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Planning Committee Report - 11 October 2018

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PLANNING COMMITTEE – 11TH OCTOBER 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/503274/FULL			
APPLICATION PROPOSAL Erection of 1 detached 3 bedroom chalet bungalow.			
ADDRESS 82 Church Lane Newington Sittingbourne Kent ME9 7JU			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The changes proposed from approved bungalow would have an acceptable impact upon residential amenity, visual amenity and parking provision.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Hartlip, Newington And Upchurch	PARISH/TOWN Newington	COUNCIL	APPLICANT Mr K Cooper AGENT T Fleming Homes Ltd
DECISION DUE DATE 25/10/18	PUBLICITY EXPIRY DATE 20/09/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
Land to the rear of 80 and 82 Church Lane;			
18/501586/REM	Reserved matters of access, appearance, scale, layout and landscaping pursuant to outline permission 16/505663/OUT for erection of 1 detached 2 bedroom bungalow.	APPROVED	01.06.18
16/505663/OUT	Outline application for the erection of 1 detached 2 bedroom bungalow with all matters reserved for future consideration.	APPROVED	20.10.16
<i>This application was reported to Planning Committee at the same time as the below application. Officers recommended approval, and the application was approved, with a condition added restricting rooms in the roof space of the bungalow.</i>			
16/505653/OUT	Outline application for the erection of 2 no. 3 bedroom semi-detached houses with all	REFUSED	20.10.16

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	matters reserved for future consideration.		
<i>This application was reported to Planning Committee, with Planning Officers recommending approval, however this was overturned and the application was refused.</i>			
Existing bungalow at 82 Church Lane;			
18/500652/FULL	Conversion of loft into a habitable space and creation of a car port, including the removal of the existing roof and erection of a new wider roof with an increased ridge height.	APPROVED	29.03.18

1.0 DESCRIPTION OF SITE

- 1.01 The application site is situated to the north of the railway bridge in Newington. It forms part of the rear garden of 82 Church Lane and extends to the rear of 80 Church Lane. It is accessed via a private road which leads to a small garage court. The site is flat with typical domestic landscaping in place.
- 1.02 There are two storey modern estate dwellings to the north and north west. To the west is 82 Church Lane, a modest bungalow also owned by the applicant. To the south are the gardens of dwellings fronting on to Church Lane. To the east of the site is a terrace of two storey dwellings known as St Matthews Close.
- 1.03 Outline permission for a two bedroom bungalow was approved under 16/505663/OUT and details regarding access, appearance, scale, layout and landscaping were approved under an application for reserved matters, 18/501586/REM. Construction of the bungalow has not yet commenced.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a four bedroom chalet bungalow on the site. Two bedrooms, a bathroom and an open plan living/kitchen and dining room are proposed on the ground floor. In the roof space, two bedrooms and a bathroom will be created. Two parking spaces will be provided to the front of the chalet bungalow. The proposed chalet bungalow will be very similar to the approved bungalow on the site. The only change between this application and the approved bungalow is the addition of two rooms in the roof space resulting in two roof lights on the rear roof slope. For clarity, I have included both the outline (ref. 16/505663/OUT) and reserved matters (ref. 18/501586/REM) applications as appendix 1 and 2.
- 2.02 Amended plans were submitted, removing a bedroom on the ground floor by creating a larger open plan living/kitchen and dining room. An additional parking space was also provided to the side of the chalet bungalow. As such, the application now proposes a three bedroom dwelling with three parking spaces.
- 2.03 A new application for planning permission was required as a condition restricting rooms in the roof space of the approved bungalow was included on the outline application (ref. 16/505663/OUT).

3.0 PLANNING CONSTRAINTS

- 3.01 None

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4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.02 Development Plan: Policies ST1, ST3, CP3, CP4, DM7, DM14 and DM19 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.
- 4.03 The Council's Supplementary Planning Guidance entitled "Designing an Extension: A Guide for Householders" which was adopted on the 9th December 1992, is relevant and remains a material consideration having been through a formal review and adoption process.

5.0 LOCAL REPRESENTATIONS

- 5.01 Seven objections were originally received on the application. Their comments are summarised below:
- Two additional bedrooms could result in an increase in the number of vehicles at the property in an area that already suffers from parking issues.
 - The bungalow is surrounded by at least 8 other properties and will affect the outlook of many neighbours.
 - Two windows in the roof will result in overlooking.
 - The density of the roof space would cause even more overshadowing.
 - The rear garden is only 8m in length and the Council recommends a minimum of 10m, therefore the outside amenity space is inadequate.
 - Works would cause even more noise, smells, building material debris and disturbance than we are already going to face.
- 5.02 As we have received a total of seven objections to the proposal, I have contacted the relevant Ward Members and asked whether they would wish the application to be called in to be heard at the Planning Committee, as per the Council's Constitution. Both Cllr Lewin and Cllr Wright did not wish to call the application into Planning Committee, although Cllr Wright did note the garden does not comply with Council guidelines.
- 5.03 Subsequently, Newington Parish Council submitted comments objecting to the application, stating they opposed the original application for this development and they strongly object to this application. They note neighbours concerns regarding the access to the new property and mention the traffic issues in Church Lane, explaining that this proposal could result in additional vehicles parking either in Church Lane or the already congested private driveway. They also raise concerns about overlooking from the rooflights.
- 5.04 Amended plans were submitted and the description was altered. As such, neighbours and the Parish Council were re-consulted on the application.
- 5.05 A further three objections were received from neighbours. Their comments are summarised below:

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- Internal layout could be changed on the ground floor creating a four bedroom property.
- Outline application stated bungalow should be single storey, to prevent harm to visual amenity.
- All 3 occupants of the 3 bedroom chalet bungalow may own cars which could cause direct issues in the neighbourhood – frustrate visual and residential amenity and ability to have peace and relax.
- Already facing disruption with work that is going on at main bungalow No. 82.

6.0 CONSULTATIONS

- 6.01 KCC Highways & Transportation state the development does not meet the criteria to warrant involvement from the Highway Authority.
- 6.02 Southern Water has no comments to make with regards to the removal of condition 12. The comments in the original response dated 28.07.2016 remain unchanged and valid.
- 6.03 Environmental Health has no comments to make.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning applications 16/505663/OUT, 18/501586/REM and 18/503274/FULL.

8.0 APPRAISAL**Principle of Development**

- 8.01 The principle of development, scale, layout, access and landscaping of the proposed chalet bungalow has been determined under the applications for outline permission (16/505663/OUT – appendix 1) and reserved matters (18/501586/REM – appendix 2). Therefore only the changes between the approved bungalow and this application will be discussed here, namely the impact additional rooms in the roof space will have on residential and visual amenity and parking provision.

Visual Impact

- 8.02 Regarding the addition of two roof lights to the rear roof slope, I consider they would sit comfortably on the dwelling, and would not give rise to unacceptable impacts to the character and appearance of the property. I note due to their position on the rear roof slope they will not be visible in the street scene.

Residential Amenity

- 8.03 This application includes the addition of two roof lights to the bungalow. All other aspects of the design and scale of the dwelling were deemed acceptable under 18/501586/REM (appendix 2). As the two windows will be roof lights, I believe no overbearing / overshadowing impacts will arise. Concern was raised regarding potential overlooking from these windows. The windows would face onto the rear gardens of the properties along Church Lane but I note due to the position of the proposed bungalow, the windows would provide views of the very rear of the gardens along this stretch of Church Lane. The closest garden, at No. 80 would be approximately 10m away from the windows. However, although there is potential for

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some overlooking to occur, I consider this would not be significant enough to warrant a reason for refusal in this case.

- 8.04 Concern was also raised about the size of the rear garden, which is approximately 8m in length. In the delegated report for 18/501586/REM (appendix 2), it states the following:

“The Council typically requests rear gardens have a length of at least 10m, but taking into account the bungalow will have only 2 bedrooms, I consider the scale of the outside amenity space provided is adequate.”

The proposed dwelling will have three bedrooms. Although the garden is slightly below the preferred size, I do not consider this would amount on its own to a reason for refusal on this application. The property is likely to be occupied by a family whether it has two bedrooms or three bedrooms, and the garden would provide enough space for such a dwelling. As such, I believe the size of the garden would be acceptable for a three bedroom property.

- 8.05 In order to create another parking space at the new property, the remaining rear garden at existing dwelling No. 82 Church Lane has been reduced to 9.5m in length. I consider this will still provide an acceptable level of private amenity space for the property, so have no concerns here.

Highways

- 8.06 Three car parking spaces are proposed to the front of the bungalow. With the additional rooms in the roof space, the bungalow will be a three bedroom dwelling. According to the Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking, two spaces would be required for a three bedroom dwelling in this location. As such, the proposed parking provision is acceptable. I note concern was raised regarding the potential increase in vehicles from the addition of two bedrooms at the property, however as the proposed parking is in line in KCC requirements, I have no concerns here.

Landscaping

- 8.07 The submitted plans show proposed landscaping to the front and rear of the bungalow. An apple tree is proposed to the front of the dwelling and a field maple to the rear. I have included a condition below to ensure these details are implemented and retained.

Impact upon SPA and Ramsar sites

- 8.08 I have for completeness set out a Habitats Regulations Assessment below. This confirms that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.09 Concern was raised about the impact of the proposal on the outlook from neighbouring properties. However the proposed chalet bungalow differs very little in design and is

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the same scale as the approved bungalow, therefore I consider the impact on neighbour's outlook is acceptable. Neighbours also raise concerns about the potential of adding an additional bedroom on the ground floor of the property, as was originally proposed under this application. I note that if the chalet bungalow was to have four bedrooms, the parking provision would remain the same, as would the level of amenity provided at the property. As such I have no concerns in this respect.

- 8.10 I take note of the comments Southern Water and Environmental Health provided on the outline application (16/505663/OUT). As such, I have included the conditions they have recommended relating to foul and surface water disposal, dust suppression and working hours. I consider these conditions will address the concern raised by objectors regarding the additional noise and disturbance that may be caused by the proposal.

9.0 CONCLUSION

- 9.01 On the basis of the above, I consider the proposed addition of rooms in the roof space of the bungalow will not lead to unacceptable impacts to visual and residential amenity. The parking provision at the property is adequate and I believe the proposal will provide an acceptable level of amenity for future occupiers. All other aspects of the proposal were deemed acceptable under the outline and reserved matters applications and as such, I recommend planning permission be granted.

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

Reason: In the interest of visual amenity.

- (3) The scheme of tree planting and landscaping shown on the submitted plans shall be carried out within 12 months of the completion of the development. Any trees or shrubs 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.

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

- (4) Prior to the commencement of development, details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its first occupation.

Reason: To secure appropriate foul and surface water drainage.

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- (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 0800 – 1800 hours, Saturdays 0830 – 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.

- (6) Prior to the commencement of development, a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Plan Authority.

Reason: In the interests of residential amenity.

- (7) Prior to the commencement of development, details of ecological enhancements at the site such as bat and bird boxes shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development prior to its occupation.

Reason: To secure ecological enhancements.

- (8) The area shown on the submitted plan 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 (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) 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.

- (9) Before the development hereby permitted is first used, the proposed windows in the side elevations of the bungalow shall be obscure glazed and shall subsequently be maintained as such.

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

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

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

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(11) The development hereby permitted shall be carried out in accordance with the following approved drawings: 7530.BR4, 7530.PL1 and 7530.PL2.

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

INFORMATIVES

(1) The developer should contact Southern Water to arrange for a connection to the public sewerage system by calling 0330 303 0119.

Habitat Regulations Assessment

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

The application site is located approximately 2km south of The Medway Estuary and Marshes Special Protection Area and Ramsar site which is a European designated sites 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. 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, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state 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

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normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE and the Councils concerned.

- 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 Borough 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 Borough 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 Borough 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 dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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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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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