

PLANNING COMMITTEE – 25 APRIL 2019

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 19/500406/FULL			
APPLICATION PROPOSAL Erection of 1 no. three bedroom detached dwelling on vacant land (Revision to 17/503199/FULL).			
ADDRESS Land West Of 12 Main Road Queenborough Kent ME11 5BQ			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR REFUSAL The proposed dwelling, by virtue of its scale and location on the plot, would have an overbearing impact and would create a sense of enclosure, harmful to the residential amenities of the occupiers of no.12 Main Road. The proposal would therefore be contrary to policies CP4 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".			
REASON FOR REFERRAL TO COMMITTEE Parish Council support the application which is contrary to Officer recommendation.			
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL Queenborough	APPLICANT Mrs Pauline Shoebridge AGENT	
DECISION DUE DATE 01/04/19	PUBLICITY EXPIRY DATE 27/02/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/503199/FULL	Erection of 1no. three bedroom detached dwelling on vacant land	Refused	09.05.2018
SW/01/1214	New dwelling.	Approved	31.01.2002
SW/89/0331	Outline application for three bedroom detached house	Refused	02.05.1989

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of a vacant plot of land located within the built up area boundary of Queenborough. The site is on the southern side of Main Road and to the west of no. 12. The front of the site is currently enclosed by a close boarded wooden fence.
- 1.02 The vacant site has a prominent position in the streetscene being clearly visible from public viewpoints on Main Road and also from the junction of Stirling Road.
- 1.03 The surrounding area is predominantly residential with the site being bounded on all sides by rows of residential dwellings. However I note that on the north side of Main

Road there lies a commercial Co-op store. I consider from visiting the site and viewing the GIS maps that the area predominantly consists of rows of two storey terraced dwellings but note that there has been some development to the north and west of the site including a detached bungalow and two storey detached dwelling and some flats.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a detached 3no. bedroom 2 storey dwelling located on a vacant plot to the west of 12 Main Road.
- 2.02 The new dwelling would provide a lounge/dining room and a kitchen on the ground floor with 3no. bedrooms, a bathroom and an ensuite serving the master bedroom on the first floor. The drawings indicate the parking of two vehicles to the front of the dwelling and a private amenity space to the rear of approximately 12.5m in depth.
- 2.03 The dwelling would have an ‘L shaped’ ground floor footprint, measuring 6m at the widest point and 9.5m at the deepest. The first floor of the dwelling would have a larger overall footprint as it would overhang the ground floor footprint to the front.
- 2.04 This application is similar to application 17/503199/FULL which was refused in 2018 but in this submission the dwelling is situated closer to the road frontage. The result of this rearrangement means that there is a projection of 3m past the rear of no.12 Main Road compared to the 5.2m on the previous application. The overhang on first floor level has been created to provide the desired space on the first floor whilst providing off road parking and reducing the projection to the rear. I also note that as a result of the reduced spacing to the front the landscaping has been removed.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: ST1, ST2, St3, ST4, CP2, CP3, CP4, DM6, DM7 and DM14 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”

5.0 LOCAL REPRESENTATIONS

- 5.01 One email was received from a neighbour objecting to the proposal, these comments are summarised below:
- Concerns relating to noise and dust pollution from building works
 - Concerns the development would cause strain on neighbours health and mental health
 - Invasion of privacy
 - Loss of sunlight
 - The development will become an eyesore
 - Concerns relating to parking
 - Many of the residents of the street are elderly and do not use computers do are finding it hard to raise complaints to the development.

6.0 CONSULTATIONS

6.01 **Queenborough Town Council** support the application. Stating the following:

“The Town Council noted the changes to the application under 19/500406/FULL for the erection of 1 no. three bedroom detached dwelling on the vacant land west of 12 Main Road Queenborough.

The dwelling design has adequate vehicle parking, therefore eliminating any increased parking on the highway.

The Town Council support the use of this vacant site of overgrown land along the Main Road.”

6.02 **KCC Highways** have no objection to the application stating:

“I note that this application differs little materially in highway terms from the previous application ref. SW/17/503199, considered acceptable by us. Consequently, provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- *Submission of a Construction Management Statement before the commencement of any development on site to clarify the timing and management of deliveries to the site so as to offset any impact on the B2007/Main Road.*
- *Provision and maintenance of 2 metres x 2 metres pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.*
- *Provision and permanent retention of the vehicle parking space as shown on the submitted plans prior to occupation.*
- *Provision and permanent retention of the vehicle turning facility shown on the submitted plans prior to occupation.*
- *Use of a bound surface for the first 5 metres of the access from the edge of the highway.*
- *Provision of measures to prevent the discharge of surface water onto the highway.”*

6.03 **Natural England** offer their standard response stating: *“Subject to the 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).”*

6.04 **Southern Water** advise a formal application is required for a connection to a public sewer and request an informative should the application be approved.

6.05 **Environmental Health** raise no objection subject to the imposition of a standard condition relating to construction hours.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings referring to application reference 19/500406/FULL.

8.0 APPRAISAL

Principle of Development

- 8.01 The application site is situated within the defined built up area boundary of Queenborough where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts. I also note that there was a successful application on the site for a similar scheme approved under reference SW/01/1214 and therefore consider that the principle of the development is not disputed.

Visual Impact

- 8.02 The immediate streetscene is fairly uniform in terms of design and the character of this area consists predominantly of two storey terraced dwellings. The presence of some sporadic detached dwellings to the north of the site and flats to the west does add a degree of variation in the streetscene however, and when taking this into consideration I do not consider that principally the addition of a two storey detached dwelling at this location would appear obtrusive in the streetscene. Notwithstanding this I do have concerns as cited by the previous refusal in relation to the overdevelopment of the plot. The plot itself is relatively narrow and reduces from 7.3m wide at the front to 6.1m towards the rear of the plot. I consider that the addition of a 3 bedroom detached house in this location leads to the appearance of a cluttered and overcrowded plot which is potentially harmful to the visual amenities of the streetscene.
- 8.03 It is also considered that the design of the front elevation of the dwelling with the overhang at first floor would appear incongruous in the streetscene, even with the mix of dwelling types and therefore harmful to visual amenity. There would also be no opportunity for landscaping as a result of the tight parking layout to the front of the dwelling to soften the visual impact of the parked cars at the front of the site.

Residential Amenity

- 8.04 The proposed dwelling would have rear windows serving habitable rooms that would face towards the rear gardens of properties along Gordon Avenue and Harold Street which lie to the south of the site. It must therefore be considered whether overlooking will be a concern as a result of this development. The previous application 17/503199/FULL determined that these windows would only overlook the rearmost parts of the gardens, and due to the angle of the dwelling in relation to the other dwellings that limited overlooking would occur. I agree with this assessment and I also note that there is a distance of approximately 20m between the rear of the proposed dwelling and the rear of the existing dwelling on Gordon Avenue and 25m from the rear of the dwelling on Harold Street. As such, I do not envisage significant harm by virtue of overlooking.
- 8.05 The relationship between the adjacent neighbouring dwellings must be carefully considered and it is noted that this constituted the reason for refusal on previous application 17/503199/FULL. The proposal shows a projection of 3m at first storey level close to the common boundary with no.12 Main Road. The SPG recommends a maximum of 1.8m at first storey level and therefore this is exceeded. It is noted that this is a reduction on the previous scheme where a 5.2m projection was proposed however it is still considered that the impact of a 3m projection to the rear with only a 1m distance would create an unacceptable feeling of dominance and enclosure to the residents of no.12 Main Road to the east of the site. I therefore do not consider

that the 2018 refusal has been overcome. I note however that as the garden of 12 Main Road is south facing, I do not consider there will be an excessive loss of sunlight.

- 8.06 The relationship between the new dwelling and the block of flats located at 4 Main Road would in my view be acceptable as there is a distance of 4 to 4.9m between the two dwellings and the first floor rear element of the proposed dwelling would only project past the rear of 4 Main Road by approximately 2m. I consider that this distance between the two dwellings would acceptably offset any overbearing impact caused by the new dwelling and as such consider this relationship acceptable on residential amenity.
- 8.07 The Council would normally expect a minimum depth of 10 metres for a garden to a new dwelling. In this instance this is exceeded, offering a rear garden depth of 12.5m and I therefore consider a garden of this depth is acceptable.

Highways

- 8.08 KCC Highways raise no objection to the proposal subject to conditions and I note that the plans show space for the parking of 2 cars off-road to the front of the new dwelling which is in line with policy. However, the tight spacing and orientation of the parking proposed would allow no room for landscaping to the front of the new dwelling to soften the appearance of the hardstanding and I consider that manoeuvrability would be limited at the front of the site.

Other Matters

- 8.09 I have for completeness set out an Appropriate Assessment below. Since this application would result in an increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contribution at the rate of £239.61 per dwelling. **The applicant has provided written confirmation that they would be willing to pay this mitigation fee, which will be secured by way of a SAMMs Payment Form or Unilateral Undertaking if required.**
- 8.10 In reference to the comments raised by the objector, comments can be submitted to the Council by post and therefore access to a computer would not be required, it is also possible to view physical copies of the file at the Council Offices. It is not considered that the noise and dust from the building works will be substantial as the works are relatively small scale, I also note that Environmental Health have been consulted on the application and have provided a condition relating to construction hours to help maintain a good standard of residential amenity, should the application be approved.

9.0 CONCLUSION

- 9.01 It is considered that the plot is too small to accommodate a residential property of this scale and the previous successful scheme SW/01/1214 is no justification for approval. The application does not overcome the previous reason for refusal provided under application 17/503199/FULL and still causes a detrimental impact on the residential amenity of the occupiers of no.12 Main Road.

10.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposed dwelling, by virtue of its scale and location on the plot, would have an overbearing impact and would create a sense of enclosure, harmful to the residential amenities of the occupiers of no.12 Main Road. The proposal would therefore be contrary to policies CP4 and DM14 of "Bearing Fruits 2031: The Swale Borough Local Plan 2017".

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 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 dwelling is 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 (which has been secured prior to the determination of this application) 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/>).

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.

