

<b>2.3 REFERENCE NO - 19/503553/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing detached dwelling. Erection of two buildings comprising of 10no. flats (4no. one bedroom flats in a two storey building & 5no. one bedroom and 1no. two bedroom flat in a three storey building) including parking, external areas and extension of existing vehicular access.		
<b>ADDRESS</b> 125 London Road Sittingbourne Kent ME10 1NR		
<b>RECOMMENDATION</b> Grant subject to conditions and securing a SAMMS contributions of £2210.04 (9 x £245.56)		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The application site is located within the existing built up area boundary where the principle of development is accepted. The Council is unable to demonstrate a 5 year supply of housing land and as such the proposal would contribute towards addressing this shortfall in a sustainable location. I am of the view that the design and layout of the dwellings has been well considered and will not result in any harm to the character or appearance of London Road and will not give rise to an unacceptable impact upon residential amenities. I have not identified any unacceptable harm in respect of highways matters, ecology, drainage or contamination.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Councillor Truelove call in.		
<b>WARD</b> Homewood	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Ms Jasmine Friend <b>AGENT</b> Alpha Design Studio Limited
<b>DECISION DUE DATE</b> 22/11/2019		<b>PUBLICITY EXPIRY DATE</b> 08/10/19

### **Planning History**

SW/75/0961 – Kitchen WC Extension  
Approved      Decision Date: 17.11.1975

SW/74/0043 – Bungalow and Garage Outline  
Refused      Decision Date: 23.10.1974

## **1. DESCRIPTION OF SITE**

**1.1** The application site comprises an existing residential dwelling at 125 London Road which is situated to the south side of London Road.

**1.2** The existing dwelling at 125 London Road is a detached two storey Edwardian style property finished in a mix of yellow and red stock bricks with a plain concrete roof. The dwelling is currently unoccupied and the site is enclosed by metal fencing along the front boundary. The dwelling has a long rear garden which was cleared prior to submitting the planning application, as evident from the site visit the rear garden comprises overgrown weeds.

- 1.3** There is existing vehicular access to the site from London Road and an area of hardstanding to the side of the dwelling.
- 1.4** The site adjoins the boundaries of neighbouring properties including no. 127 London Road to the west of the site; no. 119 London Road and nos. 85, 83, 81, 79, 77, 75 and 73 Adelaide Drive to the east of the site.
- 1.5** The site is within the urban area of Sittingbourne.

## **2. PROPOSAL**

- 2.1** The proposal seeks the demolition of the existing detached dwelling and erection of two buildings comprising 10 residential flats. A three storey building is proposed at the front of the site which would comprise 5no. one-bedroom flats and 1 no. two-bedroom flat. In the rear part of the site a two storey building is proposed which would comprise 4no. one bedroom flats.
- 2.2** The internal floor area of the flats would be as follows: 38.8 sqm for flats 1 and 2, 51.5sqm for flat 3, 54.2sqm for flat 5, 53.8sqm for flat 6, and 42sqm for flats 7, 8, 9 and 10, which are all one bedroom flats. Flat 4 has two bedrooms and the floor area would be 79.9sqm.
- 2.3** The building at the front of the site would replace the existing dwelling; it would be a three storey building with accommodation set in the roof space and would comprise the width of the plot with a 5m wide underpass to provide access to the rear of the site. The roof form of the building would comprise two gable end roofs with a higher gable element projecting to the front and rear of the site with large floor to ceiling glazing on the front and rear elevations creating a modern design. Four balconies (one external and three inset) are proposed on the front elevation to serve flats 3, 4, 5 and 6.
- 2.4** The building at the rear of the site would be two-storey and would be reduced in scale and form in comparison to the building at the front of the site. It would have a pitched, hipped roof, with a gable element fronting north/south. The flats would be accessed via external doors on the south-east elevation with the first floor flats accessed via an enclosed external staircase to prevent overlooking. No balconies are proposed on this building.
- 2.5** Both buildings would be finished in a mix of yellow stock brickwork at ground floor level and white self coloured render at first and second floor level for the external walls. The roof would be finished slate roof tiles with grey UPVC soffit and fascia's. Windows and doors would be anthracite grey aluminium.
- 2.6** A car parking area is proposed between the two buildings and would provide 10 car parking spaces (one per flat). The driveway and parking area are noted to be finished in a permeable paving surface. Two cycle stores are proposed, one adjacent to each of the flat blocks and would provide one cycle space per flat. The existing vehicular access has been widened to 5m (from 4.1m) to allow two cars to pass each other. Two bin stores are proposed, one adjacent to each of the flat blocks.
- 2.7** With regard to boundary treatment a new 0.75m boundary brick wall to the front is proposed whilst 1.8m close boarded fencing is proposed along the eastern, southern and western boundaries, which would be reduced down to a 900mm fence adjacent to the vehicular access entrance.

- 2.8** There are small areas of amenity space to the front/rear of the flat blocks, with additional planting in the form of 16 native species trees shown along the site boundaries and within the parking courtyard.
- 2.9** The density of development would be 125 dwellings per hectare.

### 3. SUMMARY INFORMATION

	Existing	Proposed – Front Building and site	Change (+/-)
Site Area (ha)	0.08ha	0.08ha	None
Approximate Ridge Height (m)	8.8m	9m and 9.8m	+ up to 1m
Approximate Eaves Height (m)	5.8m	5.3m and 6.7m	+ up to 0.9m
Approximate Depth (m)	17m	16m	- 1m
Approximate Width (m)	5.5m	12.9m	+ 7.4m
No. of Storeys	2	3	+ 1
Parking Spaces	2	10	+ 8
No. of Residential Units	1	10	+ 9
No. of Affordable Units	0	0	

	Proposed – Rear building
Approximate Ridge Height (m)	6.6m and 7.1m
Approximate Eaves Height (m)	5m
Approximate Depth (m)	11.1m
Approximate Width (m)	8.7m, 12.3m (with external staircase)
No. of Storeys	2

### 4. PLANNING CONSTRAINTS

- 4.1** No specific planning constraints

### 5. POLICY AND CONSIDERATIONS

- 5.1** The National Planning Policy Framework (NPPF): Paragraphs 7, 8, 11 (sustainable development); 59 – 76 (delivering a sufficient supply of homes); 102 (transport); 127 and 130 (achieving well designed places); 165 (sustainable drainage systems) 170 (local and natural environment); 175 (biodiversity) are relevant to this proposal.
- 5.2** Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (delivering sustainable development in Swale); ST3 (the Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne area strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); DM6 (managing transport demand and impact); DM7 (Vehicle parking); DM14 (general development criteria); DM19 (Sustainable design and construction); DM21 (sustainable drainage / flood mitigation); DM24 (conserving and enhancing valued landscapes); DM28 (biodiversity conservation).

### 6. LOCAL REPRESENTATIONS

- 6.1** Eight letters and emails of objection have been received. Their content may be summarised as follows:

- Not in keeping with surrounding properties which are Edwardian and Victorian styles. Balconies do not fit in. Use of materials not complimentary to surrounding area.
- Modern look of buildings out of character with the area.
- Ridge height exceeds neighbour at 127 London Road. Resulting building will be imposing.
- Harm to residential amenity: loss of light and overshadowing.
- Harm to residential amenity: poor outlook due to two-storey building in rear section of plot.
- Harm to residential amenity: loss of privacy and overlooking to 104, 106, 108 London Road from balconies and windows on front elevation.
- Increased noise and disturbance from vehicles entering/leaving site to park in car park, and use of amenity area.
- Right to light covered by the common law Prescription Act 1832.
- Application has not been supported by a right to light survey.
- Bin store close to fence could lead to vermin and odours.
- Lack of parking provision within site as only 10 spaces.
- No provision for visitor or commercial/delivery parking.
- Increased pressure on parking in local area; Adelaide Drive, Cryalls Lane, Staplehurst Road, Gadby Road.
- Increased traffic and congestion.
- No statement regarding fire.
- Balconies would lead residents to suffer from pollution.
- Increased pollution from car parking area.
- No communal space to hang washing outside.
- Does not cater for family market unlike most of dwellings along London Road.
- Lack of demand for flats.
- Lack of restricted access to site could increase potential for crime from underpass.

## **7. CONSULTATIONS**

### **7.1 Environment Agency raise no objection subject to conditions (30/09/2019)**

*30/09/2019: The Environment Agency reviewed the submitted information and raise no objection to the proposal subject to conditions regarding contamination, infiltration of surface water drainage and piling/penetrative foundation designs. Without these conditions the EA could object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will cause or be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.*

*29/07/2019: The site is within a Groundwater Source Protection Zone 1, as such the Environment Agency requested a Preliminary Risk Assessment (PRA) to assess any risks to the groundwater environment associated with the development.*

### **7.2 Natural England raise no objection (07/08/2019)**

*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).*

### **7.3 NHS; Swale Clinical Commissioning Group raise no objection (29/07/2019)**

*05/04/2019: Requested a S.106 financial contribution of £360 per new resident (£360 x*

*24 – based on 2.4 people per unit) which equates to a financial contribution of £8640 towards expanding existing facilities within the vicinity of the development.*

**7.4 Southern Water raise no objection, though informatives are suggested (08/08/2019)**

**7.5 KCC Flood and Water Management raise no objection subject to conditions (14/08/2019)**

*KCC Flood and Water Management note that no drainage strategy has been provided regarding how surface water is to be managed, however are satisfied that a detailed design can be submitted via a pre-commencement condition.*

**7.6 KCC Highways raise no objection subject to conditions (12/08/2019)**

*KCC Highways have requested the following conditions in relation to; construction management plan; surface water; provision and permanent retention of the vehicle parking spaces; provision and permanent retention of the vehicle loading/unloading and turning facilities; use of a bound surface for the first 5 metres of access from the edge of the highway; provision and permanent retention of the cycle parking facilities; and provision and maintenance of the visibility splays.*

**7.7 Kent Police raise no objection (12/08/2019)**

*Kent Police request a condition to address matters to design out crime including lighting, access controlled gate, windows/doors, and security measures.*

**7.8 Environmental Protection Team Leader raises no objection subject to conditions (14/08/2019)**

*They have requested conditions regarding suppression of dust; hours of construction work; land contamination and noise levels.*

**8. BACKGROUND PAPERS AND PLANS**

**8.1** The application has been supported by a site location plan; existing block plan; existing elevations; measured building survey; topographical survey; proposed site plan, proposed floor plans, proposed plans and elevations; proposed cycle storey and bin store plans; and 3D massing views. The application has been supported by a planning, design and access statement, and Phase 1 Land Contamination Assessment (including Appendix).

**9. APPRAISAL**

**Principle of Development**

**9.1** The site is situated within the built up area of Sittingbourne and comprises a brownfield site with existing residential use and therefore the principle of residential development is acceptable. The site is in an appropriate and sustainable location with good access to local facilities, transport links and schools, where good use should be made of available land. Furthermore, it is also important for Members to note that the Council are currently unable to demonstrate a 5-year housing land supply. As a result of this, I am of the view that the benefits of addressing this shortfall, upon a site within an existing built up area boundary should be given additional weight.

## Visual Impact

- 9.2** The existing area is characterised predominantly by residential dwellings which include detached and semi-detached and are mainly two storeys in height. The dwellings fronting onto London Road vary in terms of scale, design, form and finish. Dwellings to the west and north of the site are of a similar Edwardian style to the existing dwelling with pitched gable roofs and a projecting gable element on the front elevations, but there is variety in terms of materials and finish, including external brickwork and some properties have a rendered finish or painted external walls. The dwelling to the east of the site is a two storey dwelling of a simple design with a pitched gable end roof and finished in brickwork. There is increasing variety in the scale and form of dwellings to the north-east and further east of the site along London Road, including single storey dwellings.
- 9.3** The site backs onto the gardens of residential dwellings, which front onto Adelaide Drive to the east of the site. Adelaide Drive is characterised by semi-detached and detached two storey dwellings of a similar scale finished in a mix of facing brickwork, render, hanging tiles with plain tiled roofs.
- 9.4** Approximately 120m to the west of the site there is some commercial buildings including a petrol station which fronts onto London Road, and Wickes which is set back from the highway. There is also a modern development of flats fronting onto London Road (at 153 London Road) which are 3-4 storeys, with a 4 storey element with accommodation in the gabled roofspace on the corner of London Road and the vehicular access road to Wickes. This flat development is of a contemporary design, finished in light coloured facing brick at ground floor level, with white render for the remainder of external walls, and incorporates external balconies on the front elevation.
- 9.5** The proposal seeks the demolition of the existing building and would be replaced by a larger building. With regard to the existing house, the Conservation and Design Manager has commented that the existing house which is of Edwardian style, is not a good example of such due to the loss of its original windows, roof coverings and front boundary treatment. It is further noted that the other properties in the same group of houses between the application site and Cryalls Lane to the west are also of very limited architectural and/or historic value, and date more or less from the same period. As such it is considered that there is no objection regarding the demolition of the existing dwelling.
- 9.6** As noted, the proposed building in the front of the site would be larger than the existing dwelling and would occupy the width of the plot with an underpass to allow vehicular access into the site. The overall bulk and scale of the building would be broken up through the use of a staggered building line along the front elevation and the variation in the ridge height and roof form. The main ridge height of the building would be the same height as the neighbouring property at no. 127 London Road, and would also have a higher ridge height on the projecting gable element which would be 0.8m higher than the main ridge height. The proposal would be three storeys, with the second floor accommodation set within the roof-space via a modest pitched gable dormer on the front/rear elevation, and within the eaves of the projecting gable element which limits the overall scale and height of the building. As such, it is considered the massing and form of the proposed building is acceptable in this location and would not appear unduly prominent within the street-scene context.

- 9.7** In terms of detailing of the proposed front building it is considered that it is a contemporary design which would complement the existing street-scene which as set out above is varied. The proposal includes elements such as gabled roof, pitched gable dormers, and balconies which are evident elsewhere within London Road and the proposed mix of materials would not appear at odds within the varied street-scene. Details of materials will be sought via condition to ensure the materials are of an appropriate quality and finish.
- 9.8** The proposal would maintain the existing separation distance with no. 127 London Road, and there would be a 6m gap between the proposal and the other neighbouring dwelling to the east namely no 119 London Road, as such it is considered there is sufficient visual separation between the proposed building and neighbouring properties, and it is considered that the proposed building would not appear cramped or over-developed.
- 9.9** With regard to the proposed building at the rear of the site, this would not be easily visible within the street-scene context of London Road, and would only be visible in gaps between existing buildings on London Road or Adelaide Drive. As such it would not be a prominent building in terms of the character and appearance of the area. The proposed building would be of a smaller scale and form than the front building, being two storeys with a lower ridge and eaves height and shallower roof form. The detailing and general appearance would be similar to the building at the front of the site which would maintain a consistent design approach within the development.
- 9.10** In terms of hard and soft landscaping, a car parking courtyard area would be situated in between the two buildings with small areas of amenity space adjacent to the two buildings. The access road and car parking spaces would be finished in a permeable surface, details of which will be controlled via condition. Soft planting is proposed in the amenity space areas and with the provision of native tree planting along the rear site boundary and along the boundaries of the car parking area which would help soften the level of built form and result in a suitable mix of built form, hardstanding and green spaces within the site. To ensure a suitable mix of species for the proposed trees or other plants details of landscaping will be sought via condition.
- 9.11** Taking into account the above, it is considered that the proposed development would not cause any harm to the character or appearance of the area. It is considered that the overall scale and form of the proposed buildings are acceptable, and the site at 125 London Road is of a sufficient size to accommodate two buildings without resulting in a cramped or over-developed form of development.

### **Residential Amenity**

#### *Front building*

- 9.12** The proposed building at the front of the site would be adjacent to neighbouring properties at 127 London Road, 119 London Road and the garden of 85 Adelaide Drive which wraps around the side of the boundary for 119 London Road up until the footpath along London Road itself.
- 9.13** No. 127 London Road is immediately adjacent to the proposed front building, and has a rearward two storey part of the building which is a similar depth to the rearward two storey element of the existing dwelling. In terms of separation distance the proposed

building would maintain the same distance as the existing dwelling, however the rear wall of the proposed building closest to the boundary would be stepped back by approximately 5m (in comparison to the existing two storey rearward part of the building), and the rearward projection accommodating the stairs would be set 6.8m from the side building line of no. 127 London Road. As such, whilst the proposed building is taller in height along this shared boundary, the reduction in depth (in comparison to the existing built form) and increased distance between the rear projecting elements will ensure that the neighbour will maintain an acceptable level of residential amenity in terms of light and outlook. The windows on the side elevation of the building at the front of the site will be obscured glazed to ensure the privacy of the neighbouring property is maintained. These windows will be conditioned to be obscure glazed and non-opening below 1.7m from the internal floor level to ensure a suitable level of privacy is maintained.

- 9.14** Nos. 119 London Road and 85 Adelaide Drive are located to the east of the proposed front building, there would be a separation distance of approximately 5.6m to the flank elevation of no. 119 London Road which has no windows on that elevation, and a separation distance of 12.4m to the rear of 85 Adelaide Drive (building to building measurements). No windows are proposed on the side elevation of the proposal above ground floor level which would be screened by 1.8m close boarded fencing. Taking into the separation distances and lower height of this part of the building it is not considered that the proposal would result in any significant harm to the residential amenities of these neighbours in terms of light, outlook or privacy.
- 9.15** There have been concerns raised by neighbouring properties on the opposite side of London Road that the proposal would result in a loss of privacy from higher windows and balconies. There is a separation distance of approximately 25-28m between the proposed front elevation of the building (including balconies) and the neighbouring dwellings on the opposite side of London Road. Taking into account this separation distance it is not considered that this would result in a significantly harmful impact in terms loss of privacy or overlooking.

#### *Rear building*

- 9.16** The proposed building in the rear part of the site would be adjacent to neighbouring properties at 127 London Road and nos. 73, 75, 77 and 79 Adelaide Drive.
- 9.17** The proposed rear building would be adjacent to the rear garden of no. 127 London Road. There would be separation distance of approximately 24m between the proposal and the rear wall of this neighbouring property. Taking into account this separation distance and relative building lines it is not considered that the proposal would cause significant harm to the habitable rooms in this neighbouring dwelling or the immediate amenity space to the rear of the dwelling. The proposal includes side windows facing the garden of no. 127 London Road which are shown to be obscure glazed to prevent overlooking to this neighbour. These windows will be conditioned to be obscure glazed and non-opening below 1.7m from the internal floor level to ensure a suitable level of privacy is maintained.
- 9.18** Nos. 73, 75, 77 and 79 Adelaide Drive are located to the east of the proposal where the side east boundary of the proposal site adjoins the rear garden boundary of these neighbours. The exception is no. 73 Adelaide Drive which has an L shaped garden which wraps around to adjoin the rear boundary of 125 London Road. The proposed



building is set approximately 3.8m from the east side boundary, although the proposed external staircase would adjoin the common side boundary. In terms of proximity to neighbouring properties there is a distance of approximately 22m – 26m from the side wall of the proposed building and the rear walls of these neighbouring properties. The distance is also approximately 18m – 22m between the external staircase element and the rear walls of these neighbouring properties. In terms of outlook it is considered that whilst the proposal is two storey it has been designed in way to limit impact upon neighbouring dwellings including a shallow pitch roof which leans away from neighbouring properties, and that there is a sufficient depth to ensure it is not overly dominant to the neighbouring dwellings to the east. In terms of loss of light and overshadowing the proposal would result in some overshadowing to the rear part of the gardens of these properties of Adelaide Drive, but due to the separation distance it is not considered that the proposals would cause a significant loss of light or overshadowing to the habitable rooms or immediate amenity space of these dwellings and as such it is not considered to result in a significant harmful impact that would warrant refusal.

- 9.19** In terms of impact upon privacy to these neighbours the entrance doors to these flats would be situated on the side elevation and an external staircase is proposed to access the flats at first floor level. The external staircase would be enclosed to the sides (minimum of 1.8m from the finished floor level) to ensure that no overlooking would occur from the use of the staircase or from the entrance doors to the flats. As such it is considered that a suitable level of privacy will remain and the enclosed staircase structure will be conditioned.
- 9.20** As noted above, the garden of no. 73 Adelaide Drive is L shaped and wraps around to adjoin the rear boundary of no. 125 London Road. The proposed building includes rear windows which would face this garden area. The plans show that there would be 1.8m close boarded fence along this boundary and tree planting within the site along this rear boundary, however there would be views available from upper floor windows into the rearmost part of this garden. The windows however are in a position to ensure that they would not overlook the habitable rooms or immediate amenity space of no. 73 Adelaide Drive, and therefore it is considered that this neighbouring dwelling will maintain a sufficient level of privacy.
- 9.21** There have been concerns raised by neighbouring properties regarding potential noise and disturbance from the vehicular parking and vehicles coming and going from the site. The site would utilise the existing vehicular access and the parking area would be screened by 1.8m close boarded fencing either side with the provision of tree planting along the eastern and western site boundaries. It is acknowledged that there would be some level of disturbance to neighbouring properties, but taking into account the number of dwellings proposed and the sites location within a built up area it is not considered that the level of noise or disturbance would result in a significant harmful impact to neighbouring properties that would warrant refusal of the application.
- 9.22** Taking account the above it is considered that the proposed development does not give rise to unacceptable harm to residential amenities of neighbouring properties.
- 9.23** With regard to the future amenity of occupiers it is considered that future occupiers would have a suitable level of amenity in terms of light, outlook and privacy. The floorspace sizes for the proposed dwellings are considered acceptable with all the

rooms meeting the minimum national space standards for 1 bedroom and 2 bedroom flats. In terms of amenity space the provision of external amenity space varies throughout the development. The ground floor flats (nos. 1, 2, 7 and 8) would have small areas of external amenity space adjacent to the flats. The upper floor flats (nos. 3, 4, 5 and 6) within the front building would have external/inset balconies as their provision of amenity space, and the upper floor flats in the rear building would not have a provision of amenity space. Whilst the level of provision is small, it is considered that the scheme would provide a suitable level of amenity for these flats which are mainly one bedroom flats, with a single two bedroom flat situated within a built up urban area.

- 9.24** The Environmental Protection Team Leader has requested a pre-commencement condition seeking details to demonstrate that noise levels for future occupiers will meet adopted standards. As such, it is considered that the future amenity of occupiers in terms of noise will be able to be controlled via the condition which the agent has agreed to. Therefore it is considered that the future occupiers will have a suitable level of amenity.

### **Highways**

- 9.25** The site would utilise an existing vehicular access off London Road, which has been widened to 5m to allow two cars to pass each other at the site entrance. In terms of visibility there is a 2x2m pedestrian visibility splay at the front of the site as the building is set back from the highway and the boundary treatment at the front of the site is at a low height (between 0.75m and 0.9m). It is considered that there is suitable space within the site to allow cars to enter and exit the site in a forward gear. As such it is considered that the site has a suitable vehicular access and KCC Highways have raised no objection regarding the access and level of visibility available.
- 9.26** The KCC Residential Parking standards (Kent Design Guide Parking: Interim Guidance Note 3) outlines that there should be one car parking space per 1 or 2 bedroom flats for this built up location. The proposal provides 1 car parking space per flat which is considered to accord with the adopted parking standards. The proposal also provides secure cycle storage, with the provision of cycle parking space per flat. It is considered there are sufficient car parking spaces within the development to serve the development and as such I do not consider it would be likely to increase parking pressure on surrounding roads such as Adelaide Drive.
- 9.27** As set out above, KCC Highways have raised no objection to the proposed development subject to conditions including a construction management plan, provision and permanent retention of vehicle spaces, turning facilities, cycle parking facilities. These conditions will be included as part of the planning permission if approved.
- 9.28** Policies DM6 and DM7 of the Local Plan seek to ensure that developments do not cause unacceptable highways impacts. Taking the above into account, I do not consider that the scheme would conflict with these policies and that based upon the above assessment the impact of the development upon highway amenity and safety is acceptable.

### **Other Matters**

- 9.29** The NHS have requested a S.106 financial contribution of £360 per new resident (£360 x 24 – based on 2.4persons per unit) to be used for the London Road Medical Centre

The consultation response is noted, however the development is for a net gain of 9 residential dwellings and therefore does not meet the threshold for S.106 developer financial contributions which is applicable from 10 or more dwellings.

- 9.30** Policy DM8 of the adopted Local Plan deals with affordable housing and sets out that in Sittingbourne, there is a requirement (on schemes of 11 dwellings or more) for 10% of the total units to be affordable. As the application is for a net gain of 9 dwellings it would not meet this threshold and as such there is no requirement for affordable housing.
- 9.31** Paragraph 174 of the NPPF 2018 advises that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Given the existing residential use of the site within a built up urban area and clearance of the garden prior to submitting the application it is not considered that detailed ecological surveys were required for the application. However, the proposal includes tree planting within the site which will provide an ecological benefit in addition to benefits gained in terms of visual amenity. Furthermore details of a scheme of biodiversity enhancements including the provision of bat and bird boxes will be sought via condition to enhance biodiversity within the site. Details of landscaping will be controlled by condition to ensure an appropriate mix of native species planting for the site.
- 9.32** KCC Flood and Water Management note that no drainage strategy has been provided regarding how surface water is to be managed, however are satisfied that a detailed design can be submitted via a pre-commencement condition which the agent has agreed to. As such, KCC Drainage raises no objection to the proposed development subject to conditions regarding surface water drainage and a detailed sustainable surface water drainage scheme. Therefore it is considered the proposed development would comply with policy DM21 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 165 of the NPPF.
- 9.33** A number of pre-commencement conditions have been requested by external consultees including the Environment Agency, KCC Flood and Water, KCC Highways and Mid Kent Environmental Health. These pre-commencement conditions have been agreed by the agent in an email dated 22/10/2019.

#### **SPA Payment**

- 9.34** 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 £245.56 for each new dwelling. The proposal will result in a net gain of 9 dwellings which will result in a financial contribution of £2210.04. The agent has set out that they are willing to agree to pay the contribution once development commences on site. As such the contribution will be secured by either a s106 agreement or unilateral undertaking, rather than an up-front financial contribution. An appropriate assessment is included later in the report.

#### **Sustainable Design and Construction**

- 9.35** Members will note condition (12) below. I have asked the applicant to provide a statement setting out the development will incorporate measures to address sustainable design and construction. Such a statement has subsequently been submitted setting out the strategy for reducing energy use and associated carbon

emissions through the design of the scheme in follows a three step approach; 1. *Reducing the energy demand through passive design strategies and provision of a high quality building envelope*; 2. *Reducing the energy consumption through best practice design of building services, lighting and control*; and 3. *Installation of on-site low and zero carbon technologies*. This statement outlines the provision of solar photovoltaic panels installed on the roofs to generate renewable electricity for the site; and the provision of electric vehicle charging points. I have requested further clarification of the details for such provision from the developer and will update members at the meeting.

## 10. CONCLUSION

**10.1** Overall I give very significant weight to the sustainable location of the site within the built area boundary. The adopted Local Plan directs development towards these areas, and the site will utilise an existing brownfield site. I am of the view that the design and layout of the dwellings has been well considered and will not result in any harm to the character or appearance of London Road. I believe that the layout and scale of the dwellings will not give rise to an unacceptable impact upon residential amenities and via the inclusion of conditions in relation to construction management and hours that this will limit any harm to an acceptable degree.

**10.2** On the basis of the above, I consider that planning permission should be granted for this development, subject to the conditions listed below.

## 11. RECOMMENDATION

GRANT Subject to securing the appropriate SAMMS payment of £2210.04 and to the following conditions:

### CONDITIONS to include

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

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

2. The development hereby approved shall be carried out in accordance with the following drawings:

Site Location Plan, drawing no. 1479/1 Rev A  
 Proposed Site Plan, drawing no. 1479/2 Rev B  
 Proposed Floor Plans, drawing no. 1479/3  
 Proposed Plans and Elevations, drawing no. 1479/4  
 Cycle Store, Fences and Bin Store Plans, drawing no. 1479-5

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

3. 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.

4. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

5. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

6. No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

- a. all previous uses;
- b. potential contaminants associated with those uses;
- c. a conceptual model of the site indicating sources, pathways and receptors; and
- d. potentially unacceptable risks arising from contamination at the site.

*Please note: The submitted Ecologia PRA report fulfils this requirement.*

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk for all sources and site receptors that may be affected,

*Please note: If no significant risk is identified no further works would be required.*

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: 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 in line with paragraph 170 of the National Planning Policy Framework.

7. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

8. 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: 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 from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

9. No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: 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 in line with paragraph 170 of the National Planning Policy Framework.

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: 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 in line with paragraph 170 of the National Planning Policy Framework.

11. No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

12. 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.

13. No development beyond the construction of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority demonstrating how the development will meet the principles of 'Secure by Design'. The development shall then be completed strictly in accordance with the approved details.

Reason: In order to secure a satisfactory form of development having regard to the nature of the site.

14. 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. 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.

15. 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.

16. Prior to the commencement of any above ground works, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native planting where possible. The approved details will be implemented and thereafter retained. The provision and installation of enhancements should take place within 6 months of the commencement of works, where appropriate.

Reason: To enhance biodiversity.

17. Submission of a Construction Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

Reason: In the interests of residential amenity and road safety.

18. No development beyond the construction of foundations shall take place until details of measures to prevent the discharge of surface water onto the highway have been submitted to and approved in writing by the Local Planning Authority. The development shall then be completed strictly in accordance with the approved details.

Reason: In the interests of highway safety.

19. The area shown on drawing no. 1479/2 Rev B as car parking, vehicle loading/unloading, turning space and cycle parking spaces shall be provided before any of the dwellings are occupied and shall be retained for the use of the occupiers of, and visitors to the dwellings, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

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

20. The visibility splays shown on drawing no. 1479/2 Rev B shall be provided prior to the first occupation of the dwellings hereby approved and maintained at all times and any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway within the visibility splays shall be removed. A bound surface shall be used for the first 5 metres of the access from the edge of the highway.

Reason: To ensure provision of the visibility splays and in the interests of highway safety.

21. The commencement of the development shall not take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of the amenities of the area.

22. 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 - 1800 hours, Saturdays 0830 - 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.

23. No development approved by this permission shall be commenced prior to a



contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- b) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Reason: To ensure any land contamination is adequately dealt with.

24. Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the District Planning Authority.

Reason: To ensure any land contamination is adequately dealt with.

25. Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure any contaminated land is adequately dealt with.

26. Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: In the interests of the amenity of occupiers.

27. Before the first occupation of the dwellings hereby permitted on flats 1, 2, 3, 7, 8, 9 and 10 the window(s) at ground floor level and first floor level on the north western elevation (as shown on drawing nos. 1479/3, 1479/4) shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows 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.

28. The privacy screen to the external balcony on flat 4 on the north west elevation (as shown on drawing nos. 1479/3, 1479/4) shall be fitted with glass that has been obscured in the

manufacturing process to Pilkington level 3 or higher (or equivalent level) and implemented before the development is first occupied and retained permanently thereafter.

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

29. The privacy screen to the external staircase serving flats 9 and 10 (as shown on drawing nos. 1479/3, 1479/4) shall be a minimum of 1.8m high from the finished floor level and shall be implemented before the development is first occupied and retained permanently thereafter.

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

30. The amenity area shown on the approved plans shall be retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

## INFORMATIVES

Southern Water:

1. A formal application for connection to the public sewerage system is required in order to service this development. Please read Southern Waters New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

KCC Highways:

2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Environment Agency:

3. Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with Environment Agency guidance document “Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73”.

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project formally agreed with the EA
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The Environmental regulations page on GOV.UK

Environmental Protection Team Leader:

4. Asbestos containing materials may be present at the site. The agent/applicant should ensure that these materials are dismantled and disposed of in the appropriate manner to a licensed disposal site. Further information regarding safety issues can be obtained from the H.S.E.

### **The Council's approach to the 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.

The applicant/agent was provided with formal pre-application advice.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, [www.planningportal.co.uk](http://www.planningportal.co.uk) (search for 'discharge of conditions').

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

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

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.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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.

