

APPENDIX A

2.6 REFERENCE NO - 19/502283/FULL		
APPLICATION PROPOSAL Erection of a block of 7 no. dwellings with parking, refuse and cycle store.		
ADDRESS Land Adjacent To Crescent House Otterham Quay Lane Upchurch Kent ME8 7UY		
RECOMMENDATION Grant subject to securing a SAMMS contribution of £491.12 (2x 245.56)		
SUMMARY OF REASONS FOR RECOMMENDATION The principle of residential development on this site has been established by the approval of 17/500825/FULL and the proposal would not give rise to unacceptable harm to visual or residential amenities.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Heritage Designer Homes AGENT Mr Paul Fowler
DECISION DUE DATE 09/07/19		PUBLICITY EXPIRY DATE 08/08/19

Planning History

17/500825/FULL

Erection of 5 no. 4 bedroom houses, with associated parking and refuse store

Approved Decision Date: 18.04.2018

Adjacent site:

17/500594/PNOCLA

Change of use of offices (B1) to residential (C3). The building will be divided into 5 units.

Prior Approval Granted Decision Date: 24.03.2017

1. DESCRIPTION OF SITE

- 1.1 The application site is a parcel of vacant land on Otterham Quay Lane, situated west of Upchurch within the designated countryside close to the Borough boundary with Medway.
- 1.2 It comprises part of the grounds and parking area of a redundant office building known as Crescent House (which has been granted consent by way of prior approval for conversion to 5 houses under ref. 17/500594/PNOCLA). The area has since been cleared and a 1.8m fence erected along the boundary of the site.
- 1.3 To the north is a residential dwelling, The Cottage, northwest is the Otterham Quay Lane industrial estate, west is Crescent House, to the south are open fields, southeast a small cluster of residential dwellings, and across the road to the east is part of Upchurch golf course.

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- 1.4 It is approximately 2.5km by road (1.9km via PRow) to Rainham shopping centre, 2.7km to Rainham train station (1.7km via PRow), and 1.8km to the Co-op / chip shop / school in Upchurch (1.6km via PRow)

2. PROPOSAL

- 2.1 The application seeks permission for the erection of 7no. 3-bed houses and associated amenities. The scheme amounts to an amendment to the previously approved scheme for 5 dwellings, adding an additional 2.
- 2.2 The houses would be arranged in an L-shaped terrace with the rear of the dwellings facing onto the corner, approximately mirroring the footprint of the existing former office building at Crescent House (which is to be converted into dwellings). The proposed houses are of a relatively simple design with a mixture of brick and dark-stained cladding, and have a maximum ridge height of approximately 8.3m.
- 2.3 Vehicle access would be via the existing site entrance on Gills Terrace and car parking would be provided as part of an extension to the existing car parking area. The proposed houses would face inwards onto this parking area, with rear gardens adjacent to Otterham Quay Lane and Gills Terrace – the submitted Design and Access statement and plans show timber close-boarded fence along the rear boundaries with Otterham Quay Lane with hedgerow planted to the front of this.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

The western part of the site, roughly where Plots 1 and 2 and the car parking court are proposed, lies within Flood Zone 2.

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 Upchurch Parish Council object to the application for the following reasons:

- It is over intensive development of the site;
- The development is very cramped;
- There is insufficient parking provision for the seven houses and their visitors
- There is not enough space for bicycles;
- The accommodation is cramped;
- Access and egress to the site is poor;

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- The proposal would provide affordable housing which would attract young families with young children and there is nowhere for the children to play;
- The site is not sustainable as there is no footpath and very limited public transport
- It is sporadic development in the countryside.
- It impacts on the tranquility of the countryside;
- It is not conducive to the entrance to the village

5.2 Swale Footpaths Group note the footpath running along Gills Terrace.

5.3 No other received.

6. CONSULTATIONS

6.1 The Environment Agency raise No objection to the proposal subject to conditions relating to finished floor levels, contamination and surface water drainage.

6.2 Southern Water advise the applicant to contact the Environment Agency and local drainage authority.

6.3 Natural England refer to their standing advice.

6.4 KCC Drainage note that the application falls outside of KCC's remit as statutory consultee.

6.5 Environmental Health raise No objection, subject to conditions.

6.6 KCC Highways state :

"1) I note that the application differs little materially in highway terms from the previous application SW/17/500825 that was considered acceptable by us, subject to conditions. The previous plans appeared to preserve a pedestrian link originally proposed under application ref.CN/13/0001 for the neighbouring Crescent House site, albeit in an amended form, offering a footway around the perimeter of the site. It appears now in the current plans that this is intended for hedgerow planting, which would preclude pedestrian movement between the both the application site and the neighbouring site. I would therefore recommend that these proposals clearly define a 1.5 metre footway connecting the site to the east side of Otterham Quay Lane via dropped kerbs, at the location identified previously.

2) I cannot determine at this stage the amount of space available for cycle parking under these proposals, it would appear insufficient given the dimensions of the combined refuse and cycle store. A general rule of thumb is to allow 0.6 metres width per cycle to allow for ease of access.

3) I would also welcome a proposal on how users of electric vehicles are to be accommodated on this development."

6.7 KCC Archaeology No response received. No conditions were requested on the previous application.

6.8 KCC Rights of Way (received 23/07/19) No objection.

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6.9 UK Power Networks: No response received.

6.10 Southern Gas Networks: No response received

6.11 KCC Minerals and Waste: No response received.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings for 19/502283/FULL and also 17/500825/FULL.

APPRAISAL**Principle of Development**

7.2 The application site lies outside of the built up area boundary and is thus within the countryside, where the Council's established policies of rural restraint seek to restrict residential development unless for the purposes of (amongst others) agricultural worker's housing, or affordable housing to meet an identified local need. In this instance however the principle of development is considered to have been accepted as a result of approved application 17/500825/FULL which granted planning permission on the site for the erection of 5no. dwellings each with 4no. bedrooms in a similar layout to the scheme now put forward. The difference in the two schemes lies in the number of units. However – as set out below, the bulk and scale of the building is not markedly different between the two schemes, and I consider it unlikely that refusing this application based on the principle of development, bearing in mind the previous decision of the Planning Committee, would be sustainable at appeal.

Visual Impact

7.3 The orientation of the dwellings was established as acceptable on the previous approval and it was considered acceptable to have the dwellings fronting inwards onto a central courtyard. The external design of the dwellings differs slightly from the previous approval to accommodate the additional two units however the layout is still 'L shaped' and the dwellings have a similar height to those on the previous approval. The roof design is appropriate with a pitched design and the fenestration is sensibly arranged so that it is visually balanced and ensures an active frontage is visible from the highway.

7.4 I note the Parish Council's comments regarding the addition of 2no. units resulting in an overdevelopment of the site but I do not share their view. The footprint of the proposed development is only minimally different from that approved under 17/500825/FULL and it is not considered that this represents intensive development of the site. I note that concerns relating to this scheme being considered sporadic development in the countryside, impacting the tranquillity of the countryside and not being conducive to the entrance of the village. Given that the scheme does not differ markedly from the approved development, the refusal of planning permission on these grounds would be difficult to defend on appeal.

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- 7.5 The parking area is enclosed to the centre of the site and landscaping has been proposed to soften the appearance of the tarmac area, I consider this is beneficial and recommend that a full landscaping condition is implemented below.
- 7.6 In summary the massing, orientation and height of the dwellings reflect the previous approval and are considered to be of an acceptable design and I do not consider that any significant harm will be caused to visual amenity over and above that of the approved development.

Residential Amenity

- 7.7 There are a handful of existing dwellings within the immediate vicinity, and the existing adjacent office block is to be converted to houses under the prior notification process. Due to the layout of the proposed development and the position of those other properties, however, I do not consider that there would be any serious harm to residential amenity. The distances between the habitable windows of the proposed dwellings and those situated at Crescent House are all in excess of 21m and therefore I do not consider that there will be any harmful overlooking. There is a distance in excess of 11m, which is the Council's expected distance on flank to rear windows, on plots 1 to 4 which face towards adjacent neighbour 'The Cottage'. I therefore consider that the amenity of the residents of this dwelling will not be significantly impacted by the proposal.
- 7.8 The floorspace sizes for the proposed dwellings are considered acceptable with all the rooms meeting the minimum national space standards with the exception of bedroom 3 in Plot 5 which is only slightly under the minimum standard of 7.5sqm at 7sqm. I believe that on balance given that the overall floorspace of the propose dwelling is in excess of the minimum standard that this is acceptable and will not cause harm to residential amenity.
- 7.9 The residential gardens provided are considered to be of a modest but acceptable size for the sizing of the dwellings and in reference to the Parish Council's comments these garden spaces would provide areas for the children to play.

Highways

- 7.10 I do not consider that there are any reasonable grounds for refusal in regards highway safety and amenity. The site has good access via an existing road (Gills Terrace) and sufficient parking would be provided within the confines of the site. Each dwelling would have two dedicated parking spaces which meets the requirement for 3 bedroom dwellings. The access and parking arrangements remain as per the previously approved scheme, save for the loss of 1 visitor space and the addition of 4 residential spaces. I note that KCC Highways have no objection to this provision. The parking provision for the approved residential conversion at Crescent House, 17/500594/PNOCLA, is maintained with one space being reallocated to the north east to but no loss of parking.
- 7.11 KCC Highways initially suggested that the scheme should include the provision of electric vehicle charging points which the agent has been forthcoming with and has

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submitted an amended plan showing one electric charging point per household. Highways also suggested the size of the cycle storage be increased to meet the minimum size standards. The agent has amended the plans and a width of 0.7m per dwelling is now allowed for cycle access and storage.

- 7.12 KCC Highways mention in their consultation response that they believed there to be a provision of a footpath around the edge of the site under application 17/500825/FULL however this was not the case as this area was never designated as such. This matter has been raised with the agent who has stated that the area to the front of the boundary fence was to be used as landscaping to soften the appearance of the built development. There is still a footpath within the internal boundary of the site, connecting the dwellings to each other and an open link to the adjacent Crescent House as well. I note that there is a footpath on the opposite side of Otterham Quay Lane giving pedestrian access to Rainham. The layout of the scheme was considered acceptable under 17/500825/FULL and therefore I see no reason for it not to be acceptable now.

Landscaping

- 7.13 There will be a close boarded fence around the private amenity space of the dwellings. However the strip of land to the front of this fence will be used as an area of landscaping in an attempt to soften the appearance of the built development. Low shrub and hedge planting is also proposed to surround the car parking spaces. A condition below has been included to ensure a full landscaping scheme including native species planting is submitted and approved by the Council.

SPA Payment

- 7.14 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. As consent has already been granted for 5no. dwellings on the site and this approval went through before the collection of SAMMs mitigation fee on schemes under 10 dwellings the Council has used its discretion and requested the mitigation fees for the 2no. additional units. The agent has confirmed the applicant is willing to pay this fee. For the sake of thoroughness I have included an appropriate assessment below.

8. CONCLUSION

- 8.1 To conclude, the principle of residential development on this site has already been accepted as a result of approved application 17/500825/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.

9. RECOMMENDATION

GRANT Subject to the following conditions:

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- 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) 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.

- 4) 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.

- 5) 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.

- 6) 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

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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.

- 7) 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.

- 8) 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.

- 9) The finished floor levels are to be set no lower than 6.3m above Ordnance Datum (AOD).

Reason: To minimise the risk of internal flooding.

- 10) 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.

- 10) 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.

- 11) Before any part or agreed phase of the development is occupied, all remediation works identified in the approved remediation strategy previously submitted, shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on

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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 Local Planning Authority.

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

- 12) 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.

- 13) The commencement of the development shall not take place until a programme for the suppression of dust during the demolition of existing buildings and 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 demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

- 14) No deliveries or 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.

INFORMATIVES

Environment Agency:

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency

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should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

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.

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

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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/>).

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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