

<b>2.2 REFERENCE NO - 18/504307/FULL</b>			
<b>APPLICATION PROPOSAL</b> Erection of two detached dwellings with associated access and car parking. Alterations to the existing access and parking for 343 Minster Road.			
<b>ADDRESS</b> Land At Rear Of 343 Minster Road Minster-on-sea Sheerness Kent ME12 3NR			
<b>RECOMMENDATION</b> GRANT subject to conditions and to the issue of SAMMS payments being resolved.			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> As a result of amendments to the access the scheme is acceptable with regards to impact upon residential and visual amenity and provides an adequate amount of parking. The development would provide two additional dwellings in a suitable location.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Ward Councillor Booth.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Lee Halsey <b>AGENT</b> Michael Gittings Associates
<b>DECISION DUE DATE</b> 10/10/18	<b>PUBLICITY EXPIRY DATE</b> 28/09/18		
<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>
SW/06/0485	Proposed residential development to rear of 343 and 345 Minster Road, Minster, Sheppey, Kent - comprising fourteen one bedroom retirement flats. (Outline)	Refused Dismissed at appeal	07/06/06 01/03/07
SW/05/1302	Outline application for residential development comprising of 14 retirement homes	Refused	03/02/06
SW/04/0364	Outline application for 5 dwellings.	Refused Dismissed at appeal	01/07/04 10/06/05

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 The site is a large parcel of residential garden to the rear of 343 Minster Road. It lies within the built up area boundary and within a predominantly residential area. There are residential dwellings surrounding the site on all sides from Minster Road, Harps Avenue and Blatcher Close.
- 1.02 The residential dwellings surrounding the site are predominantly two storey detached and semi-detached dwellings as well as bungalows but vary in design and style.

- 1.03 The planning history of the site includes two refusals which were subsequently dismissed at appeal stage for residential development. SW/04/0364 an application for 5 new dwellings was refused as it was perceived as harmful backland development and also would cause additional traffic movements that would negatively impact road safety. At the appeal, the Inspector rejected the claims that the site was harmful backland development but dismissed the appeal on the impact of traffic movements and disturbance to 343 and 341 Minster Road.
- 1.04 SW/06/0485 an application for 14 retirement flats was refused on the sole basis that it constituted harmful backland development. However at the appeal, the Inspector rejected that the site represented harmful backland development but dismissed the appeal based on issues with the scale and intensity of the development which would harm residential amenity.

## **2.0 PROPOSAL**

- 2.01 This application seeks planning permission for the erection of 2no. two storey dwellings to the rear of 343 Minster Road. The dwellings would measure 9m to ridge height and 5m to eaves with a footprint of approximately 11.5m by 11m. The external finishing materials have not been specified and can be addressed by way of condition; however the houses will be brick built with hanging tiles.
- 2.02 The dwellings will provide 4no. bedrooms, a lounge/dining room, kitchen, utility, a bathroom, 2no. en suites and a downstairs toilet. There would also be an integral garage/store plus each dwelling would have 3no. parking spaces to the front or side and an adequately sized private amenity space to the rear.
- 2.03 A new private access road to the western side of no 343 Minster Road together with associated turning spaces would be created as well as access gates. The existing dropped kerb access will be extended. A 1.8m high close boarded fence will be erected around the site.
- 2.04 The existing dwelling at no 343 would remain unaltered with access from the existing drop kerb and significant parking and turning area to the front of the dwelling.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None relevant.

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies ST3, CP3, CP4, DM7 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".
- 4.03 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension – A Guide for Householders".

## **5.0 LOCAL REPRESENTATIONS**

- 5.01 Twelves letters and emails of objection were received from neighbours from eleven addresses. Their contents are summarised as follows:

- Concerns over the access suitability and safety
- Increase in traffic
- Loss of existing trees
- Noise disturbance from vehicle movements
- Not enough parking provided
- Overlooking concerns from first floor windows
- Loss of privacy
- Loss of light
- Concerns that the development will harm wildlife
- Soakaways are inadequate in this area
- Existing issues with waterlogging that will be exacerbated with 2 new dwellings
- Concerns that street lighting would cause light pollution and disturbance
- Concerns over how emergency and delivery vehicles will access the site
- Risk of setting a precedent for more developments of this kind
- Will reduce security to existing back gardens

5.02 As more than 3 objections from different addresses were received the relevant Ward Members were contacted and asked whether they would want the application to be called in to be reported to the Planning Committee, as per the Council's Constitution. Cllr Booth requested the application is heard at the next Committee. No response was received from either Cllr Crowther or Cllr Pugh.

## 6.0 CONSULTATIONS

6.01 **Minster-on-Sea Parish Council** supports the proposal stating:

"Although the proposal fits within the site and is not over-intensive as previous applications appeared, Minster-on-Sea Parish Council's support is conditional on the Kent Highway Services Development Planner's recommendations to do with access, vehicular visibility splay and the provision of another smaller turning area specifically for Plot 1 being considered for adoption [Matt Bembridge / Letter dated 03/09/18] and the emergence of no further irregularities that the Council is aware of."

6.02 **KCC Highways** raised concerns on their original response over a number of issues, primarily to do with inadequate visibility splays and the lack of a swept path to demonstrate access to the site by larger vehicles and emergency services is possible. The agent was forthcoming with amended plans and consequently KCC Highways now raise no objection to the proposal, subject to conditions.

6.03 **Natural England** offer their standing advice.

6.04 **Environmental Health** raise no objection subject to conditions.

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 18/504307/FULL.

## 8.0 APPRAISAL

### Principle of Development

8.01 The application site lies within the built up area boundary of Minster where the principle of development is accepted, subject to the relevant policy considerations.

**Visual Impact**

- 8.02 Due to the positioning of the plot to the rear and the retention of the existing dwelling at 343 Minster Road there will be little visual alteration to the frontage along Minster Road. Much, if not all, of the proposal will be obscured from public vantage points and therefore I consider that the visual impact on the streetscene will be minimal.
- 8.03 I note the mixture of housing types and designs that exist along Minster Road and I consider the two dwellings would sit comfortably within the existing varied street scene without giving rise to any serious harm to the character of the area. Through the various appeal sites it has been established that the Inspector does not view the site as one that would suffer from harmful backland development and has cited that the site is appropriate for development of this kind in principle. Therefore given that the site is to the rear of the general built form along Minster Road I do not consider that this in itself is harmful and would not erode the openness of the area.
- 8.04 Whilst the removal of several established trees is not desirable, they are not protected trees nor are they worthy of such status and therefore I do not object to their loss. Furthermore the proposed plans do show the implementation of additional replacement planting and this will be secured by an appropriate condition as suggested below so that the area remains visually attractive for future residents and also provides a habitat for wildlife.

**Residential Amenity**

- 8.05 As there are two separate plots proposed for the site, I will assess each in turn, considering their relationship on the surrounding existing dwellings and also on each other. Plot 1 fronts the west with a rear facing towards the east. To the east lie the gardens of dwellings along Harps Avenue. The distance between the rear windows of the dwellings on Harps Avenue and Plot 1 is in excess of 45m which significantly exceeds the Council's recommended separation guidance of 21m on rear to rear windows. I therefore consider this relationship would be acceptable and do not consider that any significant overlooking will occur. To the south flank of Plot 1 lies the rear of gardens of dwellings on Blatcher Close, I note that there is a 17m separation from the rear windows of dwellings on Blatcher Close which is over the 11m flank to rear windows that is normally expected by the Council. I also note that there is only 1 first floor window proposed on this side elevation and it serves an en suite. Whilst I do not have major concerns over the potential overlooking likely to arise from this window, for the sake of thoroughness I have included a condition below, requiring this window to be obscure glazed.
- 8.06 Plot 2 is oriented north/south. To the south lie the gardens of dwellings along Blatcher Close. The distance between the rear windows of the dwellings on Harps Avenue and Plot 2 is 24m which is over the recommended 21m distance. I therefore consider this relationship acceptable and do not consider that any significant overlooking will occur. To the west of Plot 2 lies the rear garden of no. 337 Minster Road, however I note that the flank wall that faces this garden only contains one first floor window which serves an en suite and will be conditioned below to be obscure glazed. The north facing front of the dwelling on Plot 2 is located 40m from the rear of dwellings fronting Minster Road and I therefore satisfied that there will be no significant loss of privacy.
- 8.07 In terms of amenity for the future occupiers of the new dwellings, I do not consider that there will be any significant overlooking from either dwelling. I note that the dwelling on Plot 1 has primary windows that face towards the rear garden of the dwelling on Plot 2,

however there is a distance of 25m so I consider that the overlooking would be minimal.

The rooms of the new dwellings would be of an acceptable size and whilst the Council usually recommends a rear garden depth of 10m I consider that given the large width of the gardens that the slightly reduced depth of 6.8m for Plot 2 can be justified and would still provide an acceptable standard of amenity for future occupiers.

- 8.08 Whilst I note that there will be some additional vehicle movement as a result of the development of the site, I do not consider that two dwellings will produce a significant volume of traffic and that it will have a minimal impact on the amenity of both existing 343 Minster Road and also adjacent neighbour 341 Minster Road.

### **Highways**

- 8.09 There are 3no. parking spaces provided to the front of each dwelling which is in excess of recommended guidance of 2 spaces for a 4 bedroom dwelling (as set out in Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking), I therefore consider that this is acceptable. I have included a condition (15) below to ensure the retention of these parking areas.
- 8.10 Initial concerns were raised by KCC Highways, regarding the access onto the site as well as the layout of the site to accommodate turning areas and also access for emergency vehicles. The agent was forthcoming with amended plans, showing a sufficient visibility splay as well as designated turning spaces and as such the Highway Authority have no objection to the proposal provided certain conditions (11), (12), (13), (14) and (15) are included. I therefore have no issue with the development from a Highways safety perspective.

### **Other Matters**

- 8.11 I note that several objections refer to the issue of waterlogging which it is stated is already an issue in the area and concerns have been raised that the issue will be exacerbated with the addition of more hardstanding as a result of this development. However, I believe this issue can be mitigated by way of landscaping condition requesting full details of the hard and soft landscaping proposed to ensure that where possible permeable surfaces will be used and that there will be sufficient planting and grassed areas to minimise the impermeable surfaces. I also note that the existing willow tree is proposed to be retained, the only trees being removed are those that would be directly lost in order to create the proposed access road.
- 8.12 Concerns are raised relating to the wildlife in the area and whilst Natural England just offer their standard advice and do not directly comment on the application if there are any protected species on the site then they are afforded protection under separate legislation.
- 8.13 Due to a recent appeal decision in Newington (ref. 17/503997/FULL), the Council is now seeking developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for each new dwelling. The agent has confirmed the applicant is willing to pay this fee. The precise means of securing the payment has not yet been set, and my Officers remain in discussion with the Head of Legal Services regarding the matter. I will update Members at the Meeting.

## 9.0 CONCLUSION

- 9.01 In conclusion there is an extensive history on the site of previous schemes refused permission and subsequently dismissed at appeal. However, whilst the previous schemes at the site may have been dismissed Inspector's appeal decisions have indicated that the development of the site itself does not constitute harmful backland development and previous refusals were based on the intensity of the development proposed and concerns of overlooking and overbearing to the surrounding residents. This scheme is much smaller for just two dwellings which will have minimal associated noise and disturbance. I am satisfied that the development accords with policy and would not cause significant harm to residential or visual amenity.

## 10.0 RECOMMENDATION – GRANT Subject to the securing of SAMMS payments, and the following conditions:

### CONDITIONS

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

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

- (2) 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 development shall be carried out in accordance with the following approved drawings: 2440/2 (received 15/08/18) and 2440/1/B (received 02/11/18).

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

- (4) Before the development hereby permitted is first occupied, the proposed windows serving en suites to the side elevations of the new dwellings shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside finished floor level and shall subsequently be maintained as such.

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

- (5) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- (6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- (7) 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.

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

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

Reason: In the interests of residential amenity.

- (9) 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.

- (10) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- (11) Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). The Plan agreed shall be implemented throughout the development period. This shall include details of the following:

- a) Parking and turning areas for construction and delivery vehicles and site personnel
- b) Timing of deliveries
- c) Provision of wheel washing facilities
- d) Temporary traffic management / signage

Reason: In the interests of highway safety.

- (12) The sight lines shown on the approved plan 2440/1/B (received 02/11/18) shall be provided prior to the commencement of the use hereby permitted and shall thereafter be maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above carriageway level within the approved sight lines.

Reason: In the interests of highway safety.

- (13) The 2 metres by 2 metres pedestrian visibility splays behind the footway on both sides of the access shown on approved plan 2440/1/B (received 02/11/18) shall be provided prior to the occupation of the development hereby permitted and shall thereafter be maintained clear of any structure, tree, plant or other obstruction which exceed 0.6 metres above footway level within the approved sight lines.

Reason: In the interests of highway safety.

- (14) The access road to the site shown on the approved drawing 2440/1/B (received 02/11/18) shall be constructed and completed prior to the occupation commencement of the use hereby permitted.

Reason: To ensure that a satisfactory means of access is provided for the site.

- (15) The area shown on the submitted plan as loading, off-loading and parking space shall be used for or be available for such use at all times when the premises are in use and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on that area of land or in such a position as to preclude vehicular access to this reserved area; such land and access thereto shall be provided prior to the occupation of any of the dwellings hereby permitted.

Reason: Development without adequate provision for the parking, loading or off-loading of vehicles is likely to lead to parking inconvenient to other road users.

- (16) The garages hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

- (17) No development beyond the construction of foundations shall take place until details of the access gate shown on approved drawing 2440/1/B (received 02/11/18) have been submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of highway safety.

**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. The applicant/agent was advised of changes required to the application and these were submitted for consideration.

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](http://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.

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

### **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.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).

