

3.2 REFERENCE NO - 19/500111/FULL		
APPLICATION PROPOSAL New 3 bedroom self-build eco-home domestic dwelling and associated amenities to replace existing demolished dwelling and outbuildings.		
ADDRESS Little Miss Acres Farm Butlers Hill Dargate Kent ME13 9QH		
RECOMMENDATION REFUSAL		
REASON FOR REFERRAL TO COMMITTEE Parish Council support. Support from local residents.		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Dr Victoria Clayton AGENT Miriam Layton Architectural Design
DECISION DUE DATE 11/03/19	PUBLICITY EXPIRY DATE 15/02/19	

Planning History

18/503385/FULL	New 3 bedroom self-build eco-home dwelling with garage and other associated amenities, to be built on the site of an existing, dwelling and other buildings (already demolished).	Refused	12/10/2018
SW/09/0026	Siting of two mobile field shelters for the use of grazing animals.	Refused	05/03/2009
SW/04/0506	Plant nursery containing 2 polytunnels with no access to the public, including use of the barn across the road for storage	Withdrawn	
SW/04/0064	Plant nursery consisting of polytunnels, equipment store, staff room and portaloo.	Withdrawn	
SW/77/0334	Proposed farmhouse and garage in connection with an agricultural holding	Approved with agricultural occupancy condition	01/06/1977
SW/76/490	Erection of agricultural dwelling with office	Withdrawn	
NK/9/68/103E	Erection of farm house and garage (reserved matters)	Approved	26/02/1973
NK/9/68/103D	Erection of three bedroom bungalow and farm office (reserved matters)	Approved	16/03/1970
NK/9/68/103A	The erection of a replacement	Approved with	16/09/1969

	agricultural dwelling. (outline)	agricultural occupancy condition	
NK/9/68/103	Demolition of existing cottage and replacement by new dwelling and use of land as a site for the erection of new dwelling for farm manager.	Refused	15/09/1968
RELEVANT PLANNING HISTORY for the applicant's adjoining land			
SW/11/1013	(1) Change of use of land to keeping of horses (2) Erection of 'American Barn' (3) Creation of vehicle access (4) Creation of all weather riding area	Approved	01/12/2011
RELEVANT PLANNING HISTORY relating to appeals dismissed for housing on other sites in Dargate			
18/506195/FULL	Conversion of detached store and garage to a self-contained holiday let. (<i>Cairo Lodge</i>)	Approved	12/02/2019
18/505290/FULL	Conversion of a disused barn into a residential dwelling. (<i>Barn Adjacent Bracondale And Newlands</i>)	Refused	05/12/2018
15/505467/OUT	Outline (All matters reserved) - Redevelopment of site for 6 dwellings (<i>Chapel Plantation Nursery</i>)	Appealed for non-determination. Appeal Dismissed	17/06/2016
15/510551/FULL	Conversion of existing redundant outbuilding into single dwelling. (<i>Brook Farm</i>)	Refused. Appeal Dismissed	02/09/2016
SW/14/0391	Proposed dwelling to replace former cottage & associated works. (<i>Acorns, Butlers Hill</i>)	Refused. Appeal Dismissed	26/11/2014

1.0 DESCRIPTION OF SITE

1.01 The site consists of part of the road frontage of an open field which adjoins the applicant's land on which planning permission was granted for keeping of horses and the erection of stables in 2011. It is situated along a quiet, narrow, country lane some considerable distance outside any built-up area. Dargate is a hamlet which boasts only a public house; whilst there is a small convenience store, coffee shops and a travel lodge at the petrol stations on the Thanet Way over a mile away from the site by road. Access to most local facilities requires a car journey.

1.02 The site is part of a designated Area of High Landscape Value (Swale Level) as defined in the recently adopted Local Plan, but the area as a whole has been under pressure for housing developments in recent years, some examples of which are referred to elsewhere in this report. The site is adjacent to the Hernhill – Dargate conservation area which extends up to include the house on the opposite side of the lane; a lane designated as a protected rural lane in the Council's adopted Local Plan.

1.03 The site itself has a peculiar planning history having once been the site of a house, which was demolished between 1968 and 1975, with planning permissions for a new agricultural dwelling having been granted in 1968 and 1977 but apparently never implemented. The particular location of the proposed dwelling is on or very close to the location of the original house and outbuildings (none of which now remain), as indicated on an extract from the 1907 Ordnance Survey map provided by the applicant.

1.04 A proposal for a two storey detached house and detached garage on this site was refused by this Committee in October 2018 for the following reason:

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

2.0 PROPOSAL

2.01 The proposal is again for the erection of a dwelling, but instead of a house with a double garage, it is now for three bedroomed chalet bungalow in a similar position with a plain clay tiled roof over black weatherboarded walls. The house would have front and rear amenity spaces, and the parking spaces would be situated to one side of the house but closer to the lane than the house. It is proposed to plant a hedge across the site frontage.

2.02 The proposal is accompanied by a detailed Design and Access Statement and heritage Statement, which explain that the applicant keeps horses on the adjacent site, and has bought the application site and wider field in 2017, since when she has gone to some time and expense in generally tidying up the site, including the removal of a considerable amount of detritus left by the previous landowner, and boundary treatment changes and new planting.

2.03 The applicant notes that there was a previous dwelling on the site, which appears to have existed from the mid C19 to the middle/late C20. The applicant suggests that this property was removed from the site in the late 1960s, under planning reference NK/68/103A, and that its foundations can still be traced beneath the soil. In 1977, a new dwelling was approved on the site under planning reference SW/77/0334. However, that dwelling was approved for the use of an agricultural worker only (condition 5) and the planning permission was never implemented. The applicant maintains that the site now constitutes previously developed land as the foundations of the original house still affect the growing quality of the soil, meaning that grass does not grow well there and the spot is covered in weeds.

2.04 The applicant has suggested that the character of the lane is that of sporadic houses and buildings, meaning that the proposed house will not adversely affect the character and amenities of the area. In addition, she suggests that the house opposite is already

well screened from views and that the proposed house will also be well screened by new planting, not affecting local views towards the woodland behind. The site already has a road access, and the applicant says that the development will not increase traffic as she already visits twice a day to feed and look after her horses; and that local amenities are within easy reach at between 1.1 and 4.5 miles away, with a bus stop close by.

- 2.05 The applicant makes it clear that the scale of the proposed dwelling has been reduced since the previous application (and the garage omitted) to reduce impact, and she explains how the proposed dwelling would be a low carbon eco-home with features designed to gain, retain and store solar energy and reduce heat loss, including the use of pre-fabricated straw bale construction for insulation conforming to PassivHaus standards, making this the first house built using of this technology in Kent.
- 2.06 The applicant considers the site to represent previously developed land, and the proposal to constitute 'affordable housing' as without this self-build proposal she as a vet and a single mother could not afford to buy a property in the village close to her horses, and would have to remain living with her parents in Herne Bay.
- 2.07 The applicant presents details of planning policies at length, including Government support for self-build projects, but I deal with policy issues below.

3.0 PLANNING CONSTRAINTS

Adjacent to conservation area.

Near to listed buildings.

Outside established Built-up-Area Boundary.

4.0 POLICY AND CONSIDERATIONS

- 4.01 The National Planning Policy Framework 2018 (NPPF): Paragraphs 8, 11, 12, 79, 83 and 196.
- 4.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale), ST3 (The Swale Settlement Strategy), ST7 (The Faversham area and Kent Downs Strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), DM7 (Vehicle parking), DM9 (Rural exceptions housing), DM11 (Extensions to, and replacement of, dwellings in the rural area), DM12 (Dwellings for rural workers), DM14 (General development criteria), DM24 (Conserving and enhancing valued landscapes), DM26 (Rural lanes), DM32 (Development involving listed buildings) and DM33 (Development affecting a conservation area) are all relevant here.
- 4.03 In my view the key policies here are ST1, ST3, ST7 and DM11, although others are of relevance. Policy ST1 seeks sustainable development which accords with the Plan's settlement strategy. This is set out in policy ST3 (see below) and this is a location where a new build house would not normally be approved unless related to a functional rural need as provided for by policy DM12. That case is not advanced here, but the application focusses on the history of the site and maintains that the site should be seen as previously developed, and thus policy DM11 applies.
- 4.04 Previously Developed (or brownfield) Land is defined by the NPPF as;

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

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

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

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

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

- 4.06 The NPPF at paragraph 79 advises against isolated new dwellings in the countryside other than in exceptional circumstances, none of which apply here. Nor is the development likely to support services in adjacent villages as suggested by paragraph 78 of the NPPF as there are very few such facilities and most need will be met at Whitstable or Faversham.

- 4.07 The applicant has also mounted a case for this proposal to be seen as affordable housing, on the basis that she will build it herself using local labour and contractors, in a location where she would otherwise be unable to afford to buy a house. The Council's policy for rural affordable housing schemes is DM9 which states;

Rural exceptions housing

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

- 1. The site accords with Policy ST 3 and/or is in a location where access to day to day services can be conveniently and easily achieved;*
- 2. The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community;*

3. *A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*

a. an up-to-date parish or village housing needs assessment undertaken or carried out by a recognised and appropriate body;

b. a thorough site options appraisal; and

c. a prepared statement of community involvement that has sought to include the significant input of the Parish Council.

4. *In addition, for schemes including unrestricted market houses/plots for sale, justification will be provided by the applicant:*

a. to demonstrate that a scheme not relying on market housing has been considered and why it has been discounted or considered to be unviable; and

b. as to the number and type of houses proposed, which will be determined by the housing needs assessment and through an appraisal of viability to show the minimum provision of unrestricted market homes necessary to deliver a significantly greater proportion of local affordable homes for that site.

5. *Proposals will be subject to a legal agreement that provides for the permanent control and management of any affordable housing to ensure its long-term retention for local need.*

This policy is compatible with NPPF advice (paragraph 77) but the application is not compatible with the policy. The location is poorly related to local services, the scheme is not based on an assessment of local need, and it could in fact detract from the Parish Council's own ongoing efforts to secure a rural exception scheme at Staplestreet. That scheme, which I understand is still at draft stage and subject to ongoing local consultation, would be sited in Staplestreet. The draft proposal has two 3 bedroom detached bungalows, two 2 bedroom flats, three 2 bedroom semi-detached houses and one 3 bedroom semi-detached house proposed. The bungalows would be sold on the open market to subsidise the building of the other properties which will be for affordable rent and if the need is identified some could be for a shared ownership scheme. The site would be developed by English Rural Housing Association, a specialist housing provider working in villages across the South East.

As such, I would suggest that Members do not consider the present application to be a true affordable housing scheme, with the sort of lasting community benefits that such a scheme ought to provide for. It is essentially a private scheme for the land-owner's benefit.

4.08 The site also sits alongside a lane designated in the Local Plan as a rural lane, where policy DM26 seeks to safeguard against development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes. In this case I believe that an additional dwelling here will detract from the generally undeveloped nature of the lane in question, to its detriment.

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

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

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

The appraisal concluded as follows:

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

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

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

5.0 LOCAL REPRESENTATIONS

- 5.01 Fifteen letters and emails of support have been received (from 12 separate addresses - two of which are from outside the Borough). The comments contained therein may be summarised as follows:

- There was a previous property on this site
- The owner is a well respected member of the community, who has done a lot to tidy the site and invested a lot of time and money on the site
- A house was approved on the site in 1977
- Modest and well-designed dwelling is proposed
- *‘Any mention of this development being ‘isolated’ and ‘unsustainable’ is ridiculous considering the number of properties that exist today in Butlers Hill, and these terms do not reflect the modern way in which we consume services and conveniences today’*
- *‘There is much reference made by others to planning policies and I am sure they have some relevance and will be considered by the Committee, however policies and rules are there to provide guidance, if they are applied as they are read in black and white we will never progress’*

- *'If this application does not get passed, myself and others should be concerned for the future of the site, considering what we are already seeing at 'Evaluna' and 'George Bell Farm' on Plumpudding Lane, where there is flagrant contravention of any policies, laws or general consideration for the environment/landscape/countryside'*
- *'I believe that new development in Dargate should not only be approved but be encouraged'*
- *'There are a number of plots in Dargate where illegal residences have been set up and flouted planning laws'*
- *'I believe Dargate could sustain a number of new dwellings without losing its status or character'*
- House would be an asset to the village
- Will provide new housing for a young family
- New dwelling would be carbon-neutral, and will help local wildlife
- *'The applicant owns almost 15 acres of the surrounding land outside the conservation area and is asking for only 1 house for her and her family, not 3 or 4 houses'*
- The original house was a home with no agricultural ties
- Better to see single dwellings surrounded by countryside than new estates on greenbelt
- Applicant's wish to return the land to agricultural use should be supported
- *'Dargate has changed over the years. Few properties are surrounded now by orchards. I myself have carried out work for 2 of the direct neighbours taking trees out in orchards that have been bought to be part of their gardens'*
- The Parish Council supports the application

5.02 Four letters and emails of objection have been received from four separate addresses, one being a duplicate from the same residents and containing the same information (one was a letter, the other an email). Their contents may be summarised as follows:

- The site is neither a brownfield site nor a windfall site, and the proposal does not represent affordable housing
- *'If the planning committee was in fact minded to approve this application, then I very much fear that it would set a dangerous precedent for areas such as ours within the Swale Borough'*
- Application site is within a High Landscape Value area adjacent to the conservation area
- Would be in an elevated position overlooking a grade II Listed building
- *'To claim the domestic new-build is to replace (after fifty years) since the agricultural workers' occupational dwelling was demolished is wishful thinking'*
- *'What is new (in this application) are attempts to equate the status of several industrial and commercial sites (including 'Silver Sands') with this agricultural site in a high value landscape setting. These are absurd and disingenuous, especially in the knowledge that land previously occupied by agricultural buildings is exempted from the category of previously developed land'*
- Reference to straw bale construction is misleading – the building would just be insulated with straw
- *'The risk of a precedent being set for further housing development in Dargate is palpable. Ramp up housing and the beauty of the countryside and the benefits of natural capital and ecosystem services could easily become degraded. Land is a precious resource, not a commodity'*
- *'"Little Miss Acres Farm" is in name only...the property formerly known as Snowden's Farm is much depleted now into 13 plots of agricultural land with 9 new owners, some all ready to jump onto the lucrative bandwagon'*

6.0 CONSULTATIONS

- 6.01 Hernhill Parish Council supports the proposal, noting that *‘Although not a registered brownfield site, historically there was a property here and permission was granted for a replacement dwelling. The revised design is appropriate and as a stand alone self-build project would not be detrimental to the area nor set a precedent for larger residential developments.’*
- 6.02 Kent Highways & Transportation has declined to comment on the application.
- 6.03 Natural England raises no objection to the proposal, but notes that a SAMMS contribution may be required if the proposal is approved.
- 6.04 The Council’s Climate Change Officer considers the eco-credentials of the proposed dwelling to be acceptable.

7.0 APPRAISAL

- 7.01 Firstly, with regard to the description of the proposal, I fail to see how a previous dwelling can be both ‘existing’ and ‘demolished’. It is demolished. There is no dwelling on the site.
- 7.02 The key issues to consider in this case are the principle of development on this site, residential and visual amenity, and any other material considerations. For the sake of regularity, I will take each of these in turn.

Principle of development on this site

- 7.03 Firstly, it must be acknowledged that the site is situated some distance outside any established built-up area boundary in an isolated location with poor accessibility to local services, so rural settlement policies are applicable in this case. The site is not allocated for housing; there are no nearby housing allocations. The Council is in the fortunate position of having a fairly new Local Plan (July 2017) which considered such matters in some depth. Recent government publication of housing delivery tests indicate that the Council has a very slight shortfall in housing delivery, but as noted, that shortfall is very slight. The Swale settlement strategy is set out in Policy ST3 of the Local Plan. Policy ST3 clearly states that;

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

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

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

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

b) the development would represent the optimal viable use of a heritage asset or

would be appropriate enabling development to secure the future of heritage assets;

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

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

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

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

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

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

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

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

The Inspector further noted that;

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

7.05 In a similar vein, an application for the conversion of an existing outbuilding to a dwelling at nearby Brook Farm under planning reference 15/510551/FULL was refused for similar reasons to those under which the 'Acorns' application was refused. That decision was again appealed and dismissed, with the Inspector concluding that;

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

- 7.06 An outline application for six new dwellings at nearby Chapel Plantation was appealed under non-determination planning reference 15/505467/OUT. At that Appeal (APP/V2255/W/16/3144387), the Inspector dismissed the appeal, again for similar reasons referring to the unsustainable location outside any established built-up area boundary.
- 7.07 It should be particularly noted that, in all of these cases, the Inspectors involved dismissed these appeals before adoption of the Local Plan when the Council could not demonstrate a 5 year supply of housing land and policy ST3 was not part of the Development Plan, ruling against unsustainable development where any benefits are plainly outweighed by the harm it would cause to the countryside. These decisions support the Local Plan settlement strategy and are a sound basis for concluding that Dargate is not an area where new residential development should be permitted due to its isolation and distance from services.
- 7.08 A very recent (December 2018) appeal decision for dwellings in the countryside close to Sittingbourne is also relevant to the present application; appeal reference APP/V2255/W/18/3201155 as reported to Members at the January 2019 meeting (item 5.5). This proposal was at Bobbing Kennels, where replacement of extensive buildings with new dwellings was refused and then dismissed at appeal. This is of relevance as that site was previously developed land, unlike the existing application site, but was still refused with the Inspector commenting at paragraph 17;

'I acknowledge that this is a previously developed site. The appellant suggests that the site should be considered as an exception to normal policy as the land would not constitute open countryside. However, even if this site were to be considered as an exception in this case planning policies require the development to protect and enhance the countryside. I have found that the proposal would not achieve this, therefore this brings the proposal into conflict with development plan policy. Whist Policy CP3 of the Local Plan offers support for the use of previously development land, it also indicates that not all brownfield sites will be suitable. Similarly the Framework, although encouraging the use of brownfield land, also aims to protect and enhance landscapes and the intrinsic character and beauty of the countryside.'

This is an interesting and reasonable decision which suggests that even if a site constitutes brownfield land, (which again, I would contend, is not the case with the present application site), such proposals may still not accord with policies aimed at the protection of the countryside, and should thus still be refused.

- 7.09 Even more recently (in January this year) two further appeals have been dismissed for new dwellings in the countryside at Tunstall and at Eastchurch. These decisions are reported elsewhere on this agenda as items 5.1 and 5.2 for members to refer to, and they show strong support for the new Local Plan's settlement strategy; support which I consider that the Council would be ill advised to ignore.
- 7.10 The history of this site may be unique, but I am emphatically of the opinion that this application should not be treated as a proposal for a replacement dwelling. The original dwelling has not existed for nearly fifty years, and the fact that a dwelling once existed does not mean that a building should be permitted on the site now. Nor do I consider the site to represent previously developed land. I am of the opinion that the removal of the dwelling and the residential use so many years ago indicates that the former residential

use of the site has long since been abandoned.

- 7.11 Similarly, I am unconvinced by the argument that, as planning permission for a new agricultural dwelling on the site was granted in 1977, it necessarily follows that such a proposal should be approved now. The previous property had been removed less than ten years before that application was approved, and both national and local policy have changed and tightened considerably since that original application. Nor does the current application come forward on the same basis.

Residential Amenity

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

Visual Amenity

- 7.13 I acknowledge that the applicant has made efforts towards improving the previously untidy site by clearing up the general detritus left on the site by the previous occupier. However, whilst this has improved the site it does not mean that a new house on the site would enhance the value and appearance of the countryside.
- 7.14 I am not adverse to the design of the proposed chalet bungalow and I welcome its environmental credentials. It would appear as a traditionally designed dwelling but that in itself does not justify new development in the countryside.
- 7.15 The addition of a dwelling here will detract from the character of the rural lane and will affect the open setting of the conservation area, all of which add to my concern over the acceptability of the proposal.

Other matters

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

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

- 7.18 This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale 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).

- 7.19 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.
- 7.20 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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.
- 7.21 In considering the European site interest, Natural England (NE) 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 advises 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.
- 7.22 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 (NKEPG).
- 7.23 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 (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required in this instance.
- 7.24 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 and this is a matter that may still need to be resolved at appeal stage.
- 7.25 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.

8.0 CONCLUSION

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

8.02 I am also concerned that if the proposal is approved, it would set an extremely dangerous precedent. It should be noted that proposals for three new properties within the area have already been refused and dismissed at appeal. Whilst I agree that any application must be decided on its own merits, to approve the present application would send the dangerous and erroneous message that Dargate is an exception to rule when protecting the countryside and I foresee that such a decision could have far reaching consequences given the evident pressure and local support for new housing development at Dargate.

8.03 I consider that the proposal remains utterly contrary to both local and national policies for isolated new dwellings in the countryside, and I recommend that planning permission is refused.

9.0 RECOMMENDATION

REFUSE for the following reasons:

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

The Council's approach to the 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 case, the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

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.

