

3.3 REFERENCE NO - 18/503385/FULL			
APPLICATION PROPOSAL			
New 3 bedroom self-build eco-home dwelling with garage and other associated amenities, to be built on the site of an existing dwelling and other buildings (already demolished).			
ADDRESS Little Miss Acres Farm Butlers Hill Dargate Kent ME13 9QH			
RECOMMENDATION - Refuse			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council support. Support from local residents			
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Dr Victoria Clayton AGENT Ms Miriam Layton	
DECISION DUE DATE 29/08/18	PUBLICITY EXPIRY DATE 03/08/18		
RELEVANT PLANNING HISTORY for the application site field			
App No	Proposal	Decision	Date
SW/09/0026	Siting of two mobile field shelters for the use of grazing animals.	Refused	05/03/2009
SW/04/0506	Plant nursery containing 2 polytunnels with no access to the public, including use of the barn across the road for storage	Withdrawn	
SW/04/0064	Plant nursery consisting of polytunnels, equipment store, staff room and portaloo.	Withdrawn	
SW/77/0334	Proposed farmhouse and garage in connection with an agricultural holding	Approved with agricultural occupancy condition	01/06/1977
SW/76/490	Erection of agricultural dwelling with office	Withdrawn	
NK/9/68/103E	Erection of farm house and garage (reserved matters)	Approved	26/02/1973
NK/9/68/103D	Erection of three bedroom bungalow and farm office (reserved matters)	Approved	16/03/1970
NK/9/68/103A	The erection of a replacement agricultural dwelling. (outline)	Approved with agricultural occupancy condition	16/09/1969
NK/9/68/103	Demolition of existing cottage and replacement by new dwelling and use of land as a site for the erection of new dwelling for farm manager.	Refused	15/09/1968
RELEVANT PLANNING HISTORY for the applicant's adjoining land			
SW/11/1013	(1) Change of use of land to keeping	Approved	01/12/2011

	of horses (2) Erection of 'American Barn' (3) Creation of vehicle access (4) Creation of all weather riding area		
RELEVANT PLANNING HISTORY relating to appeals dismissed for housing on other sites in Dargate			
15/505467/OUT	Outline (All matters reserved) - Redevelopment of site for 6 dwellings (<i>Chapel Plantation Nursery</i>)	Appealed for non-determination. Appeal Dismissed	17/06/2016
15/510551/FULL	Conversion of existing redundant outbuilding into single dwelling. (<i>Brook Farm</i>)	Refused. Appeal Dismissed	02/09/2016
SW/14/0391	Proposed dwelling to replace former cottage & associated works. (<i>Acorns, Butlers Hill</i>)	Refused. Appeal Dismissed	26/11/2014

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of part of the road frontage of an open field which adjoins the applicant's land on which planning permission was granted for keeping of horses and the erection of stables in 2011. It is situated along a quiet, narrow, country lane some considerable distance outside any built-up area. Dargate is a hamlet which boasts only a public house, whilst there is a small convenience store, coffee shops and a travel lodge at the petrol stations on the Thanet Way, over a mile away from the site by road. Access to most local facilities requires a car journey.
- 1.02 The site is part of a designated Area of High Landscape Value (Swale Level) as defined in the recently adopted Local Plan, but the area as a whole has been under pressure for housing developments in recent years, some examples of which are referred to elsewhere in this report. The site is adjacent to the Hernhill – Dargate conservation area which extends up to include the house on the opposite side of the lane; a lane designated as a protected rural lane in the Council's adopted Local Plan.
- 1.03 The site itself has a peculiar planning history having once been the site of a house, which was demolished between 1968 and 1975, with planning permissions for a new agricultural dwelling having been granted in 1968 and 1977 but apparently never implemented. The particular location of the proposed house is on or very close to the location of the original house and outbuildings (none of which now remain), as indicated on an extract from the 1907 Ordnance Survey map provided by the applicant.

2.0 PROPOSAL

- 2.01 The proposal is for the erection of a self-build three bedroomed two-storey house to Passivhaus standard, with a detached garage. To the front, the proposed property would be fairly orthodox in design in brick and tile hanging, whilst at the rear there are some more contemporary examples of architectural styling, including bolder glazing, a balcony and black weatherboard cladding. Pastel green external joinery is proposed. The house would have front and rear amenity spaces, and the detached double garage would be situated to one side of the house but closer to the lane than the house. It is proposed to plant a hedge across the site frontage.

- 2.02 The proposal is accompanied by a detailed Design and Access Statement, which explains that the applicant keeps horses on the adjacent site, and has bought the application site and wider field in 2017, since when she has gone to some time and expense in generally tidying up the site, including the removal of a considerable amount of detritus left by the previous landowner, and boundary treatment changes and new planting.
- 2.03 The Statement notes that there was a previous dwelling on the site, which appears to have existed from the mid C19 to the middle/late C20. The statement suggests that this property was removed from the site in the late 1960s, under planning reference NK/68/103A, and that its foundations can still be traced beneath the soil. In 1977, a new dwelling was approved on the site under planning reference SW/77/0334. However, that dwelling, which was approved the use of an agricultural worker only (condition 5) and the planning permission was never implemented. The applicant maintains that the site now constitutes previously developed land as the foundations of the original house still affect the growing quality of the soil, meaning that grass does not grow well there and the spot is covered in weeds.
- 2.04 The applicant has suggested that the character of the lane is that of sporadic houses and buildings, meaning that the proposed house will not adversely affect the character and amenities of the area. In addition, she suggests that the house opposite is already well screened from views and that the proposed house will also be well screened by new planting, not affecting local views towards the woodland behind. The site already has a road access, and the applicant says that the development will not increase traffic as she already visits twice a day to feed and look after her horses; and that local amenities are within easy reach at between 1.1 and 4.5 miles away, with a bus stop close by
- 2.05 The proposal also gives details of how the proposed dwelling would be a low carbon eco-home with large, shaded, south facing windows, smaller north facing windows, and features designed to gain, retain and store solar energy and reduce heat loss.
- 2.06 The applicant considers the proposal to constitute ‘affordable housing’, as without this self-build proposal she, as a vet and a single mother could not afford to buy a property in the village close to her horses, and would have to remain living with her parents in Herne Bay. The applicant also suggests that the Council has a housing supply shortage which this development will assist with; but Members will be aware that this is not the true situation in terms of housing supply.
- 2.07 The applicant presents details of planning policies at length, including Government support for self-build projects, but I deal with policy issues below.

3.0 PLANNING CONSTRAINTS

Adjacent to Conservation Area
 Near to Listed Buildings
 Outside established Built-up-Area Boundary

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework 2018 (NPPF): Paragraphs 8, 11, 12, 79, 83 and 196

4.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale), ST3 (The Swale Settlement Strategy), ST7 (The Faversham area and Kent Downs Strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), DM7 (Vehicle parking), DM9 (Rural exceptions housing), DM11 (Extensions to, and replacement of, dwellings in the rural area), DM12 (Dwellings for rural workers), DM14 (General development criteria), DM24 (Conserving and enhancing valued landscapes), DM26 (Rural lanes), DM32 (Development involving listed buildings) and DM33 (Development affecting a conservation area) are all relevant here.

4.03 In my view the key policies here are ST1, ST3, ST7 and DM11, although others are of relevance. Policy ST1 seeks sustainable development which accords with the Plan's settlement strategy. This is set out in policy ST3 (see below) and this is a location where a new build house would not normally be approved unless related to a functional rural need as provided for by policy DM12. That case is not advanced here, but the application focusses on the history of the site and maintains that the site should be seen as previously developed, and thus policy DM11 applies.

4.04 Previously Developed (or brownfield) Land is defined by the NPPF as;

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

In my view the remains of the former buildings here have quite simply disappeared from view. The fact that they may still affect ground and growing conditions is not part of the above definition. I suggest that the site should not be considered to be previously developed land, or a windfall site, but instead as rising land within an open field in an isolated location within an area of high landscape value.

4.05 Policy DM11 of the Local Plan relates to extensions to, or replacement of existing dwellings, and states;

“The Borough Council will permit the rebuilding of an existing dwelling in the rural area only if the proposed new dwelling is of a similar size and proportion, an appropriate scale, mass and appearance in relation to the original dwelling and location, or where it constitutes the most effective use of the land”.

In this case the previous house is long gone, and cannot be considered to be existing. Current policy is not to approve new housing just because a house might once have stood here. The policy relates to existing dwellings only. Members might also wish to bear in mind that the previous approvals were only for agricultural dwellings in situations where a house would otherwise not have been approved, as witnessed by the planning conditions restricting occupation of the approved dwellings.

- 4.06 The NPPF at paragraph 79 advises against isolated new dwellings in the countryside other than in exceptional circumstances, none of which apply here. Nor is the development likely to support services in adjacent villages as suggested by paragraph 78 of the NPPF as there are very few such facilities and most need will be met at Whitstable or Faversham.
- 4.07 The applicant has also mounted a case for this proposal to be seen as affordable housing, on the basis that she will build it herself using local labour and contractors, in a location where she would otherwise be unable to afford to buy a house. The Council's policy for rural affordable housing schemes is DM9 which states;

Rural exceptions housing

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

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

This policy is compatible with NPPF advice (paragraph 77) but the application is not compatible with the policy. The location is poorly related to local services, the scheme is not based on an assessment of local need, and it could in fact detract from the Parish Council's own ongoing efforts to secure a rural exception scheme at Staplestreet. I suggest that Members do not consider this to a true affordable housing scheme, with the sort of lasting community benefits that such a scheme ought to provide for. It is essentially a private scheme for the land-owner's benefit.

- 4.08 The site sites alongside a lane designated in the Local Plan as a rural lane, where policy DM26 seeks to safeguard against development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes. In this case

I believe that an additional dwelling here will detract from the generally undeveloped nature of the lane in question, to its detriment.

- 4.09 The site also lies adjacent to the Hernhill – Dargate conservation area. When designated in 1999 the Council’s appraisal of the area included the following assessment of its character;

“Dargate is a small settlement of scattered properties centred around the junction of two country roads: Plumpudding Lane (and a short length of Dargate Common Road) and Butlers Hill which strikes off south west towards Hernhill.

The loosely-knit pattern of development is much interspersed with orchards and other farmland. Whilst a majority of the properties in the hamlet date from the second half of the nineteenth century and later, there are also some much older buildings (one group dates from the 1500s). A number of properties built in and around Dargate between 1840 and 1910 are understood to have been associated with smallholdings, perhaps attracted to the area by the productive soils.”

The appraisal concluded as follows:

“Dargate is a modest and unassuming place. This modest, but fragile, character accounts in large part for the charm and identity of the hamlet. Key features are (a) the scattered and open form of development, with generous spaces around the individual buildings; (b) the rural simplicity of the buildings, as exemplified by Elm Tree and Meadow Cottages; (c) the presence of agricultural land within the hamlet, especially orchards; and (d) the limited range of traditional building materials which are present and which provides continuity in building character.”

My view is that to add new dwellings in the spaces between current loose-knit development will not be appropriate and will adversely impact on the setting of the area.

- 4.10 At paragraph 196 of the NPPF the advice is that where development will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. In this case I can see no any public benefit to offset the limited harm to the setting of the conservation area.
- 4.11 Finally, although the applicant mentions the self-build aspect of the proposal as being a positive factor, there is no policy support for self-build in an isolated location. The Council has opened a register for expression of interests, but this is meant to influence future policy rather than ad hoc planning decisions.

5.0 LOCAL REPRESENTATIONS

- 5.01 Thirteen letters and emails of support have been received, three from beyond Canterbury and from Whitstable and Herne Bay. Their contents may be summarised as follows:

- The applicant works hard as a veterinary surgeon and spends her spare time tending her horses on the site

- The applicant has tidied and improved the land considerably, which was in a very poor condition
- The new hedge will promote biodiversity
- There is evidence of a dwelling on this site from 1836; *'the exact date of the demise of the last house is largely irrelevant.'*
- If approved, the field will never be abused again
- The applicant will make a great neighbour
- The new property will blend in with and enhance the local area
- Proposed design in keeping with the village
- A previous planning permission for a house on the land has since lapsed
- A new house would bring security and stability
- If the Council supports this application, it will *'show support for local families in the area'*
- The Council should approve this application and encourage other developments like this
- We are in favour of supporting new developments in the village for young families
- Being an eco-home, the new house would be environmentally friendly
- There would be no extra traffic

5.02 One letter neither supporting or objecting to the application notes that when the conservation area was designated in 1999 the Council concluded that *"A feature of this quiet rural settlement is the open character of development with houses interspersed with orchards, so that the presence of the Kentish countryside is always evident"* and the Council felt it desirable to seek to preserve or enhance this. No decision should now be taken that will set a precedent for further house-building in the area where there are numerous agricultural plots which would be hard to decline and which would imperil the character of Dargate.

5.03 Five letters and emails of objection have been received from local residents (two from one person). Their views may be summarised as follows:

- The development will look overpowering and out of place on a slope
- In direct line of sight from my house
- Not sympathetic to the area
- High value agricultural land – the land is within the designated Boughton and Hernhill Fruit Belt
- The site is within an Area of High Landscape Value and the house would be an eyesore sited at the highest dominant point viewed from the Thanet Way bridge, with access onto a rural lane
- This is not a windfall site or previously developed land – it was an apple orchard until 2004, followed by pears
- No existing building – it was demolished in 1969; land is therefore not Previously Developed Land. The original cottage would not have had proper foundations, so what was left could easily have been ploughed away
- The tiny cottage was demolished years ago and the planning permission for its replacement lapsed over 40 years ago
- There are many recently sub-divided plots at Dargate with road frontages which could follow this pattern of development
- The permission for a dwelling on this site in 1977 limited the occupancy of the property to an agricultural worker; and it was never implemented
- *'When the government policy refers to removing barriers to 'custom self-build' they don't mean by ignoring local development policies to protect the wider*

- countryside (ST3), gazetted areas of high Landscape Value (DM24) and safeguards against piecemeal development adjoining conservation areas.'*
- *'The character of this simple hamlet is the reason that house owners moved here. Dargate is vulnerable to piecemeal development owing to spaces around existing buildings and recent sale of a significant number of parcels of abandoned horticultural land (this being one of them). There can be little doubt that granting planning for a residential dwelling on Little Miss Acres Farm could set a precedent for further housing development, the cumulative impact of which on nature and the countryside would be seriously adverse.'*
 - Proposal is not in accordance with Policies ST3, DM24 and DM33 of the Local Plan
 - Poor access to local services and public transport render this a poor location in terms of sustainability
 - A number of comments on the application come from people who are not neighbours
 - Adjacent to a listed building which it would adversely affect
 - Site is adjacent to Dargate conservation area and this proposal does not amount to positive change
 - Application fails to address the impact of the proposal on the valued landscape area, contrary to Paragraph 109 of the NPPF
 - *This would not be an affordable home; 'this house, if built, will be at as high a value as any other houses in the area, especially since it has ten acres of land as well as the applicant's existing barn/sand school/fields, etc.'*
 - Not an allocated site for housing
 - This is not affordable housing; if built the property will be as valuable as any other in Dargate, with 10 acres of land attached. It is not what the Local Plan expects from affordable housing

5.04 The applicant has responded to these issues as follows (in summary):

- The new house will be but a another dot in the landscape when seen from afar
- When the new hedge develops, very little would be seen from the road
- No right to a view
- Windows to front kept small to restrict views or impact on the house opposite
- Previous house on site, and permission for a new one has now lapsed
- This is a brownfield site due to the previous house and outbuildings
- The site has been tidied and improved; the site was neglected and abused before
- Local residents have remarked on the improvement to the land since my purchase, but it is now insulting for them to suggest that this was simply to pave the way for this application
- New gateway is smart, practical and safer
- Agricultural land reinstated for producing hay and grazing livestock, although it has not been an orchard in my time of knowing it
- There is a national need for new houses but no allocations for housing in Dargate – this suggest that it is intended for individuals to have permission granted on scheme merits
- To build a house on my land would enable me to move to Dargate, as there are no properties in the market locally that are within my affordability. The future monetary value of the property is irrelevant to this application, as it would be a lifetime home for me.

- The effects on the environment are positive, as the house would be eco-friendly

6.0 CONSULTATIONS

6.01 Hernhill Parish Council supports the proposal, for the following reasons:

- Evidence of at least one cottage on the site some time in the past
- Planning permission granted for a dwelling some time ago
- *'The applicant informed the meeting that she intended to occupy the property herself'*
- No adverse comments from adjoining neighbours at the time of the meeting

6.02 Natural England raises no objection. The site is within 6km of the Swale SPA but although a tariff system is in place to mitigate against additional recreational disturbance the Council does not normally seek contributions on single dwelling schemes.

6.03 Kent Highways and Transportation offer no comments on the application.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for applications 18/503385/FULL and other applications listed above.

8.0 APPRAISAL

8.01 The key issues to consider in this case are the principle of development on this site, residential and visual amenity, and any other material considerations. For the sake of regularity, I will take each of these in turn.

Principle of development on this site

8.02 Firstly, it must be acknowledged that the site is situated some distance outside any established built-up area boundary in an isolated location, so rural settlement policies are applicable in this case. The site is not allocated for housing, there are no nearby housing allocations and the Council enjoys a 5.3 year supply of housing land, as required by Government. The Swale settlement strategy is set out in Policy ST3 of the Local Plan. Policy ST3 clearly states that;

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

Paragraph 79 of The National Planning Policy Framework 2018 (NPPF) states that:

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

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

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

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

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

I would again contend that the proposal fails to meet these criteria. There are a number of cases very close to this site where development has been refused and dismissed at appeal in recent years due to the remote location of Dargate outside any established built-up area boundary.

- 8.03 An application for a two bedroom bungalow at a nearby property known as 'Acorns' was refused by the Planning Committee in 2014 under planning reference SW/14/0391. It should be noted that this application referred to an existing garage building which had previously been a separate dwelling, but was changed to garage use many years previously. The appeal was dismissed under reference APP/V2255/A/14/2223979, with the Inspector noting that;

'Dargate is a small village with no facilities or services, with the exception of a public house. The local filling station, just outside the village, has an associated small convenience store. However, most facilities that are required to meet the needs of residents are at either in Whitstable or Faversham, both of which are about five miles away, or in Canterbury, which requires a journey of more than six miles. Even though there is a local bus service, it seems likely to me that the car would be the most attractive and convenient way for local people to reach their preferred destinations.'

The Inspector further noted that;

'I conclude that the proposed dwelling would be an unsustainable form of development, due to its location in the countryside and outside a defined village boundary. It would fail to comply with the Framework's objective of only allowing housing development in rural areas where it can be demonstrated that it would enhance the vitality of a rural community'.

- 8.04 In a similar vein, an application for the conversion of an existing outbuilding to a dwelling at nearby Brook Farm under planning reference 15/510551/FULL was

refused for similar reasons to those under which the ‘Acorns’ application was refused. That decision was again appealed and dismissed, with the Inspector concluding that;

‘I find that the benefits of this proposal are outweighed by its disadvantages and that this would be an inappropriate location for a dwelling. The appeal is therefore dismissed.’

- 8.05 An outline application for six new dwellings at nearby Chapel Plantation was appealed under non-determination planning reference 15/505467/OUT. At that Appeal (APP/V2255/W/16/3144387), the Inspector dismissed the appeal, again for similar reasons referring to the unsustainable location outside any established built-up area boundary.
- 8.06 It should be particularly noted that, in all of these cases, the Inspectors involved dismissed the appeals even at a time when the Council did not have a 5 year supply of housing land, ruling against unsustainable development where any benefits are plainly outweighed by the harm it would cause to the countryside. These decisions are a sound basis for concluding that Dargate is not an area where new residential development should be permitted due to its isolation and distance from services.
- 8.07 The history of this site is peculiar, but I am emphatically of the opinion that this application should not be treated as a proposal for a replacement dwelling; the original dwelling has not existed for nearly fifty years, and the fact that the dwelling once existed does not mean that a building should be permitted on the site now. Nor do I consider the site to represent previously developed land. I am of the opinion that the removal of the dwelling and the residential use so many years ago indicates that the former residential use of the site has long since been abandoned.
- 8.08 Similarly, I am unconvinced by the argument that, as planning permission for a new agricultural dwelling on the site was granted in 1977, it necessarily follows that such a proposal should be approved now. The previous property had been removed less than ten years before that application was approved, and both national and local policy have changed and tightened considerably since that original application. Nor does the current application come forward on the same basis.

Residential Amenity

- 8.09 I note the concerns raised by local residents but the applicant is correct that there is no right to a view enshrined in planning law, and I note that the distances between the existing and proposed dwellings are within acceptable parameters. I am of the opinion that one single development is unlikely to produce a significant increase in traffic movements, etc., and, as such, I believe that the proposal would have little effect on the residential amenity of existing residents.

Visual Amenity

- 8.10 I willingly acknowledge that the applicant has made efforts towards improving the previously untidy site by clearing up the general detritus left on the site by the previous occupier. However, whilst this has improved the site it does not mean that a new house on the site would enhance the value and appearance of the countryside.

- 8.11 I am not adverse to the design of the proposed house and I welcome its environmental credentials, although I am not of the opinion that the scheme is one that will easily blend in with the surrounding area. It will appear as a traditionally designed house but that in itself does not justify new development in the countryside.
- 8.12 The addition of a dwelling here will detract from the character of the rural lane and will affect the open setting of the conservation area, all of which add to my concern over the acceptability of the proposal.

Other matters

- 8.13 The applicant already owns adjoining land on which she has erected stables and a manege. This was when she understood that she would have to travel from Herne Bay to look after the animals, but as a professional vet that was a matter that she will no doubt have taken into account. There is no suggestion now that there is any need to have a house here, and the stables were not permitted on that basis.
- 8.14 The self-build and affordable benefits of this development accrue only to the applicant, and the development will not represent a long-term affordable solution to the village's housing needs. The Parish Council is currently exploring a cross-funded scheme elsewhere in the parish, in line with the Council's adopted policy approach. Even if that were not to come to fruition I do not see this proposal as any kind of substitute, nor would this location be a favoured one to serve the local need, being in such a remote location.

The conservation of habitats and species regulations 2017

- 8.15 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.
- 8.16 Residential development within 6km of any access point to the SPA has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Modifications stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA on developments of 10 or more units, as ultimately agreed by the North Kent Environmental Planning Group and Natural England). These mitigation measures are considered to be ecologically sound.
- 8.17 However, 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 (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.

- 8.18 In this regard, there are likely to be impacts upon the SPA arising from this development and whilst the Council would expect the need for mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff only on larger schemes (at £301 per dwelling unit to be collected via a Section 106 Agreement) and not from small developments like this, this is a matter that may still need to be resolved at appeal stage.

9.0 CONCLUSION

- 9.01 As such, I am of the opinion that the proposal would be harmful to the appearance and tranquillity of the countryside in general, and to the immediate locality in particular, being situated adjacent to the conservation area and a listed building, and in an Area of High Landscape Value. Furthermore, the site is located in a remote, unsustainable location, on land some considerable distance outside any established built-up area boundary which is also not allocated for housing.

- 9.02 As such, the proposal is contrary to both local and national policies for development in the countryside, and I recommend that the proposal be refused.

10.0 RECOMMENDATION – REFUSE for the following reasons:

REASON

- (1) The proposed house and detached garage, being situated in an Area of High Landscape Value and in an isolated unsustainable location at a considerable distance outside any established built-up area boundary, would represent unsustainable and undesirable consolidation of sporadic development contrary to the approved Swale settlement strategy, harmful to the character of the local landscape, to the character of the rural lane and to the setting of the Hernhill – Dargate conservation area, and to the detrimental to the character of the countryside as a whole, contrary to policies ST1, ST3, ST7, DM11, DM14, DM24, DM26 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; and Paragraphs 8, 11, 12, 79, 83 and 196 of the National Planning Policy Framework 2018.

The Council's approach to this 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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any solutions to resolve this conflict. The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

It is noted that the applicant/agent did not engage in any formal pre-application discussions.

- 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.

