

2.4 REFERENCE NO - 18/504824/FULL			
APPLICATION PROPOSAL Change of use of part of shop to provide a 1no. one bedroom flat for shop owners residential use (Resubmission of 18/503588/FULL)			
ADDRESS 16 Hawthorn Road Sittingbourne Kent ME10 1BB			
RECOMMENDATION Grant subject to conditions and to the issue of SAMMS payments being resolved			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal does not result in an increase in built form and utilises part of the existing shop to create a one bedroom flat. I do not consider there will be any additional overlooking issues, nor do I consider that there will be increased harm in terms of residential amenities and parking pressures. The proposal now complies with policy with regards to floorspace requirements and I see no significant reason to raise objection.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Whelan.			
WARD Chalkwell	PARISH/TOWN COUNCIL N/A	APPLICANT Hawthorn Convenience Store AGENT Mr Ken Crutchley	
DECISION DUE DATE 09/11/18	PUBLICITY EXPIRY DATE 10/10/18	OFFICER SITE VISIT DATE 26/09/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/503588/FULL	Change of use of part of shop to provide a 1no. one bedroom flat.	Refused	30/08/18
15/509793/FULL	Single storey bedsit for use by store manager for security of shop premises.	Refused	11/03/16
SW/06/0919	New side extension for Strops Hairdresser and changes to existing front elevation of number 16.	Approved	22/09/06

MAIN REPORT**1.0 DESCRIPTION OF SITE**

- 1.01 The site lies within the built up area boundary and consists of an off licence shop with a flat above and a hairdressers attached to the south east side. The site fronts Hawthorn Road with a rear garden that backs onto Arthur Street. There is existing hardstanding for parking to the front of the shop, together with an existing access to a small amenity space to the rear.
- 1.02 The streetscene is predominantly residential with a mixture of semi-detached and terrace dwellings as well as flats.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the change of use of part of a shop to provide a one bedroom flat. Minimal external building works are proposed but which include the insertion of windows to the rear elevation. The remaining shop space will continue to operate as an off licence with a new wall inserted, separating the flat from the store.
- 2.02 Access to the flat would be gained from Hawthorn Road via an existing side access that runs parallel to the adjacent Hairdressers and also through the shop itself. The flat would have access to a small private amenity space to the rear.
- 2.03 The proposal would provide a one bedroom flat for the shop owner, with a small kitchen/lounge, separate bedroom and ensuite all within part of the existing shop space.

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).
- 4.02 Development Plan: ST3, CP3, CP4, DM7, DM14 of Bearing Fruits 2031: The Swale Borough Local Plan.

5.0 LOCAL REPRESENTATIONS

- 5.01 Five letters and emails of objection were received from neighbours from five separate addresses. Their contents are summarised as follows:
- Overlooking and invasion of privacy for residents of Arthur Street
 - Concerns that a reduction in the parking provision of Arthur Street will occur as a result of the proposal
 - Removal of antisocial railing that borders the site and that the existing fencing will be removed
 - Access to the side would cause an invasion of privacy and is too narrow making it unsuitable.
 - The close proximity of the building would feel intrusive and overshadowing to residents.
 - Light pollution already impacts residents of Arthur Street from first floor dwellings, concern that a ground floor dwelling will be the same.
 - Footprint of the flat seems very small.
 - Another residence created will also increase noise nuisance in this vicinity.
 - Oppose any disturbance to the plants bordering the site.
- 5.02 As more than 3 objections from different addresses were received the relevant Ward Members were contacted and asked whether they would like the application to be called in to be heard at Planning Committee, as per the Council's Constitution. Cllr Whelan requested that the application is heard at the next Committee.

6.0 CONSULTATIONS

- 6.01 **Natural England** offer their standing advice.
- 6.02 **KCC Highways** state that “this development proposal does not meet the criteria to warrant involvement from the Highway Authority”
- 6.03 **Environmental Health** raise no objections subject to conditions.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers for application 18/504824/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application is within the built up area boundary where the principle of development is acceptable subject to other considerations. In this instance the impact on the visual and neighbouring amenities must be considered.

Visual Impact

- 8.02 I note that there are minimal works proposed to the external face of the existing building with the addition of two new windows on the rear elevation and the replacement of a side door with a window being the only notable changes and as these are to the rear will be hidden from public viewpoints. I therefore consider that from a visual perspective there will be no significant harm.

Residential Amenity

- 8.03 I note the objections received in relation to this application, particularly those relating to the 15/509793/FULL refusal and consider that it is important to highlight that this scheme is very different from the 2015 refusal and does not seek to extend the building but instead seeks to convert what is already present at the site. The current proposals would involve no additional extensions merely the replacement and insertion of windows and doors.
- 8.04 In terms of overlooking whilst I note the concerns raised by objectors in relation to the existing first floor flat above, this application only applies to the ground floor aspect so I will not be assessing their concerns with the existing flat. In relation to the current application there are two windows proposed at ground floor level which will face north east into the rear garden. I do not consider that these windows will give rise to any significant overlooking even when taking into account the difference in land levels at the site as argued in the objections, and the acute angles to the existing dwellings. The site is bordered by a 2m high fence which will be maintained as a result of this proposal so the overlooking of properties in Arthur street will be minimal. There is one window proposed to the side elevation of the existing building however this will only serve a bathroom so I do not envisage any significant overlooking issues. However for the sake of thoroughness I have included a condition below ensuring that this window must be obscure glazed.
- 8.05 I have concerns regarding the access and its usability, however, I acknowledge that it has been used as such previously and although I note the impracticality of having a narrow access as the entry to this new dwelling, I also note that access can also be gained through the shop itself.

- 8.06 It is not just the amenity of the surrounding residents that must be considered but also the amenity of future occupiers of the flat. Application 18/503588/FULL was refused due to providing a poor outlook to the bedroom and also due to undersized floorspace. These issues have been addressed in the current application as more of the shop has been converted to residential use and the room layout/arrangement has been altered. I now consider that the proposal meets the minimum SPG requirements for floorspace and therefore will offer a satisfactory amenity for future occupiers. The rearrangement of the internal space within this development would provide a better outlook from the proposed bedroom and would also allow sufficient light to the habitable room.

Parking

- 8.07 The plans show that parking provision is available to the front of the shop, occupying one of the spaces designated for the shop and hairdressers. I consider from the information provided that the parking implications of the proposal would be acceptable as Kent Highway Interim Guidance Note 3 requires a maximum of 1 space for a 1 bedroom flat/dwelling in an edge of centre location such as this..
- 8.08 Notwithstanding the above, I note that the flat is proposed for the owner/occupier of the shop so technically there will be no additional parking demand at present as the owner has been parking in the space to the front of the shop anyway.

Other Matters

- 8.09 Other issues raised by objectors such as relating to the ownership of land are private matters and therefore I will not be discussing these. However, the plans confirm that the existing antisocial railing would be retained. The issues relating to the first floor of the building are not relevant as it is not included in this application and therefore should not be considered here.
- 8.10 I am mindful that the proposal would result in the loss of part of the floorspace of the shop. However – this would not be significant and it is not envisaged that it would result in the loss of the unit as there would still be sufficient space for the existing shop to continue operating.
- 8.11 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 this 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 The proposal does not result in an increase in built form and utilises part of the existing shop to create a one bedroom bedsit. I do not consider there will be any additional overlooking issues, nor do I consider that there will be increased harm in terms of parking pressures. The proposal now complies with policy with regards to floorspace requirements and I see no significant reason to raise objection.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings 180931 Rev 001, 180932 Rev 001 and 180933 Rev 001 (received 14/09/18).

Reason: For clarity and in the interests of proper planning.

- (3) Before the development hereby permitted is first used, the proposed window in the south east elevation, serving the en suite 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 floor level and shall subsequently be maintained as such.

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

- (4) No demolition/construction activities shall take place, other than between 0800 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- (5) Before any building works commence on the site, details of the sound insulation provided between the residential unit hereby permitted and the existing first floor flat and shop premises shall be submitted to the Local Planning Authority. If the current level of sound insulation is deemed to be insufficient, a scheme of improvement shall be submitted to the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation of the new residential unit.

Reason: In the interests of residential amenity.

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/>).

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

