

<b>2.6 REFERENCE NO - 19/501385/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 2no. semi detached dwellings to replace 1 existing derelict dwelling (Resubmission).		
<b>ADDRESS</b> 4 Jetty Road Warden Sheerness Kent ME12 4PS		
<b>RECOMMENDATION</b> Grant subject to conditions and to the issue of SAMMS payment being resolved.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The submission of the new scheme overcomes the previous reasons for refusal. The scheme is considered acceptable in relation to visual and residential amenity as well as mitigating the flood risk.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Warden Parish Council object to the application which is contrary to Officer recommendation.		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN</b> Warden	<b>COUNCIL</b> <b>APPLICANT</b> T & J Utting <b>AGENT</b> Peter Jackson Architects
<b>DECISION DUE DATE</b> 13/05/19	<b>PUBLICITY EXPIRY DATE</b> 14/06/19	

### Planning History

18/505191/FULL

Erection of 2no. semi-detached dwellings to replace 1no. derelict dwelling.  
Refused Decision Date: 05.12.2018

#### 1. DESCRIPTION OF SITE

- 1.1 4 Jetty Road is a detached bungalow located in a row of low rise dwellings. It is within the built up area boundary and is also within Flood Zone 3. The plot itself is overgrown and the existing dwelling is in a state of disrepair. The site is accessed by an unmade track off Beach Approach.
- 1.2 The surrounding area is predominantly residential in nature, with the immediate stretch of Jetty Road consisting of bungalows. To the east of the site lies the sea wall and beyond that the beach.

#### 2. PROPOSAL

- 2.1 This application seeks planning permission for the demolition of an existing dwelling and the erection of two semi-detached dwellings. The dwellings will each have associated parking and gardens, two storeys, a kitchen, dining room, living room, 3no. bedrooms, 1no. bathroom and 1no. en-suite.
- 2.2 The main roof will be pitched with a small section of flat roof connecting the dwellings and each dwelling will measure approximately 11.4m in depth, 3.9m to the eaves and 7.6m in overall height.
- 2.3 The proposed materials are brick with off white render and timber weatherboarding, with roof slates and grey UPVC/ powder coated aluminium windows and wood effect doors.

### **3. PLANNING CONSTRAINT**

Potential Archaeological Importance

Environment Agency Flood Zone 3

### **4. POLICY AND CONSIDERATIONS**

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)

Development Plan: Policies ST3, CP3, CP4, DM7 and DM14 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.

The Council’s adopted Supplementary Planning Guidance entitled “Designing an Extension – A Guide for Householders” is also relevant.

### **5. LOCAL REPRESENTATIONS**

5.1 The initial neighbour consultation expired on 16/04/19 however having received amended plans a further consultation letter was sent out, allowing neighbours and consultees 2 more weeks to submit any additional comments.

5.2 No letters or comments of support were received.

5.3 10 objections from 7 properties were received on the initial consultation  
The comments received are summarised below:

- Privacy and overlooking concerns
- Loss of light
- Noise disturbance as a result of new residents
- Loss of views
- New dwellings will overshadow the gardens and dwellings behind the plot
- Will set a precedent for new bigger dwellings
- Immediate area is characterised by single storey bungalows
- Will ruin the aesthetic and pleasing view of the area
- New buildings will be prominent in the streetscene
- Two storey dwellings not appropriate for the site – would see a replacement bungalow
- Existing dwelling has been deliberately made derelict
- The separation between the proposed dwellings is insufficient
- Side entrances will cause overlooking due to raised platform
- Design is a major blot on the landscape
- Concerns that building control regulations will not be met
- The change from 1/2 bedroom to 3/4 bedrooms is unsustainable
- Concerns relating to asbestos in the building to be demolished
- Removal of trees on site
- The access road is not suitable for more vehicles using it
- Safety concerns regarding use of the access road

5.4 A further 5 objections from 4 properties were received on the re-consultation.  
The comments received are summarised below:

- Design and Access statement has not been revised

- Query whether the rooms comply with minimum space standards
- Query whether this requires a new application
- Development may sit in front of building line
- Elevations provided by the Environment Agency cannot be enforced as they are advisory
- Ridge heights are too high and will dominate above the existing building line
- Concerns regarding the demolition of the building and asbestos
- Structural heights of the dwellings invade privacy

## 6. CONSULTATIONS

6.1 **KCC Highways:** Falls outside of the Highways Authority criteria to comment.

6.2 **KCC Minerals and Waste:** No response received.

6.3 **Natural England:**

Refer to their standing advice.

(Received 20/06/19): *“The advice provided in our previous response applies equally to this amendment”*

6.4 **Environmental Health Manager:**

No objection, subject to standard planning conditions.

6.5 **Environment Agency:**

(Received 04/04/19): No objection, subject to a condition relating to finished floor levels.

(Received 10/06/19): *“We accept the indicated floor levels provided in the submitted drawings and refer back to our comments provided on 4 April 2019.”*

6.6 **KCC Archaeology:**

Confirmed that no archaeological measures are required.

6.7 **Warden Parish Council** objected to the superseded plans and also to the amended plans. Their reasons for objecting are summarised below:

*“New dwellings are out of keeping and oversized for this part of Jetty Road  
Overlooking caused to surrounding properties  
Query why the bedrooms are not on the first floor as the dwelling is in Flood Zone 3.”*

6.8 Further comments were submitted after the re-consultation:

*“Consider the amended design still out of keeping for the area  
Wish for the property to be like for like  
Raised concerns relating to the demolition of the building and asbestos.”*

## 7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings for 19/501385/FULL and 18/505191/FULL.

## **8. APPRAISAL**

### **Principle of Development**

- 8.1 The application site lies within the built up area boundary where the principle of residential development is acceptable subject to amenity considerations.
- 8.2 A pair of semi detached two storey dwellings were refused on the site in December 2018 with three reasons for refusal (summarised below):
- The proposed dwellings were considered too large and bulky for the site and would appear significantly out of context with the surrounding dwellings.
  - The proposed dwellings were considered to have a harmful overbearing impact on the adjacent neighbouring dwellings as a result of their bulk, mass and scale.
  - An acceptable Flood Risk Assessment had not been submitted resulting in an objection from the Environment Agency.
- 8.3 The agent/applicant consequently submitted an amended scheme seeking to overcome the previous reasons for refusal and proposed 2no. detached two storey dwellings. The agent was advised that this design would not overcome concerns relating to the visual impact on the streetscene and the agent has since submitted amended plans which show a pair of semi detached dwellings reduced in scale and set further into the centre of the plot.

### **Visual Impact**

- 8.4 This section of Jetty Road consists of 5 bungalows, well-spaced within their plots and fronting the road, however, 32m to the north of the site lie a pair of two storey semi-detached dwellings and adjacent to no.1 Jetty Road lies a detached two storey dwelling. Given this mix, I do not consider that this section of Jetty Road is uniform enough in design or style to resist the introduction of a pair of appropriately sized semi-detached dwellings. I note that on the previous submission 18/505191/FULL, the pair of dwellings were considered to appear incongruous in the streetscene, the refusal was not in relation to the principle of two storey dwellings in the streetscene but the particular massing and scale of this submission.
- 8.5 In this application 19/501385/FULL the initial scheme presented two detached dwellings that I did not consider overcame the previous reason for refusal in relation to the visual aspect. The two detached dwellings were considered to still appear bulky, causing an overdevelopment of the plot and in my opinion would appear out of context with the surrounding dwellings. The agent was advised of this and consequently submitted amended plans, reverting back to a smaller semi detached pair of dwellings.
- 8.6 The previous refusal 18/505191/FULL presented a pair of dwellings that had an eaves height of 5.5m and a ridge height of 9.7m, this was considered to be excessive in bulk, mass and scale. This new scheme with the amendments puts forward a pair of semi detached dwellings with an eaves height of 3.9m and a ridge height of 7.6m. The neighbouring dwelling no.3 has a ridge height of 6.3m and I do not consider the height of 7.6m to be particularly excessive. I also note that the proposed pair of dwellings are set further from the side boundaries of the site, allowing for a distance of 2.2m from the each side of the plot. I consider that this spacing helps to maintain the openness of the streetscene and this combined with the reduced mass and bulk of the dwellings results in a scheme suitable for the character of the area and I consider the impact on visual amenity to be acceptable.

### **Residential Amenity**

- 8.7 The amenity of the occupiers will be of an acceptable level with a 10m depth garden and floorspace in line with national space standards. Each habitable room will be served by a window with an outlook and I consider sufficient light will enter each room.
- 8.8 To the rear there is a distance of 28m between the rear of the proposed dwellings and the neighbouring bungalows. This is comfortably in excess of the Council's recommended rear to rear separation distance of 21m. It is therefore not considered that any significant harmful overlooking would occur to the rear. There are steps leading to the side entrance which are 1.2m in height, in order to overcome any privacy concerns the agent has included a 1.8m privacy screen around the steps. This screen combined with the positioning of the proposed dwellings on the site, leads me to consider that there is no significant harm caused to either adjacent dwelling in regards to overlooking.
- 8.9 It is noted that no.3 Jetty Road has a first floor window facing towards the proposed development. It is noted that this is likely to serve a habitable room, and therefore it should be ensured that this is not significantly affected by the construction of 2no. new dwellings. The distance from the shared boundary with no.3 and the proposed pair of dwellings is 2.2m and I consider that this combined with the reduced eaves height of 3.9m assists in preventing excessive overshadowing and overbearing. I consider that the reduced eaves height helps to protect the amenities of the adjacent neighbours no.3. and no. 5 and I consider this successfully overcomes the previous reason for refusal relating to residential amenity.
- 8.10 There is a clear reduction in massing and scale when comparing the now proposed scheme and refused scheme 18/505191/FULL. Although the agent has reverted back to the pair of semi detached dwellings they are reduced in scale and no longer are situated right to the boundary of the site. The previous bulk of the dwellings have been reduced and a pair of modest semi detached dwellings are now proposed on the site which do not cause considerable harm to residential amenity.

### **Highways**

- 8.11 The application proposes two parking spaces for both new dwellings which satisfies KCC requirements for properties of this size in this location. These parking bays shown on the plans each measure 4.9m in depth and 2.4m in width which is below the KCC minimum standard. However – there is sufficient space on each frontage to comfortably park two vehicles off street per dwelling. I note that the parking spaces are to the front of the proposed dwellings however I do not consider that the positioning would harm the streetscene as the plot is set back from the highway and in my view the proposal would not give rise to any significant harm to highway safety or amenity. I have included a condition (10) below to ensure the retention of these parking areas.

### **Flood risk**

- 8.12 The site lies in Flood Zone 3. The agent has ensured that habitable floor levels are in line with the Environment Agency guidance and the EA have confirmed they have no objection to the proposed development, subject to conditions. I therefore consider that the previous reason for refusal relating to risk to human life in the event of flooding has been overcome.

### **Other Matters**

- 8.12 The majority of the concerns raised in the objection letters have been discussed by virtue of the above appraisal. Of those that remain I respond as follows. The loss of a view is not a material planning. Whilst concerns are raised relating to noise levels from the dwellings I consider that as the proposed development is residential and only adds 1 additional unit to the site that any noise generated would not be significant within the immediate residential area. Concerns relating to asbestos are the responsibility of the Health and Safety Executive however the agent has been advised that planning permission is required to demolish the existing building and Environmental Health have also been consulted on this application.

### **SPA Payment**

- 8.13 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA). The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £239.61 for each new dwelling. The agent has confirmed the applicant is willing to pay this fee.

## **9. CONCLUSION**

- 9.1 The proposed new dwellings overcome the previous reasons for refusal of application 18/505191/FULL and it is considered the proposed dwellings will not lead to unacceptable impacts on residential amenity nor will they cause harm to the character and appearance of the streetscene. As such I recommend this application be approved.

## **10. RECOMMENDATION**

GRANT Subject to the following conditions:

### **CONDITIONS to include**

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

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

- (2) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity

- (3) The development shall be carried out in accordance with the following approved drawings: 2037/LOC/01.1/A, 2037/PL/03.1/A, 2037/PL/03.2/A and 2037/PL/03.3/A.

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

- (4) 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.

- (5) 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.

- (6) 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.

- (7) No construction or demolition work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0800 – 1800 hours, Saturdays 0800 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (8) 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.

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

Reason: In the interests of water conservation and sustainability.

- (10) The area shown on the submitted plan as car parking space shall be kept available for such use 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 the land so shown (other than the erection of a private garage or garages) or in such 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.

### **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.

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.

### **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 (to be 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/>).

