

2.6 REFERENCE NO - 18/500688/FULL			
APPLICATION PROPOSAL Removal of condition 6 of planning application 16/507275/FULL (Extension of existing private road with turning tee and the erection of two 2 storey detached dwellings with integral garages) - to allow houses to be made available as market housing.			
ADDRESS Land South Of 4 Beaumont Davey Close Faversham ME13 8XR			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is in accordance with Bearing Fruits 2031: The Swale Borough Local Plan 2017			
REASON FOR REFERRAL TO COMMITTEE Town Council Objection			
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Kent Fire And Rescue Service AGENT Batcheller Monkhouse	
DECISION DUE DATE 06/04/18	PUBLICITY EXPIRY DATE 23/03/18	OFFICER SITE VISIT DATE 23.04.2018	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/500667/FULL	Removal of Condition 4 of planning permission SW/13/1399 (Removal of condition 8 of SW/89/0400, to allow occupation other than only by fire service personnel) - to allow 4no. houses to be made available as market housing.	Ongoing – included elsewhere on this agenda	
16/507275/FULL	Extension of existing private road with turning tee and the erection of two, two storey detached dwellings with integral garages	Approved	09/12/2016
SW/13/1399	Removal of Condition 8 of SW/89/0400	Approved	06/01/2014
SW/89/0400	Creation of six new houses for fire service personnel	Approved	22/03/1990

1.0 DESCRIPTION OF SITE

- 1.01 The site is open land adjacent to and south of four detached houses constructed in the early 1990s adjacent to Faversham Fire Station. The houses were constructed to house Fire Service personnel, and Condition 8 of planning reference SW/89/0400 of that permission required that the occupation of those houses was only to be for Fire Service personnel and their families, as the site was at that time outside of the Local Plan defined established built-up area of Faversham, where such development would not normally be permitted. Six houses were permitted on a site which includes the current application site, but only four were actually constructed. This application relates to the remainder of the approved development site.
- 1.02 In 2014, an application to remove Condition 8 of SW/89/0400 was approved, but Condition 4 of the new permission then stated that the houses would now only be

open for rented affordable housing through an established Housing Association, again due to their position outside the established built-up area boundary and to retain some community benefit from approval of the original development in a location where housing would not normally have been permitted.

- 1.03 Following discussions with officers an application to build the last two houses originally permitted under planning reference SW/89/0400 was approved under planning reference 16/507275/FULL in 2016. Condition 6 of the permission again restricted the use of the houses for affordable housing use only.
- 1.04 The new Local Plan 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' was adopted by the Council on 26th July 2017. Part of the many changes incorporated within the plan included a re-alignment of the built-up area boundary of the town which brought this particular site from outside the boundary to inside it.

2.0 PROPOSAL

- 2.01 The proposal is for the removal of Condition 6 of 16/507275/FULL to allow for the use of the houses as open market housing. Construction of the houses has not as yet commenced. The condition in question reads;

(6) The occupation of the houses shall be limited to persons for whom their occupation of the properties is controlled by a Registered Social Landlord as affordable housing as defined in Annex 2 of the National Planning Policy Framework (2012).

Reason: As the dwellings were only approved outside of the established built-up area boundaries as they constitute a public benefit which outweighed the harm to the environment arising from their construction, and the Council is of the opinion that whilst the harm to the environment persists a public benefit should be maintained by restricting the use of the dwellings to affordable housing.

- 2.02 This proposal has been submitted as the changes to the established built-up area boundaries of Faversham have brought this site from outside the boundary line to inside it, making the principle of creating open market housing on this site acceptable.
- 2.03 The proposal is accompanied by a Planning Statement, which correctly identifies the policy issues surrounding this case, as follows:

'Kent Fire and Rescue struggled to find an affordable housing provider willing to take on the management of the four properties at Faversham Fire Station with the only provider registering interest being West Kent Housing Association (WKHA). WKHA made their own application under reference SW/16/507275 to build the final two dwellings approved in SW/89/0400 but to a larger scale. This was approved in 2016 and remains extant. Unfortunately, the sale transaction with WKHA has fallen through.

In the interim, Swale Borough Council has adopted its new Local Plan which sees the fire station and the dwellings along Beaumont Davey Close now included within the settlement boundary, significantly changing the policy position surrounding the principle of development.

Kent Fire and Rescue Service are therefore currently in possession of four residential dwellings and an extant planning permission for two additional

dwellings that are demonstrably unattractive as affordable units but could be made available as market housing were the occupancy conditions to be lifted. This application therefore seeks the removal of Condition 6 of SW/16/507275 on the following grounds:

- *The inclusion of the fire station and associated properties within the settlement boundary in the Local Plan, negating the requirement for special justification for the dwellings as was required previously.*
- *Viability of the properties as affordable housing*
- *Demonstrable lack of interest in the properties from affordable housing Providers*
- *The ability to boost the supply of market housing in Faversham in accordance with the NPPF'*

3.0 PLANNING CONSTRAINTS

3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies ST1 (Delivery of Sustainable Development in Swale) and ST3 (The Swale Settlement Strategy)

5.0 LOCAL REPRESENTATIONS

5.01 No local representations have been received.

6.0 CONSULTATIONS

6.01 Faversham Town Council has asked for the application to be deferred, to be considered alongside their requests for information for the accompanying application (18/500667/FULL). Members will see the Town Council's response to that application elsewhere on this agenda, but essentially they object to this application because they do not consider that the site is in fact within the built up part of Faversham.

7.0 APPRAISAL

7.01 The key issue here is the principle of development and whether the condition remains necessary.

7.02 Were this to be a new application for new homes on this site at this time, the principle of development would be acceptable, as the site is now situated within the adopted Local Plan defined built-up area boundary, where sustainable development is generally approved. As such, it would not be necessary to restrict the occupancy of the properties. This variation of condition application should be assessed in the same way, asking whether or not the development without the condition would be acceptable in principle.

7.03 I acknowledge the desire of the Town Council to retain these properties for uses such as homes for homeless people and key workers, and I have every sympathy with that position, but this proposal must be decided in accordance with the new Local Plan, which now shows that the site is within the built-up area boundary, and that the

proposal is fully in accordance with Policies ST1 and ST3 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

8.0 CONCLUSION

8.01 As a result of the very recent adoption of the Local Plan, the planning status of this site has changed. This also applies to land on the opposite side of Ashford Road where planning permission was recently granted for nine new dwellings on site previously ruled out due to being outside the built up area of the town. The recently adopted policies within the Local Plan show that this is a site where sustainable development is acceptable in principle and, as such, I therefore recommend that the proposed removal of condition be approved.

9.0 RECOMMENDATION – GRANT Subject to the following conditions

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

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved drawings: 2016.WD.03, 2016.WD.04, 2016.WD.05, 2016.WD.06 and 2016.WD.07.

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

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

Reason: In the interest of promoting energy efficiency and sustainable development and to ensure that the details are correct before development commences.

- (4) Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure that the details are correct before development commences.

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

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

Reason: In the interests of residential amenity.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

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.

HABITAT REGULATIONS ASSESSMENT

This HRA has been undertaken without information provided by the applicant.

The application site is located approximately within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 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.

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 61 and 62 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 and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made 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; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- 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, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment.

In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above. For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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.

