

<b>2.11 REFERENCE NO - 18/503616/FULL</b>			
<b>APPLICATION PROPOSAL</b> Conversion of existing dwelling to create 3no. dwellings and insertion of two dormer windows.			
<b>ADDRESS</b> 2 Arthur Street Sittingbourne Kent ME10 1BA			
<b>RECOMMENDATION</b> Grant planning permission subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development is acceptable in principle and would provide satisfactory additional residential units without detriment to the character or visual amenities of the area or harm to the amenities of neighbouring occupiers, highway safety and convenience.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Referred to Committee by Ward Councillor			
<b>WARD</b> Chalkwell	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr John Whiteley <b>AGENT</b> Designscape Consultancy Limited	
<b>DECISION DUE DATE</b> 19/09/18 EOT 15/11/18	<b>PUBLICITY EXPIRY DATE</b> 21/08/18		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
18/501182/FULL	Conversion of existing dwelling to create 4no. apartments and insertion of three dormer windows. Demolition of existing outbuilding and erection of 1no. detached single storey apartment	Refused	27/04/2018
<i>Summarise Reasons</i> Inadequate size and poor layout of flats and the number and siting of the dormers would harm the visual amenities of the area.			
17/504789/FULL	Conversion of existing dwelling to create 4no. apartments and insertion of two dormer windows. Demolition of existing outbuilding and erection of 1no. detached single storey apartment.	Refused	16/11/2017
<i>Summarise Reasons</i> Inadequate size and poor layout of flats; overlooking/ loss of privacy to neighbouring occupiers; and, flat roofed design and bulk of dormers would harm visual amenity			
SW/06/1234	Single storey side extension	Approved	12/12/1999
<i>Summarise Reasons</i>			

## 1.0 DESCRIPTION OF SITE

- 1.01 The application site is located on the corner of Arthur Street and Hawthorn Road. It comprises a two storey Victorian end terrace house with one off-street parking space and garden containing a timber summer house. The building was originally in use as a shop and unlike the other properties within the terrace which front Arthur Street, the principal elevation of the application premises fronts Hawthorn Road.
- 1.02 The surrounding area is residential in character comprising a mixture of terraced and semi-detached houses and flats. To the north, the site is bounded by a two storey Victorian terrace fronting Arthur Street and to the south-east by Freeman Court a recent two storey flatted development. Immediately opposite the site, on the western side of Hawthorn Road is a chalet style bungalow and row of two storey semi-detached houses whilst the north-western side, comprises two storey Victorian terraced houses.

## 2.0 PROPOSAL

- 2.01 The application seeks full planning permission for the conversion of the existing property into three flats and the formation of two dormers in the south facing roof slope.
- 2.02 The proposed accommodation would comprise a two bed duplex apartment with a habitable floor area of 40.68 sqm (Unit 1); a ground floor one bed flat with a habitable floor area of 36.05 sqm (Unit 2); and, a one bedroom flat occupying part of the first floor and roofspace with a habitable floor area of 32.95 sqm (Unit 3).
- 2.03 The external works to the building would involve the formation of two dormer windows in the south-west facing roofslope. The dormers would each have a width of 1.2m and a depth of 2m and be surmounted by a tiled hipped roof.
- 2.04 The existing garden would be subdivided into two private gardens serving Flat No's 1 and 2 and a small communal area. The existing parking space would be retained and the existing summer house used for communal storage.
- 2.05 The application has been amended during the course of its consideration. As originally submitted the scheme included the erection of a detached building in the garden to provide a one bedroom flat. In the interests of the amenities of the future occupiers of the development this has now been deleted from the application.
- 2.06 Members will note that planning permission was refused in April 2018 (18/501182/FULL) for the conversion of the existing dwelling into four apartments and the insertion of three dormer windows together with the erection of a detached single storey apartment for the following reasons:
1. *The proposed conversion of the existing dwelling and replacement outbuilding would result in the creation of a number of units of inadequate size and poor layout leading to a cramped and over intensive form of development, harmful to the amenities of the future occupiers and the amenity of the surrounding area. The development would be contrary to policy DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 and the adopted Supplementary Planning guidance entitled The Conversion of Buildings into Flats & Houses in Multiple Occupation.*

2. *The dormer windows would result in an unacceptable form of development on a prominent roofslope by virtue of the amount of dormer windows and their siting within the roofslope, giving rise to significant harm to visual amenities. This would be contrary to policy CP4 and DM16 of Bearing Fruits 20131: The Swale Borough Local Plan 2017 and paragraph 5.5 of the Council's adopted Supplementary Planning Guidance entitled 'Designing an Extension, A Guide for Householders'.*

- 2.07 A subsequent appeal against the Council's refusal of planning permission was dismissed on 10<sup>th</sup> October 2018, the Inspector stating that:

*'the proposed units would be cramped and have poor layouts which would not provide appropriate living conditions for the future occupiers...Consequently, this highly visible roof would become dominated by dormer windows, which are not a characteristic of the nearby street scene.'*

- 2.08 The salient differences between the appeal proposal and the scheme currently under consideration are as follows:-

- the number of units within the existing building has been reduced from four to three;
- a detached outbuilding containing a 1 bed unit has been omitted; and,
- the number of dormer windows has been reduced from three to two.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Potential Archaeological Importance

### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) both advocate the provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no material amenity issues being raised.

- 4.02 The Swale Borough Local Plan- Bearing Fruits 2031 – Policies ST3, CP3, CP4, DM7, DM14 and DM16.

- 4.03 Supplementary Planning Documents – The Conversion of Buildings into Flats & Houses in Multiple Occupation. Designing an Extension- A Guide to Householders. Kent Design Guide Review: Interim Guidance Note 3- Residential Parking

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Five responses have been received objecting to the proposal on some or all of the following grounds:-

- inadequate parking provision;
- exacerbate existing parking congestion/ problems on Hawthorn Road and Arthur Street;
- new residents are likely to own cars;
- dormer windows out of character and visually intrusive;

- the site would be opened up due to the removal of fencing and have a detrimental impact on the visual amenity of the street scene;
- over intensive form of development;
- overlooking and loss of privacy due to dormers and rear facing windows;
- increased noise and disturbance from additional cars and residents;
- unacceptable noise impact to poorly insulated terraced houses on Arthur Street; and,
- noise disturbance during building works

As 3 or more objections had been received ,in line with the Council’s Constitution the Ward Members were contacted to request whether or not they wished the application to be reported to Committee.

Subsequently , Councillor Whelan stated in his email :

“With the number of complaints from residents I feel obligated to call this in.”

## **6.0 CONSULTATIONS**

- 6.01 Kent Highway Services – advise that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
- 6.02 Natural England – No objection. Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site (s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Subject to appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s).

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 The application is accompanied by existing and proposed plans and elevational drawings together with a transport statement. This document indicates that the site is in a highly sustainable location in close proximity to public transport and services.

## **8.0 APPRAISAL**

### **Principle of Development**

- 8.01 The site is located within the defined built area some 115m beyond the Sittingbourne town centre boundary and Central Sittingbourne Regeneration Area. Therefore, the principle of residential development in this sustainable central location with easy access to a range of services, facilities and transport options is acceptable and accords with the aims and objectives of policy ST3 of the Local Plan.

### **Impact on the Character and Visual Amenity of the Area**

- 8.02 The application property is located within a well established residential area comprising a mixture of dwelling types including a development of flats immediately

to the south-east of the site at Freeman Court. In its assessment of the previously refused scheme (18/501182/FULL) the Local Planning Authority considered that the sub-division of the property into five self-contained units would be in keeping with the residential character of the area. Therefore, bearing in mind that the current scheme would be a significantly less intensive form of development providing a total of 3 units rather than five, it is considered that it would not give rise to any particular harm to the character of the area.

- 8.03 Policy DM16 of the Local Plan states that planning permission will be granted for alterations and extensions to existing buildings subject to a number of criteria, inter alia:-
- they are of an appropriate design and quality which responds positively to the style and character of the building;
  - are appropriately scaled in relation to the building; and,
  - maintain the character of the street scene.
- 8.04 The application dismissed on appeal included the formation of three dormer windows in the south-western roofslope of the building. In relation to their visual impact on the street scene, the Inspector concluded that:-
- ‘The three proposed dormer windows occupy a large part of the roofslope, and do not align with the windows below. This would result in a congested appearance to this prominent roofslope, and the fenestration on the roof would appear awkward relative to the windows below. Consequently, this highly visible roof would become dominated by dormer windows, which are not a characteristic feature of the street scene. Moreover, notwithstanding that their small pane appearance would reflect the window styles below and that the cladding surrounding them would be limited, the proposed dormer windows would be out of keeping with their context. Therefore, the proposals would be harmful in this respect.’*
- 8.05 In the current application the size and design of the proposed dormers is identical to those previously refused however, the number has been reduced from three to two. It is considered that the proposed dormers would have a significantly less cluttered appearance, an improved relationship with the windows below and would now be clearly subservient to the main roof.
- 8.06 It is noted that dormers are not a characteristic feature of the street scene along Hawthorn Road and Arthur Street. However, given that the application premises, with its principal elevation to the side, has a siting and relationship to the street scene which is at odds with the existing pattern of development, it is considered that in their amended form the proposed dormers would not appear so prominent or out of character in the street scene as to warrant a refusal of planning permission
- 8.07 On balance, it is considered that in their amended form, the proposed dormers would satisfactorily overcome the previous reason for refusal and accords with the aims and objectives of policy DM16 of the Local Plan.

#### **Standard of Accommodation Provided for the Future Occupiers**

- 8.08 The Council’s adopted SPG entitled ‘The conversion of Buildings into Flats and Houses in Multiple Occupation’ sets out the minimum floor space requirements for flat conversions.

- 8.09 The application dismissed on appeal comprised four flats within the main building together with a further unit contained within an outbuilding within the garden. In relation to living conditions of the future occupiers the Inspector concluded that:

*'the units would not achieve the habitable floor area required by the SPG'... and that 'the proposed units would be cramped and have poor layouts which would not provide appropriate living conditions for the future occupiers'.*

- 8.10 In the current application the number of flats within the main building has been reduced to three and the unit within the rear garden has been omitted. The habitable floor areas, room sizes and internal layouts of each unit now meets or exceeds the minimum requirements specified in the SPG and would provide a satisfactory standard of living accommodation for the future occupiers.
- 8.11 As originally submitted a communal garden was proposed. However, owing to officer concerns with regard to the privacy of the occupiers of the ground floor flats, this has now been subdivided into two private gardens and a small communal area. It is considered that this arrangement would provide amenity space of a reasonable size and quality commensurate with this location close to the town centre.

#### **Impact on the Amenities of Neighbouring Residential Occupiers**

- 8.12 The Local Planning Authority considered that the previously refused development would have had no detrimental impacts on the amenities of the occupiers of neighbouring residential properties.
- 8.13 It is noted that concern has been raised from neighbouring occupiers regarding overlooking from the proposed dormers on the front elevation (south-west) and the existing windows on the rear elevation (north-east). Given that the proposed dormers would face the nearest property on the opposite side of Hawthorn Road at a distance of approximately 21m it is not considered that there would be any undue overlooking or material impact on the privacy of the occupiers. Freeman Court is situated to the south-east of the application site, however, due to the position of the dormers within the roofslope and the angled relationship between the buildings there would be no direct window to window overlooking or loss of privacy.
- 8.14 There are two existing windows in the rear elevation of the building which serve a first floor bathroom and a bedroom within the roofspace. Although these windows would be retained in the current scheme, they would serve as a secondary light source to a living room and bedroom and would be obscure glazed and fixed shut. It is recommended that a condition be imposed to secure this arrangement in the interests of the privacy of the neighbouring occupiers in Arthur Street.
- 8.15 It is noted that concerns have been raised with regard to potential noise from the future occupiers. Given that the property is already in use as a four bedroom dwelling capable of accommodating a large family, it is considered that the conversion of the building into three flats with an estimated occupancy of 6 to 7 individuals would be unlikely to generate levels of noise or disturbance above and beyond what is commensurate with the locality.

#### **Highways and Parking**

- 8.16 The Local Planning Authority had no objections to the previously refused application in terms of parking provision and highway safety.

- 8.17 Like its predecessor, the current proposal would provide one off-street parking space. With regard to parking provision, Policy DM7 of the Local Plan specifies that applications will be determined in accordance with the Kent County Council standards which in town centre/ edge of centre locations such as this, indicates that reduced or nil provision is acceptable. Therefore, given that one parking space will be provided and the number of units reduced from five to three, the proposed provision is acceptable.
- 8.18 Neighbour concern regarding highway and pedestrian safety has been noted. However, it is considered that the number of potential vehicle movements associated with two additional residential units within this built up area would not unduly compromise highway safety.

### **Impact upon SPA and Ramsar Sites**

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

### **Other Matters**

- 8.20 The comments of neighbouring occupiers with regard to the impact of the proposed development on the visual amenity of the area, residential amenity and parking and highway safety have been addressed above.
- 8.21 Concerns regarding noise and disturbance during building works have been noted. A condition is recommended to preclude evening and early morning working.

## **9.0 CONCLUSION**

- 9.01 It is considered that the proposed development has satisfactorily addressed the previous reasons for refusal. The proposed development is acceptable in principle and would provide satisfactory additional residential units without detriment to the character or visual amenities of the area or harm to the amenities of neighbouring occupiers, highway safety and convenience. Therefore it is recommended that planning permission is granted subject to conditions.

## **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) The development shall be carried out in accordance with the following approved plans numbered – 303/75, 303/76, 303/77 Rev A, 303/100 Rev B, 303/101 Rev C and 303/102 Rev C.

Reason: In the interests of proper planning

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

Reason: In the interests of visual amenity.

- 4) The development shall not be occupied 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, any means of enclosure, hard surfacing materials, graphic/visual details for the method of marking out of parking spaces, 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 demolition/construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 7) Before the development hereby permitted is first occupied, the proposed living room window at first floor level in the north-east elevation of the building and the proposed bedroom window at second floor level in the north-east elevation of the building shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows 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

- 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 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.



**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 proactive manner by:

- Offering pre-application advice
- Where possible, suggesting solutions to secure a successful outcome.
- 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

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

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

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

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

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

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

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

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

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

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

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required. 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 has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff amount takes account of and compensates 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 the agreed tariff mitigates for the individual and cumulative impacts of this scheme.**

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.

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.

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.

