7.22 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.23 The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

7.24 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

7.25 The data storage building is not a use that would require a high number of vehicle movements. It is anticipated that approximately seven employees will work at the site on a rota basis and with proposed off road parking for seven vehicles (including one disabled space and cycle parking), the proposal is not considered to contribute to any issues regarding highway safety and convenience in the local area.

7.26 Although in response to the consultation KCC Highways have stated that this development falls below their threshold for responding, it is noted that KCC Highways raised no objections in relation to the previously approved scheme for the same development, subject to a number of conditions which have again been recommended below. As a result, the proposed development is in accordance with policy DM7 of the Local Plan, policy BE3 of the Neighbourhood Plan and the Council's adopted Parking standards.

Living Conditions

7.27 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.

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- 7.28 It is not considered that the proposal would result in significant harm to the living conditions of local residents by way of being overbearing or giving rise to a loss of daylight / sunlight as the proposed building, whilst on a site almost surrounded by residential properties, would be set back in the corner of the site, approximately 24m from the nearest residential dwelling. The windows at first floor level would be obscure glazed and only high-level windows would be openable to ensure no overlooking.
- 7.29 The noise report submitted by the applicant concludes that the impact of noise can be mitigated through detailed design. Following, consultation with the Council's Environmental Protection team it is concluded that the proposed facility is technically feasible in this location. In order to ensure that a scheme operates within acceptable noise levels a fully developed acoustic design will be required to be submitted prior to the commencement of development. In addition, a condition is also recommended requiring a noise verification report to demonstrate that noise mitigation measures in the approved acoustic design have been implemented. A further condition is also recommended to require the submission of a post installation sound assessment (within one month) to ensure that the noise levels are not being exceeded. This is seen as an extremely robust set of conditions to ensure that noise levels are controlled and that the living conditions of the occupants of nearby dwellings are adequately protected. Therefore, subject to this, and conditions related to details of any ventilation equipment, details of external lighting and standard construction hours the Council's Environmental Health Team raise no objection. As a result, the scheme complies with policy DM14 of the Local Plan in terms of its impact upon living conditions.

Archaeology

- 7.30 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.31 Policy DM 34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.32 The site is located within an area of archaeological importance. The County Archaeological Officer has raised no objection to the application subject to a condition being imposed on any permission for the implementation of a programme of archaeological work in accordance with a written specification. This condition is included below and as result the scheme complies with policy DM34 of the Local Plan.

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- 7.33 Policy DM19 of the Local Plan requires development proposals to include measures to address climate change. Specifically, the policy sets out that all new non residential developments (under 1,000sqm) will aim to achieve BREEAM 'good' as a minimum. On this basis a condition is imposed to ensure that this is achieved and as such, the proposal complies with policy DM19.
- 7.34 As well as policy DM19 of the Local Plan requiring development proposals to include measures to address and adapt to climate change, the Council's Car Parking SPD states that non-residential uses with off-street parking are required to provide 10% Active Charging Spaces with all other spaces to be provided as Passive Charging Spaces. A condition to secure at least one EV Charging point to comply with this is included below.

8. CONCLUSION

- 8.1 Whilst the footprint of the proposed building is more substantial than the residential dwellings in the area, these houses are all some distance away from the proposed development and the proposal is of a comparable height to the two storey houses. In the setting of the mast, which is considerably taller, the proposed building will have its bulk reduced in appearance as the massing is broken up into different forms and articulated into vertical and horizontal art-deco elements.
- 8.2 The IT functionality and the mid-20th Century aspirations of the architectural language are not at odds with the historic character of the listed building. These IT communication systems reflect something of the historic use of the RAF mast. No sustainable objections to the principle of the use of the building on the site on design or conservation grounds have been identified and the overall approach to the design is acceptable. Historic England and the Environmental Protection Team have found no reasons to object to the scheme on heritage or amenity grounds.
- 8.3 The proposal represents an opportunity for technological growth, and the use of a brownfield site is encouraged by the NPPF and the Boughton and Dunkirk Neighbourhood Plan. The proposal would also lead to the creation of seven jobs, which is supported by both the Local Plan and the NPPF. Taking all these factors into consideration, it is recommended that planning permission is granted subject to 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.

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

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

1078/101D, 1078/102D, 1078/103D, 1078/104C and 1078/105C.

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

- (3) The area shown on drawing 1078/101D as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the first use of the development hereby permitted.

Reason: in the interests of highway safety and convenience.

- (4) Prior to the commencement of development a Construction Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

- (5) The first 5m of the access from the edge of the highway shall be laid to a bound surface.

Reason: In the interests of highway safety.

- (6) The entrance gates to the access shall open away from the highway and be set back a minimum of 5.5m from the edge of the carriageway.

Reason: In the interests of highway safety.

- (7) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any such trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this

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permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests 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.

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

- (9) 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.

- (10) 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.

- (11) All mitigation for cotoneaster, reptiles, bats, and breeding birds will be carried out in accordance with the details contained in Section 4 of the 27th October 2022 Corylus Ecology, Preliminary Ecological Appraisal and Bat Building Report.

Reason: In the interests of preserving and encouraging biodiversity.

- (12) No development beyond the construction of foundations shall occur until a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan (to ensure that there is at least a 17.22% net gain in biodiversity as a result of the development, and the inclusion of habitat features) have been submitted to and agreed in writing by the Local Planning Authority.

The Biodiversity Gain Plan shall include a detailed planting plan, durable bird and bat boxes aimed at species of conservation concern and a review (and where required, update) of the Biodiversity Net Gain Report and Small Sites Metric Calculation Tool Spreadsheet Version 4.0 by Corylus Ecology, dated 18th July 2023 and showing a 17.22% net gain respectively.

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The Biodiversity Management and Monitoring Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to monitor how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The Biodiversity Management and Monitoring Plan shall also include details of 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.

Reason: In the interests of preserving and encouraging biodiversity.

- (13) No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction Of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme.

Reason: In the interests of residential amenity.

- (14) No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

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

Reason: In the interest of visual amenity.

- (16) All first floor windows in the building shall be obscure glazed and non-opening apart from those parts above 1.7m above finished internal floor level.

Reason: In the interests of residential amenity.

- (17) Prior to first use of the building information boards relating to the history and significance of the site shall be installed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

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

- (18) Prior to the commencement of the development, a detailed design of the facility, along with the acoustic performance of all components associated with the facility

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and mitigation measures to be employed (an Acoustic Design Report), shall be submitted to and approved by the Local Planning Authority. The design shall demonstrate that the nearest sensitive receptors shall not be adversely affected by noise generated by the development.

Reason: In the interests of residential amenity.

- (19) Prior to first use of the development, a Verification Report shall be submitted to and approved in writing by the Local Planning Authority which demonstrates that all relevant noise mitigation measures recommended in the approved Acoustic Design Report have been implemented.

Reason: In the interests of residential amenity.

- (20) Within 1 month of first use of the Data Storage Facility, post installation sound level assessments shall be undertaken and the results submitted to the Local Planning Authority.

If the results of the post installation sound level assessments show the specified sound levels at the specified receptors identified are exceeded, further mitigation details and a timetable of implementation shall be submitted for the approval of the Local Planning Authority within 2 months of the first use of the Data Storage Facility. The approved further mitigation details shall be installed to the approved timetable and retained thereafter.

Reason: In the interests of residential amenity.

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

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

Reason: In the interests of residential amenity.

- (22) The use of the building hereby permitted shall be restricted to the electronic storage of data and it shall not be used for any other storage or distribution purpose (within Class B8) or for any other purpose including any uses otherwise provided for by the operation of the Town and Country Planning (Use Classes) Order 1987 (as amended) or The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

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

- (23) 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.

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

- (24) Prior to the use of the development hereby permitted commencing, 1 of the parking spaces shall be fitted with an active electric vehicle charging point; with the remainder provided as passive charging spaces.

All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wi-Fi connection). 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 sustainable development and encouraging sustainable modes of travel.

- (25) The building hereby permitted shall be constructed to meet a minimum of BREEAM "Good" Standard or an equivalent standard, and prior to first use of the building the relevant certification shall be submitted to the Local Planning Authority confirming that the required standard has been achieved.

Reason: In the interests of energy efficiency and climate change.

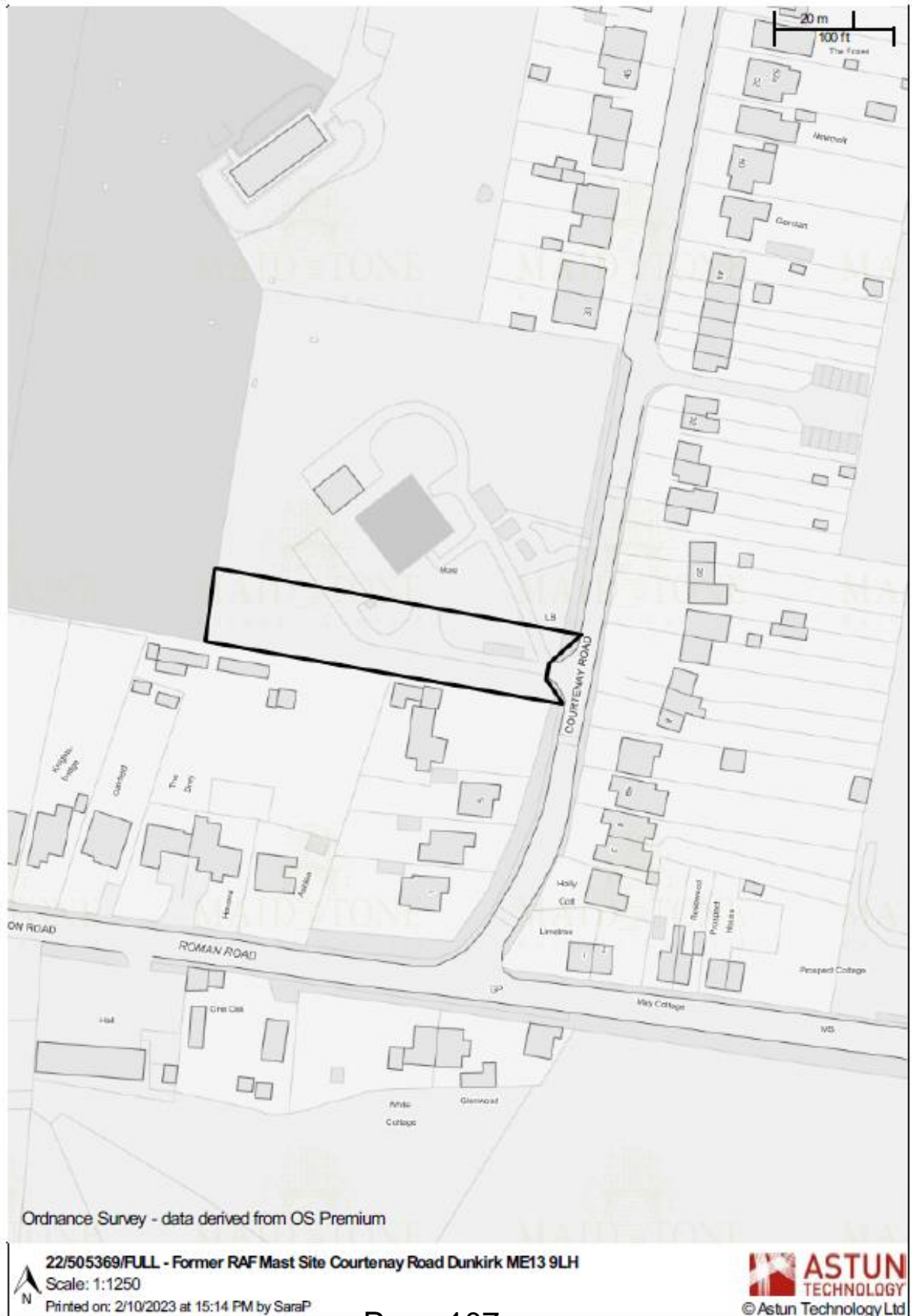
The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance:

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

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PLANNING COMMITTEE – 7 DECEMBER 2023**PART 3**

Report of the Head of Planning

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

3.1 REFERENCE NO – 23/502500/FULL		
PROPOSAL Relocation of existing Faversham War Memorial to the centre of the Memorial garden, including formation of a proposed new peace corner, comprising interpretation boards with local reflections, raised bed for planting wooden crosses on site of existing War Memorial base, and associated access path. Removal of iron railings cutting into the holly tree, repair and re-laying of existing paving, and additional repairs to the existing base.		
SITE LOCATION War Memorial Stone Street Faversham Kent ME13 8PZ		
RECOMMENDATION That the Council if it had been determining the application, would have refused the scheme, and the appeal is defended on the basis of the reason for refusal as set out below.		
APPLICATION TYPE All other minor development		
REASON FOR REFERRAL TO COMMITTEE Appeal submitted against non-determination.		
CASE OFFICER Claire Attaway		
WARD St. Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Mike Cosgrove AGENT James Clague Architect Ltd
DATE REGISTERED 30.05.23	TARGET DATE 25.07.23	
BACKGROUND PAPERS AND INFORMATION: 23/502500/FULL Relocation of existing Faversham War Memorial to the centre of the Memorial garden, including formation of a proposed new peace corner, comprising interpretation boards with local reflections, raised bed for planting wooden crosses on site of existing War Memorial base, and associated access path. Removal of iron railings cutting into the holly tree, repair and re-laying of existing paving, and additional repairs to the existing base. War Memorial Stone Street Faversham Kent ME13 8PZ (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 This site, approx. 0.04 hectares in area, comprises of a public garden situated on the corner of Stone Street and Roman Road, with a Grade II listed War Memorial that is situated on the edge of this corner junction. The site lies within the built-up area boundary of Faversham

and within the Faversham Conservation Area, almost directly opposite the cottage hospital. The grounds are managed and owned by the Council.

The stated reasons for designation are:

*'The war memorial, Faversham, unveiled in 1922, is listed at Grade II for the following principal reasons: *Historic interest: as a permanent testament to the sacrifice made by this community in the First and Second World Wars it is of strong historic and cultural significance both at a local and a national level; *Architectural interest: for the quality of the design and craftsmanship of this sombre and dignified memorial'.*

- 1.2 The existing adopted 2004 conservation area character appraisal document describes Stone Street as the main traffic route into the town centre where the hospital is the focal point of the road. It references the memorial gardens as

'The tidy formality of the small public garden opposite complements the late C19/early C20 character of the street, and as its purpose was originally to ensure privacy for patients in the hospital, it also has a noteworthy historical origin. The sturdy-looking iron scrollwork entrance gate still survives, but the rather flimsy-looking sectional steel railing on either side is a less-than-convincing substitute for the Victorian original.

- 1.3 The Memorial is a granite Celtic Cross set around brick paving and concrete steps with a low iron gate and railings between low granite posts. Behind the war memorial is a newly designed Memorial Garden with a set of stone memorial plaques on which are the names of Faversham residents who lost their lives in the conflicts of the World Wars. There is a mature Holly tree behind the memorial and shrubs to the sides.

2. **PLANNING HISTORY**

- 2.1 **23/502054/LBC** Listed Building Consent pending consideration to dismantle the Faversham War Memorial and re-erect in the centre of the Memorial garden.
- 2.2 **16/504008/LBC** Listed Building Consent refused on 21.09.2016 for the careful dismantling of the Faversham War Memorial and re-erection in the centre of the memorial garden, and for the re-configuration of the design and form of the Memorial Garden. The reasons for refusal were:

- (1) *The dismantling, re-location and re-erection of the war memorial will involve moving an historic and well-loved monument to a new and less appropriate location which will damage and result in harm to the setting and historic context of the listed building, and be harmful to the character of the Faversham conservation area, contrary to saved policies E14 and E15 of The Swale Borough Local Plan 2008.*
- (2) *The dismantling, re-location and re-erection of the war memorial is likely to result in the danger of damage to the monument which would be harmful to the listed building contrary to saved policy E14 of The Swale Borough Local Plan 2008.*

3. **PROPOSED DEVELOPMENT**

- 3.1 Planning permission is sought for the relocation of the Faversham War Memorial, a proposed new peace corner, comprising interpretation boards with local reflections, raised

bed for planting wooden crosses on site of existing War Memorial base, and associated access path. Removal of iron railings, repair and re-laying of existing paving, and additional repairs to the existing base.

- 3.2 The application sets out that a padded wooden crate would be built around the cross, and a crane would lift and move the crate with the cross to its new location in front of the existing stone backdrop (approx. 16.5m away) in the centre of the memorial garden. The process would be repeated to lift the base stones.
- 3.3 A 'peace corner' is proposed where the existing war memorial is sited. The four interpretation boards will be constructed of a steel frame structure with information and graphics printed on Glass Reinforced Plastic panels
- 3.4 The application states that none of the works would require the removal of the Holly tree.

4. **CONSULTATION**

- 4.1 Neighbouring occupiers adjoining the site were notified in writing, a site notice was displayed at the application site and the application was advertised in the local Press. Full details of representations are available online.
- 4.2 A total of 46 representations were received in relation to the consultation. 42 objected to the application on the following summarised grounds:
 - This idea was rejected in 2016 and there are no reasons why it should be approved now
 - It is unnecessary to move the memorial
 - Moving the memorial might damage it
 - It is a waste of money
 - Would spoil the aesthetics of the new gardens
 - The memorial is visible to passers-by
 - Owner of the land has been redacted
 - Further damage to the paving could be stopped by felling the holly tree
 - It is important to the history of Faversham and the families who funded it to retain the memorial in its original position
 - Would lose its prominence and would be a serious mark of disrespect
 - There is no risk management plan or statement on the cleaning of the cross
 - A public consultation should take place
 - The reasons for moving the memorial are pointless
 - It is perfectly functional during ceremonies
 - Movement of the memorial is insignificant
 - One can lay a wreath without climbing the step
 - The memorial would be less prominent
 - Respect the position made a century ago
 - It is not ours to move, like a headstone it should be respected, honoured, and maintained for future generations
 - Closing the road for one day per year is not onerous
 - It would turn the area into something more like a museum exhibit and diminish any real meaning the space had for local people who originally commissioned it
 - No-one seems to know of or validate who this committee is

4.3 4 representations supporting the application on the following summarised grounds:

- Easy access for those with mobility problems
- There are existing precedents for re-siting memorials
- It will solve the problem of the holly tree that is endangering the stability of the memorial – may present a danger to the public in the medium term
- The current location does not fit well with the annual remembrance service that takes place

4.4 **Faversham Town Council** objected to the application on the following grounds:

- The cross is too fragile to be moved
- A listed building should only be moved when necessary and there is no evidence to support this
- Public consultation should be undertaken

4.5 **Faversham Society**: Objected to the applications on the following grounds:

- The decision of the bereft to site the memorial here should be respected and its setting is fundamental to its significance
- We do not accept that the “visual prominence of the war memorial has declined” as the distorted railings are the historic remains of the original garden enclosure, the holly tree is self-sown and the present low gates, side railings and granite columns are of historical significance in themselves and should on no account be disturbed
- the applicant has not established that it is necessary for structural reasons to move the cross
- there has again been no public consultation
- if the cross is removed, it will be set back in a less prominent place
- the holly tree can be removed and replaced if it becomes a significant threat to the cross

4.6 **Councillor Jackson (Ward Member)**: Objected to the application saying the memorial should remain in the place it was chosen, and it might crumble if moved.

5. **REPRESENTATIONS**

5.1 **KCC Minerals and Waste**: No comment.

5.2 **KCC Archaeology**: No archaeological measures required.

5.3 **SBC Conservation**: Object on the basis that removing the memorial cross from its original, carefully considered location and the directly related possibility of damage arising to the listed structure in dismantling and relocating it would give rise to less than substantial harm to a designated heritage asset.

5.4 **SBC Tree Officer**: No objection providing the proposed works are carried out in accordance with the Arboricultural Report.

6. **DEVELOPMENT PLAN POLICIES**

6.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies:**

- ST3** The Swale settlement strategy
- ST7** The Faversham area and Kent Downs strategy
- CP4** Requiring good design
- CP5** Health and wellbeing
- CP6** Community facilities and services to meet local needs
- CP8** Conserving and enhancing the historic environment
- DM14** General development criteria
- DM17** Open space, sports, and recreation provision
- DM29** Woodlands, trees, and hedges
- DM32** Development involving listed buildings
- DM33** Development affecting a conservation area
- DM34** Scheduled monuments and archaeological sites

6.2 **Supplementary Planning Guidance (SPG):**

- Faversham conservation area character appraisal 2004
- Listed Buildings – a guide for Owners and Occupiers
- Conservation Areas

6.3 **Faversham Neighbourhood Plan** (Currently at Reg 16 stage), comments from the 6 week consultation period which ended on 16.10.23 have been sent to the independent examiner who is currently in the process of determining whether the plan meets the basic conditions with or without modifications. As such the Plan and its policies currently carry limited weight:

FAV11: Heritage (The policy requires listed buildings and their settings to be preserved and for the character and appearance of conservation areas to be preserved or enhanced).

6.4 **Historic England joint advice note with the War Memorials Trust: Conserving War Memorials: Structural Problems and Repairs.**

7. **ASSESSMENT**

7.1 As set out above, an appeal has been submitted against non-determination of the application for planning permission. This application is therefore presented to Members to seek the putative decision of the Local Planning Authority. The main considerations involved in the assessment of this application are:

- The Principle of Development
- Heritage

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 The September 2023 update to the NPPF strengthens the policy behind the retention of memorials in their original locations. It is clear from national policy that the location and setting of memorials are an important part of its historical significance. The FWMG set out in the application that the memorial has lost some of its significance since the Memorial Garden was redesigned and moving it to the centre would improve its prominence and setting against the large, lighter stone backdrop.
- 7.5 The proposal will make Remembrance Day services more inclusive, but the Conservation Officer does not consider the issues put forward by the FWMG (principally restricted access, impact on the monument by the tree and highway safety concerns) would be so significant such as to warrant relocating the listed memorial.
- 7.6 It is acknowledged that the steps up to the cross pose some difficulties for those with mobility restrictions when laying wreaths and other tributes and that this proposal would improve accessibility. Having said this, the memorial is not completely inaccessible as it is located within a public garden. In addition, there are alternative options that should be explored first before considering moving the memorial. Neither is there any clear evidence, for example, a structural survey by a conservation accredited engineer, to prove or demonstrate that the Holly tree is contributing or causing structural damage to the memorial. The Council's Tree Officer carried out a visual inspection of the memorial and found no evidence of any significant physical displacement/lifting to any of the surrounding paving or evidence that the memorial itself was being disturbed by root activity from the Holly tree. Lastly, closing the road for the duration of the Remembrance Day parade every year would only be for a limited period and there are a number of alternative routes which motorists can take, thereby causing minimum disruption to road users.
- 7.7 It is considered likely that the corner location was chosen because of its relationship to the Cottage Hospital. Therefore, this deliberate relationship would be lost if the war memorial were relocated within the garden itself, and as such on the basis of the above assessment the proposal is in conflict with Para 198 of the NPPF, Policies CP8, DM14 and DM32 of the Local Plan and Policy FAV11 of the Faversham Neighbourhood Plan.

Heritage

- 7.8 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposed will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and is endorsed by the Local Plan.

- 7.9 The memorial gardens have changed over the years, most notably following the significant remodelling work which took place in 2017. The gardens have now been laid out with an oval pathway with new angled commemorative stones and a central path leading to a large vertical slab where it is proposed to site the relocated war memorial.
- 7.10 The FWMG point out in their supporting letter
- “... our wish to remove the railings that have grown around the holly tree should not be confused with a view that the small ornamental railings are to be removed, that is incorrect. Equally the intention to move the cross is based on monumental stonemason and conservation architect’s advice that the cross was built in three pieces with the top cross perpendicular fitted into the upper block by means of a dowel, there is not ironwork within”.*
- 7.11 The railings enclosing the war memorial would become redundant if the cross were moved and nothing put in its place. The Conservation Officer considers their heritage significance to be quite limited, and as such does not object to this element of the proposal.
- 7.12 The peace corner element of the proposal is also considered to be a positive aspect of the proposals. However, there is no reason why this element of the scheme could not still feature in a revised proposal which would allow the memorial cross to remain in its current location.
- 7.13 It is also accepted that the visual change of moving the memorial cross to the centre of the memorial garden would be relatively minor as it will still contribute to the conservation area streetscene. As a result, the Conservation Officer is of the view that the proposal would have a neutral effect on the setting of the conservation area streetscene. On this basis it is considered that the proposal complies with policy DM33.
- 7.14 Nonetheless, even if it was technically possible to relocate the memorial cross without damaging it, it is considered that the submitted reasons for doing so do not outweigh national policy and related guidance which includes a presumption in favour of retaining listed structures in their original position. The combined Historic England and War Memorials Trust advice on this clearly advises that relocation should be very much a last resort and there are other options open to the applicants which could improve access and interaction with the listed war memorial whilst allowing it to remain in-situ.
- 7.15 It is noted that the supporting letter argues there have been a large number of cases when memorials have been moved. However, those are very much the exceptions to the rule and each case must be considered very carefully on its own particular merits.
- 7.16 As set out above, the proposal to dismantle and relocate the memorial are considered to give rise to less than substantial harm. In these scenarios the NPPF sets out that this harm should be weighed against the public benefits of the proposal. As also set out above, it is not considered that the public benefits outweigh the harm of removing the listed memorial from its original, carefully considered location when assessed against the NPPF.
- 7.17 The application also states that having discussed the case with monumental masons they see no difficulty in moving the memorial and set out a staged approach for doing so.

However, the application is not supported by any clear and convincing evidence that the memorial can be moved without causing damage to the structure.

- 7.18 Consequently, the proposal would be harmful to the setting of the listed memorial and the listed memorial itself, and therefore conflicts with Policies CP8, DM14 and DM32 of the Local Plan, Policy FAV11 of the Faversham Neighbourhood Plan and Para 198 and 202 of the NPPF.
- 7.19 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

8. **CONCLUSION**

- 8.1 The current corner location of the monument is an important part of its historical significance which would be lost if the cross is relocated within the centre of the memorial gardens. The reasons put forward by the FWMG are not considered so significant such as to warrant relocating the listed memorial. As a result, the public benefits do not outweigh the harm of removing the listed memorial from its original location when assessed against the NPPF. Furthermore, the application is not supported by any clear and convincing evidence that the memorial can be moved without causing damage to the structure. Consequently, the proposal would be harmful to the setting of the listed memorial and the listed memorial itself and therefore conflicts with Paragraphs 198 and 202 of the NPPF, Policies CP8, DM14 and DM32 of the Local Plan, and Policy FAV11 of the Faversham Neighbourhood Plan.
- 8.2 It is recommended that Members resolve that they would have refused planning permission and the appeal be defended on the basis of the reason below.

9. **RECOMMENDATION**

REFUSE for the following reason:

23/502500/FULL

REASONS

- (1) The proposed dismantling and re-location of the grade II listed war memorial would cause demonstrable harm to its setting and historic context and gives rise to the risk of damage to the memorial. This would lead to an impact of less than substantial harm to this designated heritage asset, which is not outweighed by the public benefits, contrary to paragraphs 198 and 202 of the NPPF and contrary to policies CP8, DM14 and DM32 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and policy FAV11 of the Faversham Neighbourhood Plan.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 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.



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3.2 REFERENCE NO – 23/502054/LBC		
PROPOSAL Listed Building Consent to dismantle the Faversham War Memorial and re-erect in the centre of the Memorial Garden.		
SITE LOCATION War Memorial Stone Street Faversham Kent ME13 8PZ		
RECOMMENDATION That the Council if it had been determining the application, would have refused the scheme, and the appeal is defended on the basis of the reason for refusal as set out below.		
APPLICATION TYPE LBC (alterations/extensions)		
REASON FOR REFERRAL TO COMMITTEE Appeal submitted against non-determination.		
CASE OFFICER Claire Attaway		
WARD St. Ann's	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Mike Cosgrove AGENT James Clague Architect Ltd
DATE REGISTERED 12/05/23	TARGET DATE 07/07/23	
BACKGROUND PAPERS AND INFORMATION 23/502054/LBC Listed Building Consent to dismantle the Faversham War Memorial and re-erect in the centre of the Memorial garden, including formation of a proposed new peace corner, comprising interpretation boards with local reflections, raised bed for planting wooden crosses on site of existing War Memorial, and associated access path. Removal of iron railing fence, and repair and re-laying of existing paving. War Memorial Stone Street Faversham Kent ME13 8PZ (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 This site, approx. 0.04 hectares in area, comprises of a public garden situated on the corner of Stone Street and Roman Road, with a Grade II listed War Memorial that is situated on the edge of this corner junction. The site lies within the built-up area boundary of Faversham and within the Faversham Conservation Area, almost directly opposite the cottage hospital. The grounds are managed and owned by the Council.

The stated reasons for designation are:

*The war memorial, Faversham, unveiled in 1922, is listed at Grade II for the following principal reasons: *Historic interest: as a permanent testament to the sacrifice made by this community in the First and Second World Wars it is of strong historic and cultural significance both at a local and a national level; *Architectural interest: for the quality of the design and craftsmanship of this sombre and dignified memorial'*

- 1.2 The existing adopted 2004 conservation area character appraisal document describes Stone Street as the main traffic route into the town centre where the hospital is the focal point of the road. It references the memorial gardens as

'The tidy formality of the small public garden opposite complements the late C19/early C20 character of the street, and as its purpose was originally to ensure privacy for patients in the hospital, it also has a noteworthy historical origin. The sturdy-looking iron scrollwork entrance gate still survives, but the rather flimsy-looking sectional steel railing on either side is a less-than-convincing substitute for the Victorian original.'

- 1.3 The Memorial is a granite Celtic Cross set around brick paving and concrete steps with a low iron gate and railings between low granite posts. Behind the war memorial is a newly designed Memorial Garden with a set of stone memorial plaques on which are the names of Faversham residents who lost their lives in the conflicts of the World Wars. There is a mature Holly tree behind the memorial and shrubs to the sides.

2. PLANNING HISTORY

- 2.1 **23/502500/FULL** Planning application pending consideration for the relocation of existing Faversham War Memorial to the centre of the Memorial garden, including formation of a proposed new peace corner, comprising interpretation boards with local reflections, raised bed for planting wooden crosses on site of existing War Memorial base, and associated access path. Removal of iron railings cutting into the holly tree, repair and re-laying of existing paving, and additional repairs to the existing base.

- 2.2 **16/504008/LBC** Listed Building Consent refused on 21.09.2016 for the careful dismantling of the Faversham War Memorial and re-erection in the centre of the memorial garden, and for the re-configuration of the design and form of the Memorial Garden. The reasons for refusal were:

(1) *The dismantling, re-location and re-erection of the war memorial will involve moving an historic and well-loved monument to a new and less appropriate location which will damage and result in harm to the setting and historic context of the listed building, and be harmful to the character of the Faversham conservation area, contrary to saved policies E14 and E15 of The Swale Borough Local Plan 2008.*

(2) *The dismantling, re-location and re-erection of the war memorial is likely to result in the danger of damage to the monument which would be harmful to the listed building contrary to saved policy E14 of The Swale Borough Local Plan 2008.*

3. PROPOSED DEVELOPMENT

- 3.1 Listed building consent is sought for the relocation of the Faversham War Memorial. The application sets out that a padded wooden crate would be built around the cross, and a crane would lift and move the crate with the cross to its new location in front of the existing stone backdrop (approx. 16.5m away) in the centre of the memorial garden. The process would be repeated to lift the base stones.

4. CONSULTATIONS

4.1 Neighbouring occupiers adjoining the site were notified in writing a site notice was displayed at the application site and the application was advertised in the local Press. Full representations are available online.

4.2 A total of 53 representations were received in relation to the consultation – 26 objecting to the application on the following summarised grounds:

- The plan for the peace corner is admirable but not at the expense of the desecration of the memorial
- Its lack of grandiose scale adds to its humanity and poignancy
- Unnecessary
- Will look incongruous against the modern slab
- It is currently in your line of vision but moving it will remove sight from passers by
- Leave it alone where it has stood for generations
- Risks killing one of the only existing public trees in the area
- Replacing the pre-case concrete base with York stone will lead to the loss of historic fabric
- This is not a community-led project – who are the members of this committee?
- There are so many reasons not to move it and no good reasons to move it

4.3 27 representations supporting the application on the following summarised grounds:

- This proposal means that the cross is central to the tablets on which the names of those killed in WW1 and WW2 are inscribed - that is a common feature of most war memorials
- It ensures much improved disability access to the cross from the improved pathway rather than the existing difficult high steps currently required that are near to a busy road junction
- It resolves the growing problem of the holly tree creating further pressure on the stability of the cross
- The interpretation boards will provide information for reflexion and support to groups and primary schools as well as visitors
- The advice of established stone masons ensures there would be no difficulty in moving the cross with its three-part structure easily and safely without damage
- Repair and relaying of the existing paving is much needed
- The concept of raised beds for disability access is to be welcomed
- It follows precedents for moving crosses that have been undertaken in many towns including Andover, Cambridge, and Sittingbourne to improve access and suit modern conditions
- The memorial is positioned in an insignificant spot as you pass without noticing it – now is the opportunity to give it the prominent and central position it deserves
- Moving the cross from its dark, overhung corner will be an enormous visual and logical improvement to complete a through restoration scheme
- The grounds of refusal of the 2016 application have been overcome by the revised proposal

- The present garden is a great improvement on what was there before and enhances the conservation area and the proposal will further enhance the area when the cross is moved into its centre to complete the scheme
- It will solve the problem of the holly tree that is endangering the stability of the memorial – may present a danger to the public in the medium term
- Where other memorials have been combined, the modern and the aged sit very well together
- It is a better location that allows for personal and historic reflection than the current position due to increased traffic and footfall in the vicinity

4.4 **Faversham Town Council** objected to the application on the following grounds:

- The cross is too fragile to be moved
- A listed building should only be moved when necessary and there is no evidence to support this
- Public consultation should be undertaken

4.5 A petition supporting the proposed development was also received and was signed by 25 people.

4.6 **Faversham Society:** Objected to the applications on the following grounds:

- The decision of the bereft to site the memorial here should be respected and its setting is fundamental to its significance
- We do not accept that the “visual prominence of the war memorial has declined” as the distorted railings are the historic remains of the original garden enclosure, the holly tree is self-sown and the present low gates, side railings and granite columns are of historical significance in themselves and should on no account be disturbed
- the applicant has not established that it is necessary for structural reasons to move the cross
- there has again been no public consultation
- if the cross is removed, it will be set back in a less prominent place
- the holly tree can be removed and replaced if it becomes a significant threat to the cross

4.7 **The War Memorials Trust:** Objected to the application on the following grounds:

- The Trust previously commented on 16/504008/LBC and the comments made then remain relevant
- The Trust met the Committee on site for application 16/504008/LBC and spoke to local residents who opposed the plans
- The Trust’s objection stands as the proposal does not meet the Trust’s threshold for relocation (The Trust supports relocation where a memorial is completely inaccessible or at risk)
- The NPPF strengthens the policy behind the retention of statues in their original locations
- The railings are protected through listing so removal would cause a level of harm to the significance of the heritage asset

- It would not resemble what was erected who choose a roadside setting with the cross visible on passing rather than placing it in a garden set back from the road – this can reduce interaction with a memorial
- The Sittingbourne war memorial is not listed, and its relocation appears to have taken place in 1990 (War Memorials Trust was established in 1997)

5. REPRESENTATIONS

- 5.1 **SBC Conservation:** Object on the basis that removing the memorial cross from its original, carefully considered location and the directly related possibility of damage arising to the listed structure in dismantling and relocating it would give rise to less than substantial harm to a designated heritage asset.

6. DEVELOPMENT PLAN POLICIES

- 6.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017:** Policies:

CP8 Conserving and enhancing the historic environment

DM14 General development criteria

DM32 Development involving listed buildings

- 6.2 **Supplementary Planning Guidance (SPG):**

- Listed Buildings – a guide for Owners and Occupiers

- 6.3 **Historic England joint advice note with the War Memorials Trust:** Conserving War Memorials: Structural Problems and Repairs.

7. ASSESSMENT

- 7.1 As set out above, an appeal has been submitted against non-determination of listed building consent. This application is therefore presented to Members to seek the putative decision of the Local Planning Authority.

- 7.2 In respect of this application for listed building consent, the only matter for consideration is the impact of the proposed development on the listed memorial and its historic interest and setting, and the other matters of consideration are assessed under the planning application (23/502500/FULL). The planning application also assesses those elements of the proposal which do not require listed building consent as set out in that report.

Heritage

- 7.3 Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) sets out the Council's obligations to preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

- 7.4 The National Planning Policy Framework states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposed will lead to less than substantial harm to the significance of a designated

heritage asset, this harm should be weighed against the public benefits that may arise and is endorsed by the Local Plan.

7.5 The memorial gardens have changed over the years, most notably following the significant remodelling work which took place in 2017. The gardens have now been laid out with an oval pathway with new angled commemorative stones and a central path leading to a large vertical slab where it is proposed to site the relocated war memorial.

7.6 The FWMG point out in their supporting letter

“...the intention to move the cross is based on monumental stonemason and conservation architect’s advice that the cross was built in three pieces with the top cross perpendicular fitted into the upper block by means of a dowel, there is not ironwork within”.

7.7 It is clear from national policy that the location and setting of memorials are an important part of its historical significance.

7.8 Paragraph 198 of the NPPF states:

“In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.”

7.9 The FWMG set out in the application that the memorial has lost some of its significance since the Memorial Garden was redesigned and moving it to the centre would improve its prominence and setting against the large, lighter stone backdrop.

7.10 The proposal seeks to make Remembrance Day services more inclusive and the Memorial itself more accessible, but the Conservation Officer does not consider the issues put forward by the FWMG (principally restricted access, impact on the monument by the tree and highway safety concerns) would be so significant such as to warrant relocating the listed memorial.

7.11 It is acknowledged that the steps up to the cross pose some difficulties for those with mobility restrictions when laying wreaths and other tributes and that this proposal would improve accessibility. Having said this, the memorial is not completely inaccessible as it is located within a public garden. In addition, there are alternative options that should be explored first before considering moving the memorial. Neither is there any clear evidence, for example, a structural survey by a conservation accredited engineer, to prove or demonstrate that the Holly tree is contributing or causing structural damage to the memorial. The Council’s Tree Officer carried out a visual inspection of the memorial and found no evidence of any significant physical displacement/lifting to any of the surrounding paving or evidence that the memorial itself was being disturbed by root activity from the Holly tree. Lastly, closing the road for the duration of the Remembrance Day parade every year would only be for a limited period and there are a number of alternative routes which motorists can take, thereby causing minimum disruption to road users.

- 7.12 Even if it was technically possible to relocate the memorial cross without damaging it, it is considered that the submitted reasons for doing so do not outweigh national policy and related guidance which includes a presumption in favour of retaining listed structures in their original position. The combined Historic England and War Memorials Trust advice on this clearly advises that relocation should be very much a last resort and there are other options open to the applicants which could improve access and interaction with the listed war memorial whilst allowing it to remain in-situ.
- 7.13 It is noted that the supporting letter argues there have been a large number of cases when memorials have been moved. However, those are very much the exceptions to the rule and each case must be considered very carefully on its own particular merits.
- 7.14 As set out above, the proposal to dismantle and relocate the memorial are considered to give rise to less than substantial harm. In these scenarios the NPPF sets out that this harm should be weighed against the public benefits of the proposal. As also set out above, it is not considered that the public benefits outweigh the harm of removing the listed memorial from its original, carefully considered location when assessed against the framework.
- 7.15 The application also states that having discussed the case with monumental masons they see no difficulty in moving the memorial and set out a staged approach for doing so. However, the application is not supported by any clear and convincing evidence that the memorial can be moved without causing damage to the structure.
- 7.16 Consequently, the proposal would be harmful to the setting of the listed memorial and the listed memorial itself, therefore conflicting with policies CP8, DM14 and DM32 of the Local Plan, policy FAV11 of the Faversham Neighbourhood Plan and Para 198 and 202 of the NPPF.
- 7.17 In considering the impact of this proposal upon designated heritage assets, officers have had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990.

8. CONCLUSION

- 8.1 The current corner location of the monument is an important part of its historical significance which would be lost if the cross is relocated within the centre of the memorial gardens. The reasons put forward by the FWMG are not considered so significant such as to warrant relocating the listed memorial. As a result, the public benefits do not outweigh the harm of removing the listed memorial from its original location when assessed against the NPPF. Furthermore, the application is not supported by any clear and convincing evidence that the memorial can be moved without causing damage to the structure. Consequently, the proposal would be harmful to the setting of the listed memorial and the listed memorial itself and therefore conflicts with Paragraphs 198 and 202 of the NPPF, policies CP8, DM14 and DM32 of the Local Plan and Policy FAV11 of the Faversham Neighbourhood Plan.
- 8.2 It is recommended that Members resolve that they would have refused listed building consent and the appeal be defended on the basis of the reason below.

9. RECOMMENDATION

REFUSE for the following reasons:

REASONS

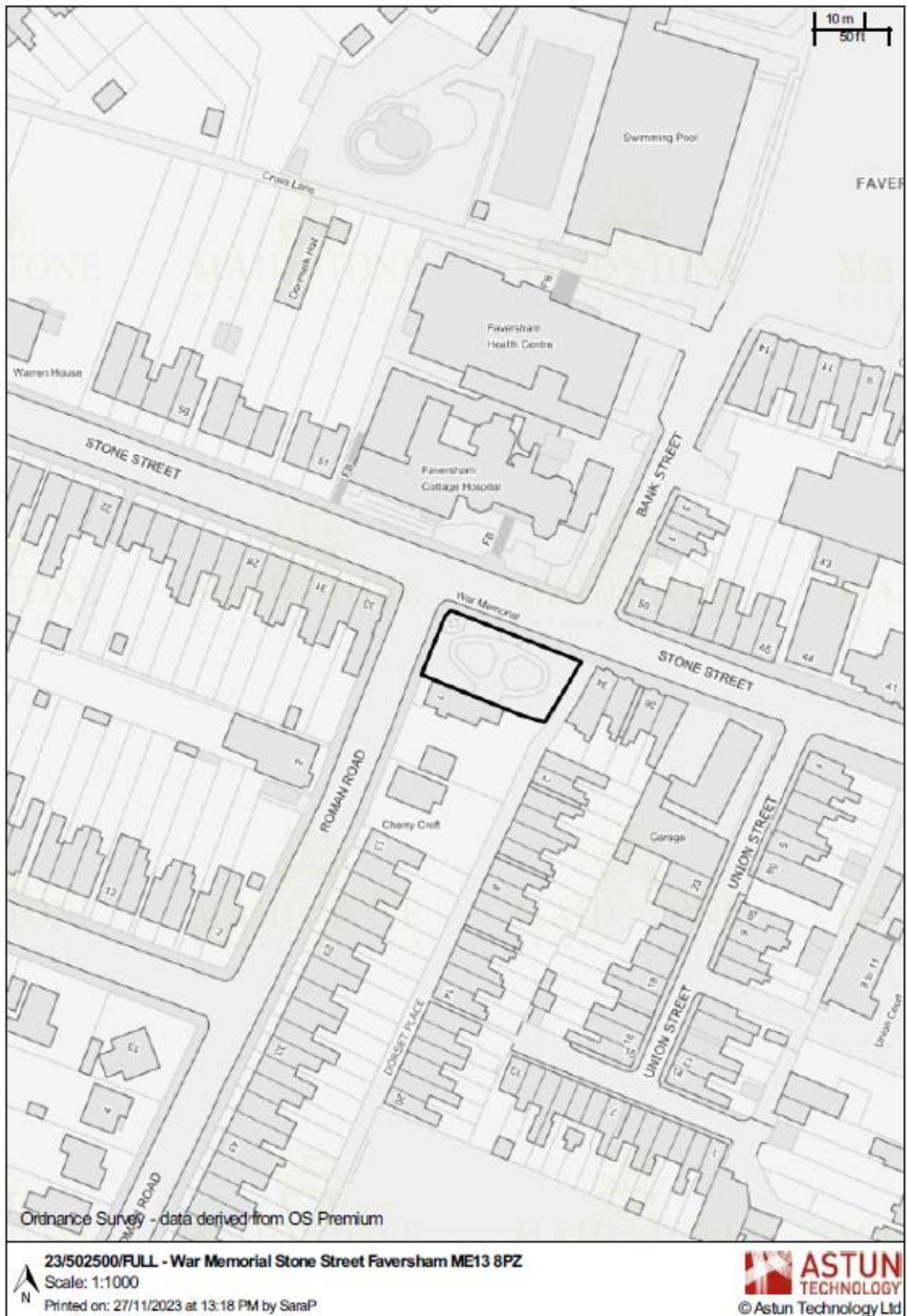
- (1) The proposed dismantling and re-location of the grade II listed war memorial would cause demonstrable harm to its setting and historic context and gives rise to the risk of damage to the memorial. This would lead to an impact of less than substantial harm to this designated heritage asset, which is not outweighed by the public benefits, contrary to paragraphs 198 and 202 of the NPPF and contrary to policies CP8, DM14 and DM32 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and policy FAV11 of the Faversham Neighbourhood Plan.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), September 2023 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.



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PLANNING COMMITTEE – 7 DECEMBER 2023

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Land West of Church Road, Tonge, Sittingbourne**

APPEAL ALLOWED

NON-DETERMINATION

Observations

The appeal was held as a Public Inquiry for 1 day on the 12th September 2023

Members' may recall that at the Planning Committee meeting of the 05h June 2023 that application 22/502834/EIOUT would have been approved if Members were in a position to do so, subject to conditions (1) to (33) as set out in the report and the completion of a section 106 agreement to include the heads of terms as set out in the reports, tabled updates and officer presentation.

The Inspector acknowledged that the appeal is allocated within the Local Plan, that the Council does not have a 5-year supply of housing land, and Local Plan policies are out of date but still carry some weight.

Consideration was given to the comments of Tonge Parish Council, who had concerns about the location of the site in terms of accessibility to services, together with highway capacity and safety issues. Further, representations had been received that the quantum of development proposed is significantly higher than that envisaged by Local Plan policy MU2. The Inspector however found that the lack of infrastructure locally would be met in terms of the commitments made through the s106 legal agreement. In terms of highway capacity and safety issues, the Inspector was satisfied that the number of dwellings would not increase traffic to an unacceptable degree, and that in a situation where the Council has a housing land supply shortfall, there is nothing in the policy to prevent additional housing.

To conclude, it was advised that subject to the s106 agreement and necessary conditions, the application was acceptable.

The appeal was allowed on the 06th November 2023.

- **Item 5.2 – Warren Farm Warden Road Eastchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that as an enforcement notice had previously been served against the stationing of a caravan for residential use on the land, the occupation of a caravan on the site could not be lawful.

- **Item 5.3 – Land south of The Mounted Rifleman Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector considered on balance, that the proposal would preserve the setting of the listed building as the proposed building would remain subservient in scale. With regards to the design, the small increase in height when compared to the existing piggeries and the materials proposed for the dwelling were considered acceptable. However, the larger floor area and large area of glazing, together with the enlarged parking area and associated domestic paraphernalia were considered to have an urbanising impact on the local landscape and countryside. The Inspector did not consider the site isolated in the context of Paragraph 80 of the NPPF but its rural setting, some distance from the nearest settlement meant it would not be reasonably accessible to services. The Inspector therefore agreed with the Council that the proposal would not be sustainable development and as such the site was not a suitable location for a new dwelling. On that basis, the appeal was dismissed.



The Planning Inspectorate

Appeal Decision

Inquiry Held on 13 September 2023

Accompanied site visit made on 13 September 2023

by **Philip Major BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06/11/2023

Appeal Ref: APP/V2255/W/23/3318509

Land west of Church Road, Tonge, Sittingbourne.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Trenport East Hall Park Ltd against Swale Borough Council.
 - The application Ref: 22/502834/EIOUT, is dated 31 May 2022.
 - The development proposed is the erection of up to 380 homes (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping.
-

Preliminary Matters

1. This application is submitted in outline, with all matters reserved for future determination except the means of access to the site.
2. The Council did not determine the application within the requisite period, resulting in the Appellant deciding to appeal. However, in the period leading up to the inquiry the Council resolved that had it retained jurisdiction it would have permitted the development. But having instigated the appeal the determination of the proposal remains with the Secretary of State, through myself as the appointed Inspector. The Appellant and the Council are in agreement that the proposal would accord with the development plan and have provided a Statement of Common Ground confirming this agreement.
3. Because the Council does not take issue with the proposed development the inquiry was completed in a single day. However, I heard from remaining objectors at the inquiry and from witnesses for the Appellant. I also carried out unaccompanied site visits on the afternoon of 12 September, and at various times on 13 and 14 September, in addition to the accompanied site visit.

Decision

4. The appeal is allowed and planning permission is granted for the erection of up to 380 homes (including affordable homes) and 450 sqm of Use Class E/F floorspace, together with associated open space, play space, and landscaping at land west of Church Road, Tonge, Sittingbourne in accordance with the terms of the application, Ref: 2/502834/EIOUT, dated 31 May 2022, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

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Main Issue

5. There are a number of issues raised in relation to this proposal by remaining objectors, but that which is of most concern relates to the impact of the proposed development on highway capacity and safety. It is that issue which formed the principal basis of the evidence at the inquiry. Other matters raised I address later in this decision.

Background

6. The appeal site is located on land which is identified in Local Plan (LP)¹ Policy MU2. This is a mixed use allocation which identifies land in the south-east part of the site for approximately 106 dwellings. Clearly the present proposal exceeds that notional amount and I deal with that later. The employment element of the mixed use allocation has already been delivered. The diagram which accompanies the policy makes reference to taking account of the routing of the Sittingbourne Northern Relief Road (NRR) and to the need to safeguard the setting of heritage assets.
7. The NRR is dealt with in LP Policy AS1. Amongst other things this envisages the final alignment of the route being most likely determined through a local plan review. The appeal proposal takes account of the need to accommodate the NRR in the future. That said there is no current commitment to complete this final section of the NRR and there remains a doubt as to whether it will be completed. At present the NRR, known as Swale Way, ends at the roundabout where access to the appeal site would start.
8. There is acknowledgement that the Council is unable to demonstrate the provision of a 5 year supply of deliverable housing land. Hence the Local Plan policies are deemed to be out of date. But that does not mean that they carry no weight. The most important policy for this appeal, MU2, retains significant weight as it is proposed to carry it forward in the future. There is nothing set out in paragraph 11d)i of the National Planning Policy Framework (NPPF) which prevents the engagement of the 'tilted' balance and hence, following paragraph 11d)ii planning permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Reasons

Highway Capacity and Safety

9. There is acknowledgment that traffic in Sittingbourne is, on occasion, congested. The transport assessment and subsequent technical information deals with the additional traffic which would be likely to be generated by the proposed development. I have noted that trip rates used in the assessment process are significantly higher than would be expected in reality. I have also taken into account that improvements to the NRR/A249 junction are expected to improve the current baseline situation prior to any property proposed being occupied.
10. The traffic leaving the site in the morning peak (until and unless the NRR link is completed) would, of necessity, leave along the NRR in a north-westerly direction. Thereafter there are a number of options for traffic dispersion.

¹ Bearing Fruits 2031 – The Swale Borough Local Plan 2017

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Some of that traffic would head for Sittingbourne town centre, some would head for the A2 to move eastwards, whilst other vehicles would continue along the NRR towards the A249. In all cases the routes pass through or alongside business and industrial areas.

11. The fact that traffic would disperse along different routes is important. Although there can be no absolute certainty of the different routes drivers would take, the assessments provided in the Appellant's evidence seem reasonable to me. They are also accepted by the County Council acting as local highway authority. Hence the extra traffic from the proposed development which is likely to be added to any particular route or network of streets is diluted by this dispersion.
12. Before, during and after the inquiry I experienced the various facets of the local network first hand. The congestion which was brought to my attention by local people was clearly evident. The route towards the A2 via Castle Road, Dolphin Road and Church Road, Sittingbourne is not pleasant. It involves travelling through a narrow width restricted point and along streets heavily parked before reaching the A2 at the junction at Murston Road. Alternatively drivers can use Tonge Road and Lomas Road. Lomas Road is very narrow and it is difficult for vehicles to pass in a number of places. These unattractive routes illustrate clearly why the final link of the NRR would be likely to be of real benefit in being able to avoid the current difficulties.
13. Drivers seeking to reach the town centre would be likely to use Castle Road and Eurolink Way before turning left at Crown Quay Lane or continuing along Eurolink Way to Milton Road. This is a congested part of the network at times, in my view largely because of the restrictions caused by the need to pass under the railway shortly before the junction with St Michael's Road. That causes traffic to back up to the Crown Quay Lane roundabout. As a result travelling to the town centre can be subject to delay. The difficulties of using the local network was amply explained at the Inquiry and in the written representations before me.
14. However, whilst taking into consideration the fact that the numbers of vehicles using these routes causes delay and congestion, with subsequent difficulty and frustration for local people, the real question to be addressed is how much extra delay and congestion the traffic from the appeal proposals would generate.
15. Along the NRR the additional traffic added to the network would, as expected, be greatest close to the appeal site. The proportion reduces with distance as traffic is siphoned off to other locations. Hence the prediction of added traffic volume at the Eurolink Way/Crown Quay Lane roundabout is about 1% in morning and afternoon peaks. At this junction any extra delay caused by the proposal would be imperceptible. There would be a greater propensity for delay at other junctions modelled (such as the NRR/Ridham Avenue junction) but of a modest nature. I recognise that it is possible that the change in flows at Tonge Road would be greater, but the absolute numbers even in the worst case scenario suggested are no more than modest.
16. Drawing these matters together it is clear that the locality suffers from some degree of traffic congestion leading to delay and inconvenience. This is not uncommon in urban areas. In this case it would be eased by the completion of the NRR/A249 improvements, and by the completion of the NRR should that

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take place. Notwithstanding this matter, and noting that the proposed development here would provide significantly more dwellings than envisaged in the LP allocation, I am satisfied that it has been demonstrated that the number of dwellings proposed would not increase traffic to an unacceptable degree. The increase would be modest at worst and would not reach the threshold set out in paragraph 111 of the NPPF for refusing the proposal on these grounds.

17. I am also satisfied that the accident data for the locality does not support the suggestion that this is an inherently dangerous location, or that the proposed development would add unacceptably to risks on the highway in the wider area.
18. The proposal also includes for 6 of the proposed dwellings being located in the south-east corner of the site. These dwellings would have access provided from Church Road, Tonge. The proposal would not allow any other vehicles (other than emergency vehicles) to use this access. Although the lanes close to this access are narrow I do not consider that there would be any material impact on congestion or safety from its use as proposed.
19. Given that this south-eastern access would allow for pedestrians to walk to Church Road, Tonge, there has been concern expressed that residents of the proposed dwellings would choose to park there and walk to their homes within the site. It is suggested that this would avoid the need to use congested roads to enable parking at their own property. Such parking cannot be ruled out, but it would be an unlikely scenario in my judgement. In particular there would be security and, potentially, insurance problems if parking remotely. And in any event this remote parking would only be likely to be attractive to a small minority of residents. Furthermore it would, if necessary, be possible to introduce parking restrictions to control such activity. This is not a matter which weighs against the proposal.

Other Matters

Location

20. There has been a good deal of criticism of the location of the proposed development site in relation to local facilities and amenities. It is suggested that residents of the development would be reliant principally on private motor vehicles and that other modes of transport are, and would remain, unattractive. I can well understand that perception based on the current situation.
21. Currently the nearest bus stops are on Oak Road, which is a significant distance from the appeal site. I note that the former bus gate connecting to the adjacent development (Heron Fields) is no longer in use because of difficulties encountered in the past. However, part of the proposal before me involves the reinstatement of the bus gate with more modern technology such that previous problems should not reoccur. This would be secured through legal agreement, which I deal with later, and would allow a local bus service to be provided within the appeal site.
22. I accept that local schools are also some distance away, but feasible walking routes exist for the primary school, and I saw them in use during my site visits. Shops are severely lacking in the immediate locality, but part of the proposal would include the potential for a convenience store, and I am informed that

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negotiations are well advanced for an operator of that store. This would benefit the residents of the appeal site and Heron Fields alike. Cycling opportunities exist in the locality, and in my judgement it would be entirely possible to cycle to nearby employment sites, the town centre, or Sittingbourne railway station along a mixture of roads and cycle paths which would provide safe passage.

23. The lack of infrastructure locally, such as schools, medical facilities and the like is a cause for concern amongst local people. To a great extent that would be addressed by the legal agreement submitted. It is to be expected that the contributions agreed would lead to a significant and beneficial improvement in the provision of local infrastructure.
24. Taking this matter in the round, and in light of the commitments made through the S06 legal agreement, it is my view that the site is locationally suitable for the proposed use. It must be remembered also that the site is part of a larger allocation which was deemed to be sustainable during the preparation of the LP. The benefits which would flow from the legal obligation associated with this larger quantum of housing is likely to result in the site being more sustainable as a location for development.

Heritage

25. The appeal site has a number of heritage assets nearby. One of the closest is the Grade I listed St Giles Church, Tonge. This lies to the east, across Church Road, Tonge. There is acknowledgement that the setting of the church would be affected by the proposal. I observed the church in its surroundings, and note that the setting includes some modern housing to the north and a water pumping station to the south. Furthermore there is extensive vegetation cover around the church such that its setting is tightly defined. It is not experienced to any significant degree in long distance views. I therefore agree that the impact of the proposal on the setting of the church would be at the lower end of the less than substantial spectrum.
26. Similarly the impact on the setting of other heritage assets, such as the Grade II listed buildings to the north-west, and the Tonge Conservation Area, would be at a similar low level. Hence the impact on heritage assets would not of itself preclude the development as proposed.

Landscape

27. The appeal site is well enclosed by vegetation and there is little perception of it from surrounding roads. It is most notable when seen from the public right of way which crosses the site. But even then tree and hedgerow belts mean visibility into the countryside is limited. Two parcels of the site are, or have recently been, used for arable purposes. The south-west parcel is relatively unkempt. Overall the character is that of urban fringe, being heavily influenced by the golf centre to the north, housing to the west and employment land to the north-west. It has no great landscape quality, albeit that I realise local people appreciate it as a green area in close proximity to their homes.
28. That would, of course, change with the proposed development. But the parameter plans submitted indicate that a great deal of the site would be retained as open land, suitably landscaped. There would be a net gain in biodiversity and I accept the intention to provide landscape enhancements and

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public access in accordance with Policy MU2. In my judgement the proposal would not be materially harmful to the character of the landscape and has the potential to improve its appearance by careful and appropriate landscaping.

Quantum of Development

29. A number of representations have centred on the fact that the quantum of development proposed is significantly higher than envisaged by LP Policy MU2. But the policy does not set a limit to numbers of dwellings. In a situation where the Council has a shortfall of housing land supply there is in the policy nothing to prevent extra dwellings being located here. The proposal before me allows for the safeguarding of the potential routes for the completion of the NRR, and it therefore accords with the policy as a whole.
30. This matter is closely allied to the concerns expressed in relation to the loss of countryside and the potential for the coalescence of Sittingbourne and Tonge. Again, however, the land is part of an allocated site and has been accepted as a focus for some development. Although this application is made in outline it seems to me that any future reserved matters applications would be capable of preserving a physical gap between settlements. There would also be likely to be greater public access to areas of countryside following development. The proposed development does not, in principle, conflict with the objectives of Policy MU2.

Appropriate assessment

31. The site lies close to the Swale Special Protection Area (SPA) a European designated site afforded protection under the Habitats Regulations². It is also a Site of Special Scientific Interest (SSSI). As decision maker it is my duty to carry out an appropriate assessment in order to consider the impact of the proposal on that area. Information provided during the appeal proceedings make it apparent that it would not be possible to provide on site mitigation for the potential impacts of dog walking and cat predation. Hence the proposal has the potential to affect the features of interest of the SPA. It is stipulated by Natural England that within 6km of the SPA (as here) mitigation can be provided by securing financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Managing and Monitoring (SAMM) Strategy. This would ensure that the development would not have an adverse effect on the integrity of the SPA. The S106 obligation (which I deal with below) makes provision for the necessary contributions to the SAMM. As such I am satisfied that the scheme can be adequately mitigated and that the proposed development would not have an adverse effect on the integrity of the SPA.

S106 Obligation

32. A S106 Planning Agreement has been entered into by the Appellant, Kent County Council and Swale Borough Council. The agreement has a number of obligations which I set out briefly below:
- Monitoring contributions;
 - The provision of affordable housing beyond LP requirements;
 - Contributions to the SAMM (as noted above);
 - Air quality improvement contributions;
 - Contributions to bus service and bus gate improvements;

² Conservation of Habitats and Species Regulations

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- Healthcare and social care provision contributions;
 - Contributions to refuse bins and waste disposal facilities;
 - Contributions towards secondary education provision and land purchase for a new school;
 - Contributions towards community learning library provision and youth services;
 - Contributions to improvements to the local and strategic highway network, and the public right of way across the site;
 - The provision of travel vouchers for new residents;
 - Contributions to sports facilities.
33. This is a comprehensive suite of benefits which accord with the requirements of the LP and other policy documents. I am satisfied that each is necessary to make the development acceptable in planning terms, is directly related to the development and is fair and reasonable. This accords with the Community Infrastructure Regulations.
34. However, one offered contribution seems to me to be unrelated to the development. That is the offered contribution towards the repair of St Giles Church. Although the setting of the church would be affected in a minor way this does not seem to me to equate to a situation in which repairs to the church fabric are necessary to make the development acceptable in planning terms. Although it is an admirable objective to repair a Grade I listed building I cannot therefore agree that that particular contribution within the S106 Agreement meets the tests of the Regulations. I therefore cannot take that part of the Agreement into account in reaching my decision. That conclusion would not, of course, preclude the eventual developer from making voluntary contributions to a fund to repair the church.

Planning Balance

35. As can be seen above, I have found that the proposed development would not cause unacceptable harm to highway capacity or safety. It would accord with Policy MU2 of the LP. There are no other policies brought to my attention with which the proposal would be in conflict. Although out of date by virtue of the lack of a 5 year housing land supply Policy MU2 still carries significant weight. I therefore agree with the Appellant and the Council that the proposal, subject to the provisions of the S106 Agreement and necessary conditions (which I deal with below) accords with the development plan as a whole and should be permitted.

Conditions

36. The Appellant and the Council helpfully provided an agreed list of conditions which would be appropriate in the event of the development being permitted. In relation to the submission of reserved matters it is reasonable and necessary to include non-standard time limits in order to allow for the consideration of the future of the NRR. A further raft of conditions is necessary to clarify the details of the permission and the detail required at reserved matters stage in order to ensure that the development brought forward is of satisfactory standard and also takes account of the NRR.
37. Conditions requiring details of environmental and landscape management, construction details and management, working practices and hours, and biodiversity improvements are necessary in order to protect and improve local

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amenities and avoid unacceptable impact on residential living conditions. For similar reasons it is also necessary to impose conditions relating to drainage and external lighting. In order to ensure that safe and convenient access is provided conditions are necessary which relate to vehicular, cycle and pedestrian access (including improvement to the public right of way across the site) adequate parking and cycle storage, and the provision of safety measures. The provision of the proposed bus gate and bus access/bus stops is required and a condition to bring this about is necessary, in order to encourage the use of public transport. It is necessary to impose a condition requiring an archaeological scheme of investigation to ensure that any remains are properly recorded. In order to ensure no unacceptable future risk conditions dealing with potential contamination are also necessary. A condition requiring the installation of infrastructure to allow high-speed fibre optic connections is necessary and follows the policy set out in the NPPF.

Overall Conclusion

38. The proposed development would accord with the development plan as a whole and would not result in unacceptable harm. It would provide a range of benefits, including open market and affordable housing in a situation where there is an acknowledged lack of supply. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission in the cases of phases one and two, or ten years in the case of phases three and four; or three 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.
2. Application for approval of reserved matters (layout, scale, appearance and landscaping) by phase, referred to in Condition (1) above must be made not later than the expiration of the period set out below. The phases referred to being those set out in approved Phasing Parameter Plan Ref: 21.042.0115.P2 26th September 2022, beginning with the date of the grant of outline planning permission.
 - Phase One and Two: Three Years
 - Phase Three and Four: Eight YearsThe development of each phase shall be carried out as approved.
3. a) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for layout referred to in the condition the following shall be submitted to and approved by the local planning

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authority: finished site levels, 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

b) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for appearance referred to in the condition the following shall be submitted to and approved by the local planning authority: finished site levels: the palette of building materials and elevational designs.

c) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for scale referred to in the condition the following shall be submitted to and approved by the local planning authority: heights above ordnance datum including completion of finished levels.

d) Prior to or contemporaneous with the submission of any reserved matters by phase under condition (2) for landscaping referred to in the condition the following shall be submitted to and approved by the local planning authority: details of both hard and soft landscape works. 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. 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, or ten years for the structural planting along the southern and eastern boundaries, shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority

4. The reserved matters details design shall be in general conformity with the design code submitted as part and the application and in general accordance with the parameters as set out in the following approved parameter plans:
 - Site Location Plan Ref: 21.042.011.P1
 - Land Use Parameter Plan Ref: 21.042.0110.P1
 - Phasing Parameter Plan Ref: 21.042.0115.P2
 - Density Parameter Plan Ref: 21.042.0111.P1
 - Heights Parameter Plan Ref: 21.042.0112.P1
 - Open Space Parameter Plan Ref: 21.042.0113.P1
 - Road Hierarchy and Access Plan Ref: 21.042.0114.P2
 - Road Hierarchy and Access Plan Ref: 21.042.0134.P2
5. The reserved matters for layout submitted pursuant to condition (2) above shall include details of the provision of vehicle parking and secure covered cycle parking facilities. The development shall be carried out in accordance with the approved details.
6. No development shall take place in the areas shown as Phases 3 and 4 on the herby approved Phasing Parameter Plan (Drawing Reference: 21.042.0115.P2) whilst safeguarding for the Sittingbourne Northern Relief Road (Policy AS1) remains in an adopted Local Plan for the area unless a

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decision is made on the route which would exempt either Phases 3 or 4 from safeguarding, or 10 years has passed from the grant of planning permission.

7. Notwithstanding Phasing Parameter Plan (Ref: 21.042.0115.P2) if planning permission is granted for the Sittingbourne Northern Relief Road then in the event that the routing is within land shown as phase 3 or phase 4 then no development shall take place within that area of land shown as phase 3 or phase 4.
8. No dwellings other than those specifically permitted with access from Church Road, Tonge shall take access from that road. No vehicular access link, other than for emergency vehicles, shall be provided to allow a vehicular connection between Swale Way and Church Road, Tonge.
9. Prior to commencement of any works on any phase other than the extension of Swale Way and prior to any other clearance works, with the first reserved matters application, a detailed ecological mitigation strategy (EMS), based on the outline EMS provided in the Environmental Statement Volume 4 Appendix C3 shall be submitted to, and approved in writing by, the local planning authority. The strategy shall be implemented as approved.
10. Prior to the commencement of any development on any part of the site other than the extension of Swale Way, a landscape management plan for the whole of the remaining parts of the MU2 site within the applicant's ownership shall be submitted to and approved in writing by the local planning authority. This shall show the improvements to biodiversity, landscape and to public access to this land as required by adopted local plan policy MU2. The landscape management plan shall be implemented as approved.
11. Prior to the commencement of works on any phase, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The LEMP shall include details of legal and funding mechanisms by which the long term implementation of the plan will be secured and shall include the following:
 - Description and evaluation of features to be managed;
 - Ecological trends and constraints on site that might influence management;
 - Aims and objectives of management;
 - Management prescriptions for achieving aims and objectives;
 - A work schedule, including an annual work plan capable of being rolled forward over a 5 year period;
 - Details of the body or organisation responsible for implementation of the plan and the legal and funding mechanisms to secure delivery;
 - Ongoing monitoring and remedial measures.The LEMP shall be implemented as approved and retained thereafter.
12. Development on any phase shall not commence until there has been a biodiversity gain plan submitted to and approved in writing by the local planning authority for that phase. The biodiversity gain plan must demonstrate how the proposal will contribute to the development achieving

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a post development biodiversity value will be a minimum of 10% higher than site pre-development biodiversity value. The calculation shall be in accordance with biodiversity metric 3.1 and based on the biodiversity net gain calculations submitted to Kent County Council Ecology and the local planning authority on the 26th of October 2022. The post development biodiversity value may include off-site biodiversity gain under the control of the applicant and purchased biodiversity credits. This gain plan shall be implemented as approved and shall thereafter be maintained for a minimum period of 30 years in line with the biodiversity gain plan.

13. Development shall not begin until the layout reserved matters details submitted as required by Condition 2 are approved for that phase, with a detailed sustainable surface water drainage scheme for the site submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment & Outline Surface Water Drainage Strategy prepared by RSK dated May 2022. The development hereby permitted shall be carried out in accordance with the approved drainage scheme and shall not be occupied until a verification report showing the details of the implementation of the scheme has been submitted to and approved in writing by the local planning authority.

14. No development shall commence on any phase until the developer has submitted a scheme detailing and quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The scheme shall be submitted to and approved in writing by the local planning authority and shall be implemented as approved. The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy - using the planning system to reduce transport emissions - January 2010.

15. 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 on those parts of the site which have not been subject of brickearth extraction, in accordance with a written specification and timetable which has been submitted to and approved in writing by the local planning authority.

16. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The construction of the development shall then be carried out in accordance with the approved CEMP and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) The code shall include:

- Hours of working and timing of deliveries;
- An indicative programme for carrying out the works;
- Measures to minimise the production of dust on the site;
- Measures to minimise noise (including vibration) generated by the construction process;
- Design and provision of site hoardings;
- Management of traffic visiting the site(s) including temporary parking or holding areas;
- Provision of off-road parking for all site operatives;

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- Measures to prevent the transfer of mud and extraneous material onto the public highway;
- Routing of HGV construction and delivery vehicles to/from site, including the maximum number of vehicles per day;
- Measures to manage the production of waste and to maximise the re-use of materials;
- Measures to avoid the potential for pollution of groundwater and surface water;
- Provision of wheel washing facilities;
- Temporary traffic management/signage;
- The location and design of site office(s) and storage compounds;
- The location of temporary vehicle access points to the site during the construction works.

17. None of the hereby approved units shall be occupied prior to the completion of the extension of Swale Way to the residential access to the site.
18. Prior to occupation of any of the units in phase 4 details of the emergency services/pedestrian/cycling only gate between phase 4 and the Heron Fields estate to the West shall be submitted to an approved in writing by the local planning authority, and these approved details shall be implemented.
19. No units of phase 2 shall be occupied until a scheme of improvement for the public right of way crossing the site, including associated landscaping, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
20. Prior to occupation of any of the units in phase 3 details of the emergency services/pedestrian/cycling only gate between phase 3 and the units south east of this gate accessing onto Church Road shall be submitted to and approved in writing by the local planning authority, and these details shall be implemented as approved.
21. No dwellings shall be occupied until details of an induction bus gate onto the Great East Hall Way/Oak Road bus road and of bus access onto the internal loop road with bus bays and stop facilities 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 thereafter retained.
22. No dwellings shall be occupied in phases 3 or 4 of the development hereby permitted until a scheme for the introduction of a pedestrian crossing on Tonge Road has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.
23. Prior to first occupation of any unit on a phase by phase basis details shall be submitted and approved in writing by the local planning authority for the installation of fixed telecommunication infrastructure and high-speed fibre optic (minimal internal speed of 1000mbps) connections to multi point destinations to all buildings including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development.

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24. Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall 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.
25. Prior to the occupation of any dwelling in each phase of the development details of all external lighting in public areas of that phase shall be submitted to and approved in writing by the local planning authority, and the details shall be implemented as approved.
26. The development hereby permitted shall not commence until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:
- A site investigation based on the phase 1 study included in the Environmental Impact Assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment carried out. 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;
 - A closure report is submitted upon completion of the works. The closure report shall include full verification details of remediation undertaken. 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.
- The scheme shall be implemented as approved.
27. If during construction/demolition works evidence of potential contamination is encountered, works shall cease on the area of contamination and that area shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the local planning authority and the remediation has been completed as approved. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:
- any sampling and remediation works conducted and quality assurance certificates to demonstrate that the works have been carried out in full in accordance with the approved methodology;
 - post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report

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together with the necessary documentation detailing what waste materials have been removed from the site;

- if no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

28. At least 5 of the hereby permitted dwellings shall be provided to Part M4(3) standard. The remaining homes should be provided as Part M4(2) standard (accessible and adaptable dwellings).

29. Prior to the first use or occupation of the any part of the development within phases 3 and 4 as hereby permitted, the buildings shall have been constructed or modified to provide sound insulation against externally generated noise from the Sittingbourne Northern Relief Road and/or the Chatham Main Line to standards in the Swale Borough Council's Noise and Vibration Planning Technical Guidance Document (May 2020) in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The affected buildings shall be constructed and retained as approved thereafter.

30. Construction working on the site to be identified in the CEMP shall not take place outside of the following hours:

- Monday to Friday 0730 to 1800
- Saturday 0800 to 1300

There shall be no construction work on Sundays or Bank Holidays.

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

- Monday to Friday 0900-1700 hours.
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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Westmoreland Smith Counsel
No witnesses were called

FOR THE APPELLANT:

Mr J Strachan King's Counsel
He called:
Mr R Brass BSc(Hons) Partner, Knight Frank
DipTP MRTPI
Mr J Bancroft BSc(Hons) Director, Vectos (South) Limited
MSc MBA MIHT

INTERESTED PERSONS:

Mrs G Beer Parish Councillor, Tonge Parish Council
Mr P Townson Chairman, Teynham Parish Council – attended
via videolink
Mr J Hall Borough Councillor, Swale BC
Mr S Best Local Resident

DOCUMENTS submitted at the inquiry (and subsequently by agreement)

- 1 Opening Statement for the Appellant
- 2 Opening Statement for the Council
- 3 Documents from Mrs Beer
- 4 Documents from Mr Hall
- 5 Draft S106 Obligation
- 6 CIL compliance statement
- 7 Revised and agreed suggested conditions
- 8 Written statement from Teynham Parish Council
- 9 Closing remarks on behalf of the Appellant
- 10 Certified S106 Agreement

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The Planning Inspectorate

Appeal Decision

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2023

Appeal Ref: APP/V2255/X/22/3312420

Warren Farm, Warden Road, Eastchurch, Sheerness ME12 4HD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Micheal Webb against the decision of Swale Borough Council.
 - The application ref, dated 31 August 2022, was refused by notice dated 30 November 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is continued use of a mobile home for residential use.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the existing use from the application form in the banner heading above. It is clear from this and the evidence that the appellant is seeking to establish whether the existing use of the land for the siting of a mobile home for residential purposes is lawful.
3. As the decision rests on a legal matter a site visit was not necessary in order to determine the appeal.

Reasons

4. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The case must be considered solely on the relevant legal tests and the planning merits are of no relevance. The appellant must show, on the balance of probabilities, that the development was lawful at the date of the application. The main issue is whether Council's refusal to grant the LDC was well-founded.
5. Section 191(2)(a) of the 1990 Act provides that uses are lawful at any time if no enforcement action may be taken in respect of them because the time for enforcement action, 10 years in this case, has expired. There is no dispute between the parties that the mobile home has been in residential use for a sustained period of more than 10 years prior to the date of the application and I have no reason to disagree. However, that is not the end of the matter.
6. Section 191(2)(b) of the 1990 Act provides that uses and operations are lawful at any time if they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

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7. An enforcement notice was issued on 14 January 2014, with an effective date of 13 February 2014 unless an appeal is made against it beforehand. The enforcement notice plan indicates that the notice covers the area of land for which the LDC is sought. An appeal was made against the enforcement notice and the notice was upheld with corrections on 28 October 2014. As corrected, the breach of planning control alleged by the notice is:
- ‘the material change of use of the land to land used as a caravan site for the stationing of a caravan/mobile home used for residential purposes and land used for the keeping of animals not associated with any agricultural activity, and the erection/stationing of buildings/field shelters, structures, stables, fencing, material and equipment used to facilitate the housing of such animals’.
8. As corrected, the requirements of the enforcement notice are to:
- (i) cease the use of any part of the Land as a caravan site for the stationing of any mobile homes or caravans for residential use, or for the keeping of animals not associated with any agricultural activity;
 - (ii) remove any caravans/mobile homes used for residential purposes from the Land;
 - (iii) remove any animals not associated with any agricultural activity on the Land;
 - (iv) Remove any structures, buildings, field shelters, stables, fencing, materials and equipment brought on to or erected on the site including any works undertaken in connection with the use of the site for stationing of caravans or mobile homes for residential use or for the keeping of animals not associated with any agricultural activity on the Land.
9. The notice is in force because it was upheld following the appeal. Requirements (i) and (ii) require the use of any part of the land as a caravan site for the stationing of any mobile homes or caravans for residential use to cease, and for any caravans/mobile homes used for residential purposes to be removed.
10. The use for which the LDC is sought is therefore in contravention of the requirements of an enforcement notice that is in force. Under section 191(2) of the 1990 Act the use is not lawful.
11. It is clear from the wording of the alleged breach of planning control and the requirements that the notice is attacking a residential use. It is not the case, as suggested by the appellant, that the notice is concerned only with a residential use associated with looking after animals.
12. The appellant argues that the enforcement notice was not properly served or registered as it is not included on the land charges register. The validity of the enforcement notice can only be questioned through an appeal under section 174. The appellant was able to appeal against the notice so must have been aware of the notice when it was served. There was no appeal on ground (e), that copies of the enforcement notice were not served as required by section 172 of the 1990 Act. There is no requirement to serve a notice on the planning agent as suggested in this case, unless they are the owner, occupier or have an

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interest in the land that is materially affected by the notice, as set out in section 172(2).

13. The Council can exercise discretion in enforcing the requirements of a notice. That the Council allowed the use to continue due to the personal circumstances of the occupier of the mobile home does not indicate that the enforcement notice is no longer in force. The indications given by the Council's Planning Officer that she was recommending approval do not have any bearing on my decision.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of continued use of a mobile home for residential use was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

N Thomas

INSPECTOR

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Appeal Decision

Site visit made on 8 November 2023

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/V2255/W/22/3312785

The Mounted Rifleman, Luddenham, Faversham ME13 0TL

- 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 M S Mcstay against the decision of Swale Borough Council.
 - The application Ref 22/502168/FULL, dated 28 April 2022, was refused by notice dated 24 June 2022.
 - The development proposed is described as the enclosed is a full planning application for the residential redevelopment of the existing piggeries to create a new three bedroom eco home.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, employment opportunities and facilities;
 - The effect of the proposal on the character and appearance of the local area with particular regard to the local landscape and the countryside as a whole;
 - The effect of the proposal on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, The Mounted Rifleman.

Reasons

Suitable location

3. The appeal site lies within a small cluster of houses in a rural area accessed via quiet, single track roads. It is a parcel of land containing a small orchard and piggeries located beyond the rear garden boundary of a Grade II listed dwelling known as The Mounted Rifleman. Vehicular access to the site is from a gravelled driveway running along the rear garden of the Mounted Rifleman. The proposal relates to the demolition of existing piggeries to be replaced by a new single storey dwelling. At the time of my site visit the piggeries were being used for ancillary residential storage.

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4. Immediately to the west is a former outbuilding, also within the appellant's ownership, which I understand, is now in use as a holiday let. To the south of the appeal site, are a pair of semi-detached cottages known as 1 and 2 Elverton Cottages, and to the north is another residential property, Elverton Bungalow. To the east is open countryside and agricultural fields which contribute to the site's rural setting.
5. As the appeal site is set within a small cluster of buildings in residential use, it does not appear isolated within its immediate environment. Nor is it isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, it is in a rural setting, some distance from the nearest settlement.
6. Policy ST3 of Bearing Fruits 2031: The Swale Borough Local Plan (2017) (LP) sets out the strategic approach to the location of development. It identifies that, through the use of previously developed land within defined built up area boundaries, development proposals will be permitted in accordance with the following settlement strategy: the urban areas of Sittingbourne, Faversham and Sheerness are the principal focus for development together with development at rural local service centres and other villages with built-up area boundaries shown on the Council's Proposals Map.
7. The main parties agree that the proposal would be located outside any defined development boundary and, consequently, would be within an area of open countryside. The appellant describes the appeal site as previously developed land, comprising an existing building which is within the residential land ownership of the Mounted Rifleman and has been in ancillary residential use since 1992. Nevertheless, even if I were to agree that the site constitutes previously developed land, this would not negate the need for the development to meet the locational criteria outlined in Policy ST3.
8. In relation to sites within the open countryside, Policy ST3 states that 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.
9. I note the appellant's reference to paragraph 80 of the Framework, which identifies specific instances whereby the development of isolated homes in the countryside may be appropriate. However, as outlined above, I do not find that the appeal site is isolated in the context of paragraph 80. The provisions of paragraph 80 do not therefore weigh in favour of the proposal. Notwithstanding this, as the proposal involves the demolition of the piggeries it would not involve the re-use of redundant or disused buildings, as required by paragraph 80 (c) of the Framework, nor does it adhere to any of the other circumstances outlined under paragraph 80.
10. However, the appeal site's lack of isolation with regard to paragraph 80 does not mean that the site would be reasonably accessible to services when considered in the context of other requirements of the Framework, nor would it promote the sustainable development in rural areas sought by paragraph 79. The Framework, although encouraging the use of brownfield land at paragraph 120 (c) is clear that this should be within settlements rather than in open countryside.

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11. To access services and facilities within Teynham which is identified as a "Rural Local Service Centre", the occupants of the proposed dwelling would have to walk or cycle along the remote, narrow rural lanes, which are unlit and would be a less attractive route outside daylight hours. Furthermore, there are no dedicated cycle lanes or footpaths for the majority of the route. Therefore, the route is unlikely to be an attractive option for walking and cycling outside of daylight hours or during inclement weather. The nearest train station is located several miles from the appeal site which is likely to make this mode of transport an unappealing choice without the use of a car.
12. For the reasons given, essential services, facilities and employment opportunities would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the lack of safe pedestrian and cycle routes and having limited options for alternative modes of transport.
13. As such, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the Local Plan for the proposal, having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. The proposal fails to accord with Policies ST1, ST3, CP3 and DM14 of the LP. Amongst other things, these policies set out the Swale settlement strategy, seek to limit development in the open countryside and minimise less sustainable forms of travel when accessing local services and facilities. For similar reasons the proposal would also fail to accord with the sustainability objectives of the Framework.
14. I have had regard to Policy DM3 of the LP which seeks to protect opportunities for rural employment from loss to residential use. The piggeries are not in agricultural use, and from the evidence before me have not been for a significant period of time. On this basis, the policy has not been determinative in my reasoning on the issue.

Character and appearance

15. The narrow winding lanes often enclosed by hedgerows, and the undulating landscape of agricultural fields, marked by limited built development provides the appeal site with a tranquil landscape character.
16. The dense boundary vegetation and adjoining holiday let would largely screen views of the proposal from Elverton Lane. However, the east of the site is open and visible in views from the open countryside, and the proposal would be visible from distant vantage points. The piggeries do not intrude excessively on the setting because they have a simple agricultural character which blends into the surroundings.
17. I accept that the design of the proposal would only result in relatively small increases in ridge and eaves heights when compared to the existing piggeries and the materials proposed for the dwelling, when viewed in isolation, are considered acceptable.
18. However, the infilling of the existing courtyard area would create a building with a significantly larger floor area than the piggeries. The larger floor area and introduction of a roof form punctuated with roof lights, and an elevation with a large area of glazing would be in contrast to the piggeries existing simple agricultural form.

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19. Furthermore, the residential use is likely to involve the introduction of additional domestic paraphernalia and an enlarged car parking area associated with the independent residential property.
20. Despite the proposed replacement tree planting, which the appellant indicates could be secured by planning condition, the additional built form and associated domestic paraphernalia would have an urbanising impact on the appeal site and wider local landscape. The Swale Landscape Character and Biodiversity Appraisal SPD (2011) describes the character of the Teynham Fruit Belt as an undulating landscape composed of small hills and valleys, with orchards and some hop fields. The overall condition of the landscape is rated moderate, and landscape sensitivity is also rated as moderate. Regardless of whether the site is located within the Teynham Fruit Belt or within its setting, I find that the proposal's urbanising effect would have a harmful impact on the local landscape.
21. In addition, the dwellings on this part of Elverton Lane front, or are clearly visible from, the road. In contrast, the proposal would be located to the rear of the neighbouring properties and away from the road. The introduction of a new dwelling in this position would be an uncharacteristic feature within this part of Elverton Lane.
22. For the above collective reasons, I conclude that the proposal, due to its urbanising effect, would be harmful to the character of the local landscape and detrimental to the countryside as a whole. I therefore find that it conflicts with Policies DM14 and DM24 of the LP which, amongst other things, expect development to conserve and enhance the natural environment in non-designated landscapes and for development to be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location.

Listed building

23. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me, in determining this appeal, to have special regard to the desirability of preserving the listed building, or its setting, or any features of special architectural or historic interest which it possesses.
24. The List description confirms that the Grade II listed Mounted Rifleman (the LB), was listed in 1986 and dates from the eighteenth century. It is two storeys in height, with an attic. Amongst other things it is described as being constructed in red and blue chequered brick with a plain tiled roof, and two hipped dormers.
25. The significance of the LB is derived mostly from its age, architectural quality, its setting within a spacious, verdant garden and its contribution to the rural character of the area as a traditionally constructed former public house.
26. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification.

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27. The proposal would replace an existing utilitarian agricultural building that is of limited quality. The development would reflect the form and scale of the building that existed previously, albeit larger and with a modern interpretation and additional glazing. Although including rooflights, the proposed building would be single storey. It would remain clearly subservient in scale to the LB.
28. The LB's spacious and verdant garden contributes positively to its rural setting and thus special interest and significance. The piggeries are located beyond the garden, a considerable distance from the LB to the rear of the site. It is separated from the LB by tall, dense planting surrounding the garden, and additional outbuildings in between the LB and the piggeries, and as such there is very limited intervisibility. Due to the extent of vegetation and screening, the proposal would be evident only from very limited views from the rear of the LB's garden but not from Elverton Lane or from the LB's driveway, from which the significance of the LB is most evident. As a result, the design and mass of the proposal would not appear out of place. Consequently, the proposal would have a neutral effect on the setting of the LB.
29. Given the above I conclude that, on balance, the proposal would preserve the special interest and setting of the Grade II LB. This would satisfy the requirements of the Act and paragraph 197 of the Framework. Consequently, the proposal would comply with policies CP8, DM14, and DM32 of the LP. These seek, amongst other things, for development to conserve and enhance heritage assets.

Other matters

30. The appeal site lies less than 6km from the Swale Special Protection Area (SPA), which is designated at international level because of its special ecological importance for rare and vulnerable bird species. Within this distance around the SPA, the Council is concerned, on the advice of Natural England, that any new residential development is likely to add to the existing pressures and disturbance experienced by the SPA, in terms of recreational use, dog walking and predation by domestic pets. Under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), planning permission may not be granted for development likely to have a significant adverse effect on the SPA, either alone or in combination with others.
31. The Council, together with neighbouring authorities and Natural England, has developed a scheme of Strategic Access Management and Monitoring (SAMMs), which enables the potential impacts of individual developments to be mitigated by means of a financial contribution, secured by a Section 106 obligation. However, even though the appellant has indicated a willingness to enter into an agreement to address any mitigation required to address concerns related to the SPA I have no such agreement before me. In any event, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.
32. The Framework seeks to significantly boost housing supply. It also encourages the optimal use of underutilised land, and states that, where there is shortage of land for meeting identified housing needs, planning decisions should avoid homes being built at low densities. However, any weight attributed to these factors is tempered by the Framework's expectation that developments prioritise pedestrian and cycle movements. The Framework also gives

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substantial weight to the value of using suitable brownfield land within settlements for housing, rather than land in the countryside as is the case with this proposal.

33. I recognise that the proposal would incorporate low-carbon technologies, be energy efficient and would provide additional energy through a proposed 10Kw solar array. The proposal would also provide three new electrical vehicle charging points, cycle storage and landscaping to offset trees lost as a result of the proposal. These matters weigh in favour of the proposal.
34. The proposed dwelling would also have good internal space, with a functional layout and future occupiers would have a generously sized external amenity area. The proposal would be constructed to Kent Police Secure by Design Standards. I acknowledge that the proposal may be compliant with various other provisions of the development plan, and, for instance, would provide a policy compliant quantum of off-street car parking, sufficient off-road turning space and surface water drainage via soakaways. I am satisfied that no harm would arise to archaeological interests subject to the condition recommended by the Kent County Council advisor. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.

Planning Balance and Conclusion

35. The appellant and the Council are in agreement that the Council cannot demonstrate a 5-year housing land supply. The appellant indicates that the Council has a 4.6-year supply of housing land, whilst the Council's Statement of Housing Land Supply 2022/23 (March 2023) indicates a housing land supply of 4.83 years.
36. However, even if I were to conclude that there is a shortfall in the five year housing land supply on the scale suggested by the appellant, as the proposal relates to development less than 6km from a designated habitats site, the application of policies in the Framework that protect areas or assets of particular importance, as given in footnote 7 of paragraph 11(d)(i), provide a clear reason for refusing the development proposed.
37. Alongside my findings in respect of the character and appearance, I have found that this site is not a suitable location for the proposal having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities.
38. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR

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