

PLANNING COMMITTEE – 5 MARCH 2020**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

Def Item 1 REFERENCE NO - 19/503810/OUT		
APPLICATION PROPOSAL		
Outline application for the erection of 17 dwellings with new access road, associated parking and landscaping. (Access being sought, all other matters reserved for future consideration).		
ADDRESS Land On The South East Side Of Bartletts Close Halfway Kent ME12 3EG		
RECOMMENDATION Grant subject to conditions and a suitably-worded Section 106 agreement		
SUMMARY OF REASONS FOR RECOMMENDATION		
<p>The Council is currently unable to demonstrate a 5-year supply of housing sites, and this development would contribute towards addressing this identified under supply. When assessed against para 11 of the NPPF, it is considered that the positive impacts of the development in terms of its sustainable location and social benefits of the scheme comply with the environmental and social objectives of sustainable development. Whilst there would be an adverse impact from the development on undeveloped land, it is not considered that this adverse impact would significantly and demonstrably outweigh the identified benefits of the scheme. As such when assessed against paragraph 11 of the NPPF, the proposal is considered to comprise sustainable development, and the principle of this development is considered acceptable.</p> <p>Furthermore, the scheme would not give rise to any unacceptable impacts upon highway safety, visual or residential amenities and there are no objections from technical consultees.</p>		
REASON FOR REFERRAL TO COMMITTEE		
This application was deferred by the Planning Committee on 27 th January 2020.		
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL	APPLICANT Mr Stephen Potter AGENT Penshurst Planning Ltd
DECISION DUE DATE		PUBLICITY EXPIRY DATE
17/01/2020		01/11/19

1. BACKGROUND

- 1.1 This application was first reported to Planning Committee on 27th January 2019. At that meeting the following amendment was put forward by Councillor James Hunt; “*That the application be delegated to officers to approve subject to a Section 38 Agreement being agreed with the Ward Members and officers, with the full cost going to the applicant and if not, the application being brought back to the Planning Committee*”.
- 1.2 During the meeting, upon being put to the vote with the amendment outlined above, the motion to approve the application was lost. As a result of the above, the Head of

Planning Services called-in the application and deferred the matter to a future meeting. For clarity, the following was resolved:

“That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to a future meeting of the Committee.”

- 1.3 The original committee report has been included at Appendix 1, which sets out the description of the site, the proposal, local representations, consultations and the appraisal of the scheme. The tabled update is included at Appendix 2. The form that this supplementary report will take will be to provide further detail in relation to the proposed highways impact of development and to advise Members on the possible implications of refusing the application on this basis.

2. APPRAISAL

- 2.1 A central part of the committee discussion related to the impact of the proposed development on the local highway network and upon the unmade private road along Bartletts Close. Since the 27th January committee meeting, the applicant’s transport consultant has provided further comments in the form of a Technical Note (dated 14/02/2020). The Technical Note seeks to respond to concerns which were raised by Members, and provides further information regarding the unmade private road along Bartletts Close and argues that there is a lack of a planning justification to provide road improvements from the proposed application for 17 units.
- 2.2 Paragraph 9.21 of the committee report (see Appendix 1) sets out that *“In terms of the impact upon the local highway network, KCC Highways have outlined that the traffic from 17 dwellings would not constitute a significant impact on the capacity of the local highway network”*. It should be noted that the combined impact of the proposed development and development at the Belgrave Road site, including the proposed mitigation measures under this scheme (ref: 19/501921/FULL) had been considered by KCC Highways when the comments for this application were issued.
- 2.3 Furthermore, the Belgrave Road application was heard at the 6th February committee meeting, and the committee report outlines that the Belgrave Road application would not cause any unacceptable highways impacts. Paragraph 3.1 of said committee report assessed the cumulative impact and stated *“It should also be taken into consideration that the Technical Note, which KCC Highways & Transportation have commented on, took into account the development at Land On The South East Side Of Bartletts Close for 17 dwellings (19/503810/OUT), which is being reported to planning committee on 27th January 2020. This site is located close to the Belgrave Road site and the Technical Note concluded that the traffic impacts from this development would have minimal implications upon the capacity of Belgrave Road”*. It should also be noted that the Belgrave Road application has a resolution to approve planning permission. As such taking the above into account, it is not considered that the proposed development for 17 dwellings would result in a significant impact on the capacity of the local highway network to warrant refusal.
- 2.4 As set out in the previous committee report, the applicant is not offering to upgrade the road linkages to adoptable standards between the application site and the existing adopted highway along Uplands Way. Following consultation on the application, KCC Highways confirmed they raised no objection to the development, and did not request

that the site and linkage roads are made up to adoptable standards in relation to this development. There is no policy basis within the adopted Local Plan to require existing unmade roads or application sites to be made up to adoptable standards. Taking into account the lack of a policy basis, and that KCC Highways do not consider this work would be necessary to support the proposed development it is not considered that this would warrant a reason for refusal. Furthermore, it should be noted that the maintenance of the unmade road along Bartletts Close would be a civil matter.

2.5 Paragraphs 108 and 109 of the NPPF below applicable;

2.6 *“108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

It is considered that the proposed development would meet paragraph 108 and as set out in the planning committee report and above, the proposal is not considered to result in any significant impact on the transport network or highway safety. Nor is it considered that the development would result in an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe to warrant refusal on highway grounds.

2.7 Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. *necessary;*
2. *relevant to planning;*
3. *relevant to the development to be permitted;*
4. *enforceable;*
5. *precise; and*
6. *reasonable in all other respects.*

Taking into account the above and assessment within the planning committee report, it is not considered that a condition seeking improvements to the unmade road along Bartlett’s Close would meet the conditions tests, and therefore a condition seeking such improvements would not be appropriate.

2.8 Paragraph 56 of the National Planning Policy Framework sets out that *“planning obligations must only be sought where they meet all of the following tests*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.”*

Further to the assessment above, it is not considered that the suggested improvements to the unmade road long Bartlett's Close would meet these tests and therefore a planning obligation would not be appropriate.

- 2.9 The additional Technical Note provided to support the application also sets out that the residents along Bartlett's Close have the option to approach KCC Highways to make up the road, outside of the planning system. A copy of the Technical Note has been provided at Appendix 3.

Planning Conditions

- 2.10 Members will recall that an additional condition regarding Archaeology (no. 22) was included in the tabled update, and that an additional condition requiring the access to the site to be provided prior to the occupation of the first dwelling was verbally updated at the committee meeting. For the avoidance of doubt the previous conditions and these additional conditions (nos. 22 and 23) have been included within this report

3. CONCLUSION

- 3.1 As set out in the original report and above, I consider the advice from KCC Highways & Transportation to be very clear, advising that the development would not cause any unacceptable highways impacts and would not require the development to make up the unmade road along Bartlett's Close. Furthermore it is not considered there is any policy basis either within the local plan or NPPF to require the development to provide this, and it would not meet the tests for planning conditions or obligations.
- 3.2 On the basis of the above reasoning, in the event that the Planning Committee was minded to refuse the scheme on highways grounds, I consider there would be a high likelihood that such a refusal would not be credible at an appeal. This is based on the fact that the Planning Committee has no technical evidence to support a refusal or condition/planning obligation for works to the unmade road. In my opinion there would be a high risk of costs being awarded against the Council at an appeal in such a scenario.
- 3.3 The Council is currently unable to demonstrate a 5-year supply of housing sites and therefore the tilted balance in paragraph 11 of the NPPF is relevant. The development would contribute towards addressing this identified under supply, and the proposal is considered to form sustainable development. Furthermore, the scheme would not give rise to any unacceptable impacts upon highway, visual or residential amenities and there are no objections from technical consultees. On the basis of the above, it is considered that planning permission should be granted for this development subject to the conditions listed below and an appropriately worded Section 106 Agreement.

4. RECOMMENDATION

GRANT Subject to the following conditions and an appropriately worded Section 106 Agreement (to secure the Heads of Terms as set out in the 27th January 2020 Committee report at paragraphs 9.40 to 9.43, which as noted above is attached as Appendix 1).

CONDITIONS to include

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

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

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

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

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

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

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

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

5. All hard and soft landscape works submitted and approved pursuant to condition (1) above shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

7. 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 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.

8. 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.

9. Construction of the development shall not commence until details of the proposed means of foul sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that foul and surface water is adequately disposed of.

10. No development shall take place (including any ground works, site or vegetation clearance), until a method statement for the safeguarding of badger, reptiles, great crested newt, breeding birds and hedgehog has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
 - a) Purpose and objectives for the proposed works;
 - b) Detailed design and/or working methods necessary to achieve stated objectives including any required updated surveys;
 - c) Extent and location of proposed works, including the identification of a suitable receptor site (where appropriate), shown on appropriate scale maps and plans;
 - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;

- f) Use of protective fences, exclusion barriers and warning signs;
- g) Initial aftercare and long-term maintenance (where relevant);
- h) Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

11. 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

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

13. 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.

14. 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.

15. No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority setting out and quantifying what measures, or offsetting schemes, are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The details shall include 1 electric vehicle charging point for each dwelling

and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

16. 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.

17. The details submitted pursuant to condition (1) above shall demonstrate how principles relating to minimising the opportunities for crime and anti-social behavior have been incorporated in the layout, landscaping and building design.

Reason: In the interests of minimising the opportunities for crime and anti-social behaviour.

18. The details submitted pursuant to condition (1) above shall show dwellings extending to no more than two storeys in height.

Reason: In the interests of complementing the character and appearance of existing development in the vicinity of the site.

19. The details submitted pursuant to condition (1) above shall include details of a landscape buffer which is a minimum of five meters along the south-western and south-eastern boundaries of the site.

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

20. 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 0800 - 1800 hours, Saturdays 0800 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

21. 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 0900-1700hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

22. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and

recorded.

23. The access hereby approved (as shown on drawing no. 1140 SKO2 Rev A) shall be constructed and completed prior to the occupation of the first dwelling.

Reason: To ensure that a satisfactory means of access is provided for the site.

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.

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

