

Planning Committee Report – 20 June 2019

2.6 REFERENCE NO - 19/500577/REM			
APPLICATION PROPOSAL Reserved Matters of access, appearance, landscaping, layout and scale following outline application 18/501409/OUT for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.			
ADDRESS Land To The North Of Vicarage Road Sittingbourne Kent ME10 2BL			
RECOMMENDATION Approval			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed dwellings are of an acceptable scale and design, and would not give rise to any serious amenity concerns. Principle of development established by outline permission 18/501409/OUT.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Winckless.			
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Prestige Developments AGENT MRW Design	
DECISION DUE DATE 10/04/19	PUBLICITY EXPIRY DATE 17/04/19		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/501409/OUT	Outline Application with all matters reserved for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.	Granted	21.5.18
The development was considered to represent good use of this derelict site, subject to matters of detail as set out in the current application.			
SW/90/1444	Outline planning permission for erection of three bungalows.	Granted	17.11.92
This development was not proceeded with for reasons unknown.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is a parcel of waste ground situated to the rear of properties on Vicarage Road and Middletune Avenue, within the defined built up area of Sittingbourne.
- 1.02 It is roughly rectangular, with a long vehicle access leading southwards to Vicarage Road, and a Public Right of Way running roughly N/S across the site from Middletune Avenue to Vicarage Road. The land is generally flat and level, and is mostly overgrown other than along the PRow. It used to contain a block of detached garages but these were demolished in the mid-'90s and the site has since been left

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unattended. In recent years this has led to it being used for fly tipping, bonfires, drug use, and other anti-social behaviour (it is known to Council officers and the police as a problem site).

- 1.03 The site is surrounded by existing residential dwellings: Middletune Avenue to the north, Vicarage Road to the south, Dyngley Court to the east, and Roberts Close to the west. These surrounding properties all have their rear elevations facing onto the site, and there is some separation afforded by the depth of the gardens to those properties.

2.0 PROPOSAL

- 2.01 This application seeks reserved matters approval for matters of access, appearance, landscaping, layout, and scale further to the outline grant of permission under application reference 18/501409/OUT (copy of delegated report attached). That application granted consent for the erection of two houses and a bungalow on the site, with vehicle access from Vicarage Road. The houses are to the west of the site and the chalet bungalow is to the eastern end.

- 2.02 Amended drawings have been received further to discussions between officers and the agent. The amendments largely relate to the scale, position, and orientation of the chalet bungalow unit to overcome concerns in respect of design and impact on neighbouring residents. This is discussed in more detail below.

- 2.03 The houses will be of a relatively simple design, with pitched roofs, brickwork at ground floor, and cladding at first floor. They will stand approximately 7.3m tall x 5.5m wide x 14.5m deep, and will contain four bedrooms each at first floor with open plan lounge/kitchen and separate study at ground floor. No windows are proposed on the northern elevations to minimise potential for overlooking of the existing neighbours. The units would be a minimum of 12m from dwellings to the north; 27m from dwellings to the south; and 11.5m from dwellings to the west.

- 2.04 The proposed chalet bungalow is also of a relatively simple design, featuring a pitched roof, porch at ground floor, two front dormer windows, and a single rear dormer window. It will stand approximately 6.3m tall x 8m wide x 6.5m deep (inc. porch). Internally it will provide two bedrooms and a bathroom in the roof space (with an obscure-glazed window in the dormer serving the bathroom) and separate lounge and kitchen/diner at ground floor.

- 2.05 External materials will be brick and roof tiles throughout (precise details required by condition imposed on the outline permission).

- 2.06 Vehicle access – as approved under the outline permission – is via the existing paved access which formerly served the garage blocks. Two parking spaces are provided for each dwelling as well as two visitor spaces. Turning space for both cars and service vehicles is shown, and the access is wide enough (min. 2.7m wide at a pinch point, generally 3m wide along length, 5m wide at junction with Vicarage Road) to accommodate a fire engine (which require 2.5m width).

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.1 (0.3acres)
Parking Spaces	8

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No. of Residential Units	3
No. of Affordable Units	0

4.0 PLANNING CONSTRAINTS

- 4.01 The site lies within an area of potential archaeological importance and Flood Zone 3, but Members should be aware that no objections were received from statutory consultees on these grounds under the outline application.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of housing in sustainable urban locations, but with regard to amenity, design, flood risk, and highways, amongst others.
- 5.02 Policies ST1, ST2, ST3, ST4, CP3, CP4, DM7, DM14, DM19, DM21, and DM28 of the adopted SBLP2017 are relevant.

6.0 LOCAL REPRESENTATIONS

- 6.01 Seven letters of objection from three neighbouring residents have been received, raising the following summarised issues:
- The outline permission granted consent for a “disabled persons bungalow” but a two-storey chalet bungalow is shown;
 - The scale of the proposed chalet bungalow will affect light into the rear of 7 Dyngley Close;
 - A chalet bungalow isn’t suitable for disabled people;
 - Overlooking of existing properties;
 - Overshadowing of existing properties and gardens;
 - Plans “*have been steamrollered through without consultation*”;
 - Planning officers support the scheme because they don’t live in the area, are unaffected by the development, and the views of Council Tax payers should take more weight;
 - Three dwellings are not needed in light of the large allocated sites being considered elsewhere in Sittingbourne;
 - Ward Councillors should be given more time to call in the application;
 - The application should be refused because residents object;
 - Loss of property value;
 - 14 days to comment on amended drawings is insufficient;
 - Residents previously tried to purchase the land from the owner to extend their gardens, and should have been asked if they still wanted to do so before this application was considered;
 - Will local services (GPs, dentists, schools, etc.) be increased to cope with the additional housing in Sittingbourne;
 - The land should have been kept as green space; and
 - Comments made to the Council are just ignored.
- 6.02 The Swale Footpaths Group notes that PRoW ZU56 runs through the site and states that it is “*important that the safety of walkers should be taken into account both during the building work and afterwards.*”

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7.0 CONSULTATIONS

- 7.01 KCC Highways have no comments other than to note the scheme falls below their protocol response threshold.
- 7.02 KCC Flood Risk officer has no comments as the scale of development falls below their statutory remit.
- 7.03 The KCC Public Rights of Way officer has no objection, and confirms that an application to divert the public footpath has been received by his department. He does, however, request conditions to prevent occupation of the bungalow until the diversion order has been confirmed, and to secure installation of a chicane barrier where the footpath emerges into the site from the alleyway running southwards from Middletune Avenue. These conditions are set out below.
- 7.04 The Environment Agency have no objection, but comment that additional details are required before surface water drainage can be agreed. Condition 8 of the outline planning permission deals with this matter and it can be resolved outside of this application (as is common with outline / reserved matters consents).
- 7.05 Members may care to note that no objections were received from statutory consultees in respect of the original outline application. A particular consideration under that scheme was long-term anti-social behaviour on the site (which had been in disrepair for many years) and the Council's Community Safety officer commented:

“ASB on this particular piece of land is historically a huge issue on the Middletune Avenue estate, particularly through the Summer months (April-September). There is evidence of significant drug use and dealing on the land identified, largely due to the area being confined and severely overgrown, offering limited chance of offenders being caught. The site is unsafe due to the number of used needles located in the far corners, as well as being a health hazard due to the amount of rubbish dumped on the land. There is a PRow that runs through the middle, but through engagement with communities, I do not think this is used due to the poor state. This has been an area that as an authority we have been attempting to clear for a number of years, and whilst we have removed large bulky items, it is privately owned and there has been difficulty before now engaging with the land owners. A multi-agency project has been taking place on this estate and the land discussed is a key priority for a number of agencies, all of which will support the benefits of it being cleared (Police, Fire, Optivo and Environmental Response.)”

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is accompanied by relevant plans and elevations.
- 8.02 The outline planning permission for the site, ref. 18/501409/OUT, is also relevant and a significant material consideration as set out below.

9.0 APPRAISAL

Principle of development

- 9.01 This application seeks approval of reserved matters for details in respect of access, appearance, landscaping, layout, and scale of the development only.

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- 9.02 Outline planning permission has been granted for the erection of three dwellings on the site under ref. 18/501409/OUT. In that regard the principle of developing the land for residential uses, and for the number of dwellings shown on the submitted drawings, has been firmly established. Therefore, whilst I appreciate and understand local objections in regards other potential uses of the site or to the need for dwellings here at all, unfortunately those issues have already been determined and are not open for re-consideration under this application.
- 9.03 Nonetheless it should be noted that the site lies within the built up area where the principle of residential use is generally acceptable; the development would make a modest contribution towards the Council's five-year supply of housing; and redevelopment of the site would be a planning gain in terms of removing a "bad neighbour" use (drug dealing and fly-tipping, as noted above).

Scale

- 9.04 The outline permission granted consent for two houses and a bungalow. The current application proposes two houses and a chalet bungalow, which falls within the scope of the agreed outline consent.
- 9.05 The application originally showed the bungalow to be significantly taller and in that regard I appreciate neighbour's concerns about its scale and potential impacts on their amenity. However amended drawings have been received and the scale and overall height of the chalet bungalow has been reduced to a level that I now consider would have limited impact upon the existing neighbours – particularly the residents of 7 Dyngley Close, which is the closest property.
- 9.06 I also recognise the concerns raised by neighbours in respect of overshadowing, particularly to the properties to the north, on Middletune Avenue. The proposed houses will be set a minimum of 12m from the rear of those properties (as noted at 2.03 above) which is in excess of the Council's minimum 11m flank-to-rear separation distance requirements. Whilst some overshadowing will occur when the sun is low and to the south (so particularly during the winter months) overall this will be for a short period of the day and not so serious as to justify a refusal of planning permission in its own right. During the summer months when the sun is higher there should be little overshadowing of the gardens to the north.
- 9.07 Overall the dwellings are of an acceptable scale which, when taken in conjunction with the items below, would be unlikely to give rise to any serious amenity concerns for neighbouring residents.

Layout

- 9.08 The proposed layout largely accords with the indicative drawings approved under the outline permission (and it is important to note that outline permission drawings are only indicative, and are not a concrete representation of what *will* be developed but rather an illustration of what is *likely* to be developed and acceptable in principle).
- 9.09 The two houses would be set away from existing dwellings by more than the Council's minimum standards (21m rear-to-rear, and 11m flank-to-rear) as set out above, which will minimise the potential for overlooking, loss of light, or overshadowing of existing properties.

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- 9.10 The proposed bungalow would sit 11.5m from the rear of 7 Dyngley Close, which is also in excess of the Council's minimum 11m flank-to-rear requirement (as above). Its position and orientation have been amended (as shown on the amended drawings) to take it away from the common boundary with no.7, present itself at an angle to minimise overlooking and overshadowing of that property, and to provide a private area to the north of the property where future residents would not be significantly overlooked. I am therefore satisfied that the chalet bungalow is also in such a position as to minimise the potential for overlooking, loss of light, and overshadowing for existing properties.
- 9.11 Whilst local objections are understood and appreciated I do not consider there is justification to refuse permission on this matter.

Appearance

- 9.12 The proposed dwellings are of a relatively simple but acceptable design in my opinion, and I consider that they would sit comfortably with the character and appearance of the existing neighbouring properties and the wider area. The position of the site to the rear of the existing houses will naturally minimise visual impacts on the street scene.
- 9.13 The proposed houses have been designed with no windows on the northern elevations, which will prevent overlooking of the existing properties to the north (which are closest). There are windows serving bedrooms on the south-facing first floors but due to the distances between existing and proposed dwellings it is considered that any overlooking will not be so intrusive as to be unacceptable in planning terms. I would reiterate that separation distances exceed the Council's minimum requirements (as set out above), and I therefore do not consider there is justification for a refusal on these grounds.
- 9.14 The proposed chalet bungalow is also of an acceptable design in my opinion. The dormer windows are in proportion with the dwelling and sit comfortably within the roof slope. The dormer window on the rear (northern) roof slope, serving the bathroom, is shown as obscure-glazed to prevent overlooking of existing properties, and this is secured in perpetuity by the condition below.
- 9.15 External materials are proposed as brick and roof tiles, details of which are required by the conditions on the original outline consent which allow officers to consider their suitability and give the developer some flexibility (bricks are often on long order times and developers often therefore provide a selection for officers to consider). The wider area is characterised by stock bricks, render, and cement roof tiles, and similar materials will ensure the development sits comfortably within the context of the area.

Access

- 9.16 Although a reserved matter, access to the site was considered in particular detail at the outline consent stage due to the unusual nature of the site. Further to discussions with KCC Highways it was apparent that the access is of a sufficient width to accommodate private cars and service vehicles without any serious concerns. Furthermore the relatively short length would allow for inter-visibility between vehicles and/or pedestrians entering or leaving the site so that they could wait and allow the route to clear before proceeding. The width of the access is also sufficient to allow two vehicles to comfortably pass, or to wait off the road to allow a vehicle to exit the site before proceeding.

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- 9.17 The amended drawings show that there is sufficient space within the site for a service vehicle to turn or manoeuvre while resident's vehicles are parked. I would also reiterate that the access is wide enough to allow a fire engine to access the dwellings.
- 9.18 I would draw to Member's attention the fact that the access formerly served a block of garages, as well as the existing Public Right of Way. In that regard shared use of the access by pedestrians and vehicles is not unusual and would not in itself be a product of this development. The KCC PRow officer does not raise an objection to shared use of the access (subject to the conditions set out below).

Landscaping

- 9.19 The submitted block plan shows space available for soft landscaping within the site. This is, admittedly, limited within the public areas due to the need for parking and turning space, but an area of planting is shown to the front of the two houses to break up the parking bays. The plan does, however, show new tree and shrub planting within the rear gardens for the three dwellings and I consider this to be sufficient and appropriate for the scale of the development.
- 9.20 I have asked the agent for an amended landscaping schedule to include more UK native species and specify planting numbers and I will update Members at the Meeting.

Conditions

- 9.21 The majority of necessary conditions (external materials, construction management plan, sustainable development measures, hours of work, etc.) are set out on the outline planning permission and therefore do not require repeating here. The conditions set out below represent those additional ones that have been requested further to the details of the application, or which require some additional information to resolve non-substantive issues, as is common on planning application for developments such as this.

10.0 CONCLUSION

- 10.01 Outline planning permission was granted for the erection of three dwellings on this land after years of neglect and misuse following demolition of the former block garages. This application seeks to confirm the details of those dwellings and the associated development. Whilst I understand and appreciate local objections I don't consider that they amount to a justifiable or defensible reason for refusal in this instance, and I consider this to be an acceptable scheme with no serious amenity impacts.
- 10.02 Taking the above into account I recommend that the reserved matters should be approved subject to receipt of an updated soft landscaping plan.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- 1) Construction of the bungalow hereby permitted shall not commence until an Order to re-align the public right of way (ref. ZU36) through the site has been confirmed.

Reason: In the interest of local amenity.

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- 2) Prior to first occupation of the dwellings hereby permitted a chicane barrier shall be erected at the northern site boundary where public right of way ZU36 enters the site from Middletune Avenue. This barrier shall be erected in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of local amenity and highway safety.

- 3) 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.

- 4) 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.

- 5) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- 6) The parking and turning areas shown on drawing 1855-PL02 rev. F shall be kept available for the parking and turning 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.

- 7) Before the chalet bungalow hereby permitted is first occupied, the proposed north-facing dormer window in the rear elevation of this dwelling shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, 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.

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- 8) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the north-facing first floor wall or roofs of the three dwellings hereby permitted, and/or in the east-facing gable end of the chalet bungalow hereby permitted.

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

INFORMATIVES

- 1) Please note that no furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority. Furthermore, there must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.

In order to ensure public safety during development, the temporary closure of the route will be necessary. Without the former condition request a temporary closure will not be implemented until the footpath diversion order has been confirmed. The temporary closure will be processed by Kent County Council on the basis that:

- The closure is paid for by the developer,
- The duration of the closure is kept to a minimum,
- Alternative routes will be provided for the duration of the closure,
- Six weeks' notice of the requirement of a closure is given by the developer.

THE COUNCIL'S APPROACH TO THIS APPLICATION

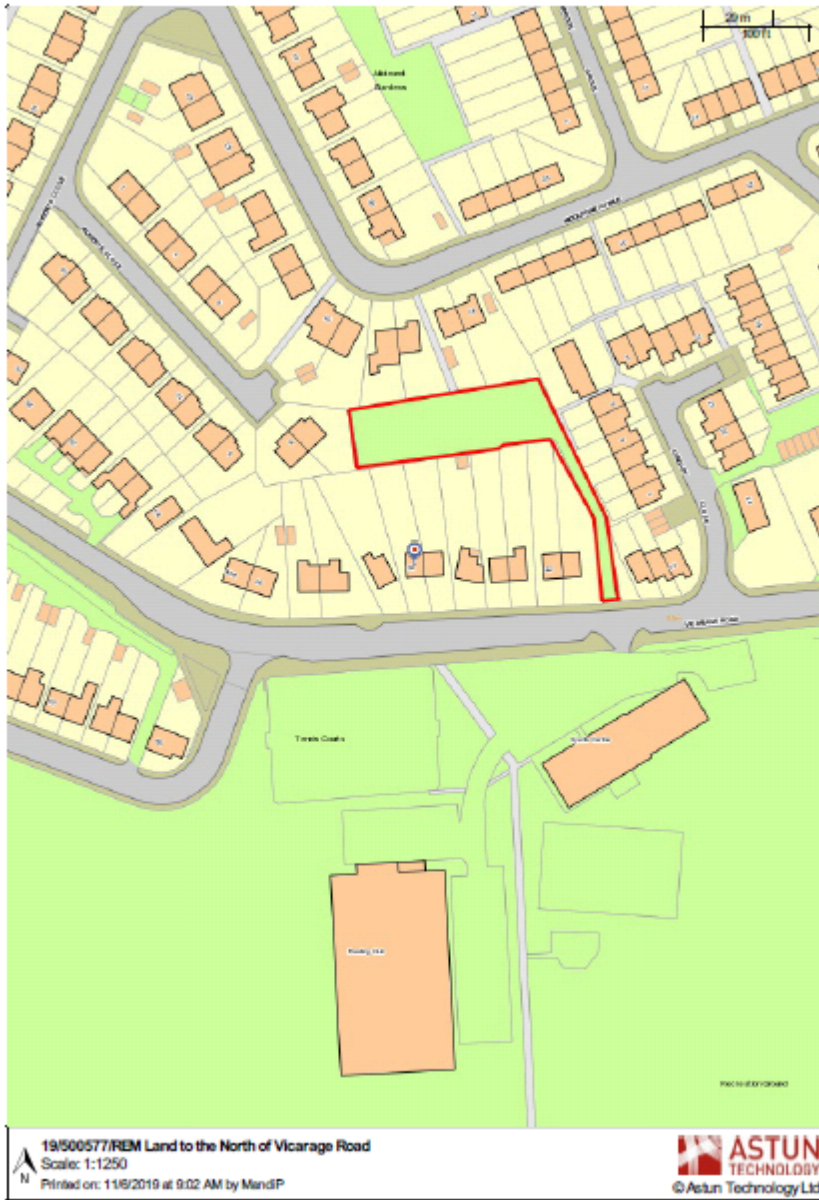
In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, 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 applicant/agent was advised of minor changes required to the application and these were agreed, and the application was then 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.

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NOTES FOR TECH:		
APPLICATION PROPOSAL		Ref No 18/501409/OUT
Outline Application with all matters reserved for erection of 2 No four bedroom houses and 1 No disabled sheltered bungalow.		
ADDRESS Land To The North Of Vicarage Road Sittingbourne Kent ME10 2BL		
RECOMMENDATION - Application Permitted		
WARD Milton Regis	PARISH/TOWN COUNCIL	APPLICANT Mr Thomas Draper AGENT
DECISION DUE DATE 21/05/18	PUBLICITY EXPIRY DATE 02/05/18	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including relevant history on adjoining site):		
App No	Summary	
SW/90/1444	Outline PP granted for erection of three bungalows.	
-		

DESCRIPTION OF SITE

Application site is a parcel of waste ground situated to the rear of properties on Vicarage Road and Middletune Avenue, within the built up area of Sittingbourne.

It is roughly rectangular, with a long vehicle access leading southwards to Vicarage Road, and a Public Right of Way running N/S across the site from Middletune Avenue to Vicarage Road. The land is generally flat and level, and is mostly overgrown other than along the PRoW. It used to contain a block of detached garages but these were demolished in the mid-'90s and the site has since been left unattended. In recent years this has led to it being used for fly tipping, bonfires, drug use, and other ASB.

The site is surrounded buy existing dwellings: Middletune Avenue to the north, Vicarage Road to the south, Dyngley Court to the east, and Roberts Close to the west. The surrounding properties all have their rear elevations facing onto the site, and there is some separation afforded by the depth of the gardens to those properties.

PROPOSAL

Application seeks outline planning permission, with all matters reserved, for the erection of two detached houses and one detached bungalow, including amenity space, parking, turning, access, and accommodation of the PRoW.

All matters are reserved, but substantial indicative details have been provided. These show vehicle access from the existing access off Vicarage Road, which will be widened through removal of existing vegetation and repositioning of an existing lamp post (to be dealt with through other legislation).

Two houses are shown positioned at the western end of the main parcel and a single bungalow at the eastern end, at the top of the access road. The dwellings are set in from the site boundaries. All the properties feature rear gardens and vehicle parking to the front within a communal parking / turning area. Seven parking spaces are shown, and there is turning space for a refuse lorry / fire engine within the centre of the site.

The access road is shown as approximately 5.3m wide at the site entrance, narrowing to 2.7m wide at the tightest point, and being roughly 3m for the majority of the length. The D&A Statement notes that an existing lamp post will be repositioned to enhance the access.

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PLANNING CONSTRAINTS

Environment Agency Flood Zone 3.

Public Right of Way.

POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of housing in sustainable urban locations, but with regard to amenity, design, flood risk, and highways, amongst others.

Policies ST1, ST2, ST3, ST4, CP3, CP4, DM7, DM14, DM19, DM21, and DM28 of the adopted SBLP2017 are relevant.

LOCAL REPRESENTATIONS

Four letter of objection have been received from local residents, raising the following summarised concerns:

- Overlooking and loss of privacy from first floor windows;
- Sense of enclosure;
- Loss of light;
- Visual impact;
- Proposed houses will be imposing;
- Safety of footpath users;
- Loss of trees and plants on the site;
- Potential impact on tree roots in neighbouring gardens;
- Noise, dust, and disturbance from vehicle movements; and
- Loss of property value.

In accordance with the Scheme of Delegation I've asked the Ward Councillors if they want to call the application to planning committee, but neither responded.

The Swale Footpaths Group note that PRow ZU56 crosses the site, suggests it may be unsafe for walkers to use the path during construction, suggests matters of privacy and amenity should be considered, and asks whether emergency appliances can access the site.

CONSULTATION RESPONSES

The Environment Agency has no objection subject to conditions as set out below.

KCC Highways do not offer any detailed comments:

“Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.”

The KCC PRow officer supports the scheme, noting that it will enhance the route of the footpath, but stating that a diversion Order will need to be granted to slightly reposition the route as shown on the indicative layout. He also notes that any works to the PRow would need to be at adoptable standard. He does note, however, that there may be conflict of movements between users of the PRow and vehicle movements at the northern end of the site.

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KCC Flood Risk officer notes this is not a major scheme and therefore has no comments.

The SBC Community Safety officer supports the scheme, commenting:

“In terms of comments, ASB on this particular piece of land is historically a huge issue on the Middletune Avenue estate, particularly through the Summer months (April-September). There is evidence of significant drug use and dealing on the land identified, largely due to the area being confined and severely overgrown, offering limited chance of offenders being caught. The site is unsafe due to the number of used needles located in the far corners, as well as being a health hazard due to the amount of rubbish dumped on the land. There is a PRoW that runs through the middle, but through engagement with communities, I do not think this is used due to the poor state. This has been an area that as an authority we have been attempting to clear for a number of years, and whilst we have removed large bulky items, it is privately owned and there has been difficulty before now engaging with the land owners. A multi-agency project has been taking place on this estate and the land discussed is a key priority for a number of agencies, all of which will support the benefits of it being cleared (Police, Fire, Optivo and Environmental Response.)”

APPLICANT'S SUPPORTING COMMENTS

“The current site is a derelict parcel of land that once contained 40 lock up garages, with access south to Vicarage Road and via a footpath northwards into Middletune Avenue. The site has become a repository for rubbish and is frequented by drug users. Underneath the accumulated detritus is a concrete base. The surrounding area is characterised by fairly high density housing with a large estate to the north and open land and a fitness/leisure centre to the south bordering the main road. The proposal is for two detached 4 bed houses and a 1 bed disabled/sheltered bungalow...”

The plans for the development and elevations are included to scale with measurements to the nearest buildings...

Due consideration has been given privacy, and windows on the side of the house with stairs could be set higher in the room and/or be fitted with obscured glass. Hung tiles on the exterior will make the properties fit with traditional Kentish style. Access is adequate for both a fire engine and ambulance and bin and skip lorries during construction. Skip and grab lorries used the same access way 25 years ago when the applicant assisted in the removal of the vandalised garages. We will however apply to move the street lamp currently situated at the entrance to the access road one meter to the west...

Although every effort has been made to draw plans accurately they are not exact and are just an indication of the plan we propose.

BACKGROUND PAPERS

The application is accompanied by a full suite of indicative drawings.

HABITAT REGULATIONS ASSESSMENT

This HRA 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

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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.

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 and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made 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; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- 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, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE. Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of

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the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

APPRAISAL

Principle

The application site is within the built up area boundary and the principle of residential development is therefore generally acceptable. I am also mindful of the previous grant of permission for bungalows on the site, and whilst I note that was ~28 years ago many of the in-principle considerations remain the same and indicate that this site may be generally suitable for residential development. Furthermore this site would contribute three dwellings towards the Council's five year housing supply, reducing the potential need for the release of fresh land elsewhere.

Planning gain

This site has, for a number of years since demolition of the former garages, represented a site with potential for considerable anti-social use, and I note the comments from the Council's community safety officer. I consider that tidying up the site and preventing further ASB, by way of the proposed housing development, is a positive gain of the scheme to which I afford significant weight.

I note local objections in respect of the development but I consider that, *in principle*, in this instance the balance of favour generally weighs towards resolving a problem site over the issues that have been raised, subject to full amenity considerations as set out below.

Layout

All matters are reserved, and layout is therefore indicative at this time. However the submitted drawings show that three dwellings could be comfortably accommodated on the site, with sufficient space remaining for gardens, parking, access, turning, and accommodation of the PRoW. The drawings also show that appropriate separation distances to existing surrounding dwellings can be achieved.

Whilst the site could be considered as backland development it is entirely enclosed by dwellings, and therefore residential development would not be alien to the character of the area. In that regard I consider that development of the site would not have a serious impact upon the character or appearance of the area.

The site also constitutes previously developed land, having formerly been occupied by a block of garages, and national guidance makes it clear that LPA's should make use of previously-developed land in preference to the release of fresh sites.

I therefore have no serious concerns on this aspect.

Amenity

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As above, the site will provide sufficient space to ensure a good level of amenity for future residents, and I have no serious concerns in this regard.

Minimum separation distances are maintained from the two houses to neighbouring properties, and I do not consider that there will be any serious issues of overshadowing. The elevations of the proposed dwellings can be configured to ensure there is no serious overlooking or loss of privacy for existing residents.

The proposed bungalow shows an indicative rear-to-rear separation with the existing property to the east of roughly 10m. This is well below the Council's minimum 21m, but as the property will be a bungalow, for which the elevations can be considered in details at reserved matters stage, and conditions can be imposed to restrict PD, a standard 1.8m fence will prevent any serious overlooking of those existing residents. The roof of the bungalow can also be kept low to minimise any sense of overbearing or overshadowing.

The garden for the proposed bungalow is irregularly shaped, but will provide adequate amenity space in my opinion.

As above, there is a positive gain to existing residents from cleaning up the site, in that ASB in the area will reduce. Whilst there will be some additional disturbance from residential use of the site, I consider that this won't be any more significant than from other surrounding properties, and of a generally more pleasant nature than ASB activities (bonfires, fly tipping, drug use, etc.) that the site is currently used for.

Highways, parking, and access

The indicative layout shows sufficient space for vehicle parking in accordance with IGN3, and shows a turning space for service vehicles. Precise layout can be configured at reserved matters stage. I have no serious concerns in this regard.

I have checked online and British fire engines and refuse lorries are a maximum of 2.5m wide. Whilst the access road will be tight at the pinch point, there is just enough clearance for an appliance to get access to the site. Therefore, whilst the minimum width of the access would be 2.7m at the pinch point there would just be enough space for a service vehicle to get through, and I therefore take the view that this is acceptable. The access widens out after this point so there would be sufficient space for pedestrians to see oncoming traffic and wait in a safe position for vehicles to pass. I consider this to be acceptable.

The existing access has sufficient space to accommodate visibility splays, and I therefore have no serious concerns in this regard.

Ecology

There are some existing trees along the access road, and at the rear of the neighbouring gardens. The site itself features a concrete pad in some spots, but is largely overgrown with brambles for the majority.

With specific regard to reptiles: good reptile habitat generally has open aspect areas, is well drained and south facing, is mostly sunny, sheltered and relatively undisturbed. The Amphibian and Reptile Conservation Trust website (<https://www.arc-trust.org/for-reptiles>) notes that thick brambles creating heavy shading at ground level can discourage other plants necessary for good habitat. The brambles on site are thick, and there is heavy shading at ground level, which would discourage reptiles. There are also few areas of open ground that would allow reptiles to bask.

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KCC Ecology recently provided officer training on how to assess sites for ecological potential, and after visiting the site I consider that there is little potential for anything other than breeding birds to be present. It is only an offence to disturb birds during the breeding season (March-October) and this is controlled via the Wildlife and Countryside Act 1981. I have therefore recommended an informative to draw this to the applicant's attention.

I therefore have no serious concerns on this aspect.

Flood risk

The site lies within FZ3, but the EA do not object, and note that in reality there is little potential for the site to be flooded. I have, however, recommended a FFL condition below, as per their recommendations.

Other matters

I note the objections from local residents, but do not share their concerns.

As above: issues of overlooking, loss of privacy, or loss of light can be controlled / mitigated by conditions or through consideration of design at reserved matters stage. Loss of property value is not a planning consideration; I consider the highways impacts to be acceptable; and I don't consider that there will be significant noise and disturbance as a result of this development. I note the potential for damage to tree roots, and consider that appropriate conditions to protect existing trees can be imposed at the reserved matters stage once the final position of the buildings in relation to any trees has been established.

Conclusion

Taking the above into account I recommend that planning permission should be granted.

RECOMMENDATION – Application Permitted subject to the following conditions:

- 1) Details relating to the layout, scale and appearance of the proposed buildings, the access thereto, and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- i. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of the amenities of the area and highway safety and convenience.

- 5) 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 0730 – 1900 hours, Saturdays 0730 – 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.

- 6) 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.

- 7) 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.

- 8) The development hereby permitted shall not be commenced until such time as a scheme to connect the property to foul and surface water drainage system has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development is connected to mains drainage system, and to ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants.

- 9) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

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Reason: As potentially contaminative historical land uses have been identified on site, and the site is particularly vulnerable as redevelopment works are proposed within an area classified as a Secondary A aquifer and is located within Source Protection Zone 1. The above condition will ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

- 10) Adequate underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to any premises within the application site without resource to the erection of distribution poles and overhead lines, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no distribution pole or overhead line shall be erected other than with the express consent of the Local Planning Authority.

Reason: In the interests of residential amenity.

- 11) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards). Such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not shall be carried out on such land (other than the erection of a private garage or garages) or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

- 12) Prior to the occupation of the dwellings hereby approved, the proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are constructed and laid out in a satisfactory manner.

- 13) The internal finished floor level of the dwellings hereby permitted shall be set at least 300mm above natural ground level.

Reason: To minimise risk of flooding.

INFORMATIVES

- 1) Please note that the site has high potential to contain breeding birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure, or take any wild bird, or to damage or destroy their nests; or to intentionally or recklessly disturb specific species of wild birds (see the act for a full list of species). The applicant / developer is therefore advised to clear the site outside of the breeding bird

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season (March to October), or to consult with a qualified ecologist prior to undertaking any works during the bird breeding season.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the application was acceptable as submitted and no further assistance was required.