

2.3 REFERENCE NO - 19/505038/OUT		
APPLICATION PROPOSAL Outline application for the demolition of former Public House and erection of a block of 15 flats (All Matters Reserved).		
ADDRESS The Lion 2 Church Street Milton Regis Sittingbourne ME10 2JY		
RECOMMENDATION Grant subject to conditions and signing of a suitably worded Section 106 Agreement		
SUMMARY OF REASONS FOR RECOMMENDATION The site is in a sustainable location within the built up area boundary with suitable access to a wide range of services and facilities. The adopted Local Plan directs development towards these areas, and the site will utilise an existing brownfield site. The site is considered to be a non-designated heritage asset, and it has been determined there is no objection to the demolition of the building due to the low quality and significance of the building. The proposal is therefore considered to comply with para 197 of the NPPF, and weight has been given to the re-use of the site and provision of housing including affordable units. Whilst this is an application in outline only, it is considered that the site can accommodate such a development and in a manner that will maintain the character of the local area and would not give rise to an unacceptable impact upon residential amenities.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Mike Baldock		
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Bespoke Development Solutions Ltd AGENT Clay Architecture Ltd
DECISION DUE DATE 18/02/20		PUBLICITY EXPIRY DATE 27/01/20

Planning History

SW/79/0002

CHANGE OF USE TO RESIDENTIAL (LION INN)

Approved Decision Date: 14.03.1979

1. DESCRIPTION OF SITE

- 1.1 The site comprises a two storey building situated to the north-west of Church Street, with garden areas to the north and east of the building. The site is currently vacant, and its planning use is considered to be a single residential dwelling. The exterior of the building is finished in a mix of render and facing brickwork under a slate roof.
- 1.2 The building at 2 Church Street was previously in use a public house known as 'The Lion Inn' and planning permission was granted to convert the former pub into a residential dwelling on 1979 (under reference SW/79/0002). The supporting information notes that the neighbouring property was acquired in 1989 (no. 4 Church Street) and amalgamated to form a single dwelling.
- 1.3 The existing vehicular access is to the south-east of the building and there is a driveway area in the rear part of the site.

- 1.4 The site is situated close to the southern end of Church Street which is a cul-de-sac and stops short of joining Mill Way (B2006). The surrounding area is mixed in terms of uses and character, to the north and east of the site are industrial units (Millen Industrial Estate), to the east of the site on the other side of the highway are commercial units and a retail park, and to the south and west of the site are residential properties. To the south and west of the site is a new residential development comprising 150 dwellings, including a four storey accommodation block opposite the site, and two storey terraced dwellings fronting onto Church Street.
- 1.5 The building is not listed, nor is it situated within a Conservation Area. The building is considered to be an undesignated heritage asset, however it should be noted that the Council does not have a local list regarding non-designated heritage assets.

2. PROPOSAL

- 2.1 Outline planning permission is sought for the demolition of the former Public House and erection of a block of 15 flats, with all matters reserved for future consideration.
- 2.2 The indicative proposals are for the erection of a block of flats containing 15 dwellings, with an indicative mix of mix of 1 and 2 bedroom flats (4 x 1 bed; and 11 x 2 bed).
- 2.3 The indicative plans show that the ground floor level would accommodate undercroft vehicular parking, cycle storage and a bin store. A new vehicular access would be created to serve the undercroft parking, and the existing access would also be used to access external parking spaces. Residential accommodation is shown to be situated on the first, second, third and fourth floors.

3. SUMMARY INFORMATION

	Existing	Proposed (indicative proposals)	Change (+/-)
Site Area (ha)	772m ²	772m ²	None
No. of Storeys	2	5	+ 3
Parking Spaces	3	17	+ 14
No. of Residential Units	1	15	+ 14
No. of Affordable Units	0	2	+ 2

4. PLANNING CONSTRAINTS

- 4.1 Potential Archaeological Importance
- 4.2 Environment Agency Flood Zone 2 and 3
- 4.3 Groundwater Source Protection Zone

5. POLICY AND CONSIDERATIONS

- 5.1 National Planning Policy Framework (NPPF): Paras 8 (three dimensions of sustainable development); 10, 11 (presumption in favour of sustainable development); 47 (Determining applications); 54, 55, 56, 57 (planning conditions and obligations); 61 (delivering sufficient supply of homes); 124, 127, 128, 130, 131 (good design); paragraphs 184 -202 (conserving the historic environment)
- 5.2 National Planning Practice Guidance (NPPG): Design/Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes

2014-2031); 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); CP8 (Conserving and enhancing the historic environment); DM7 (Vehicle parking); DM8 (Affordable housing); DM14 (General development criteria); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage) and DM29 (woodlands, trees and hedges).

6. LOCAL REPRESENTATIONS

6.1 Two comments received from the Sittingbourne Heritage Museum, who objects to the application on the following summarised grounds;

- Loss of heritage
- Raised concern with an article in the local newspaper (KM SNE 27th November) under the headline 'Plans are in for flats to replace bar' and that it is biased.
- Planners should not allow biased advantaged planning notices in newspaper.
- The building is an old pub or beer house, and used as a family home for many years.
- Developers likely arguing it is unsustainable to restore, and is an eyesore
- Refers to the Sittingbourne Heritage Museum's book "Inns, Taverns and Public Houses of Sittingbourne and Milton" which includes references to the former pub 'The Lion' and its cultural and historical relevance.
- Requests that planning decisions are made under careful scrutiny from the new regime at the Council, with a balanced view and an eye on the future needs of the town in attracting visitors and investment.
- Once such heritage is gone it is gone forever.

Officer Note: Members should note that newspaper article/notice referred to in the representation received above relate to an article produced by the local newspaper, and does not relate to the statutory planning notices which are advertised in local newspaper publications.

6.2 One comment received from the Sittingbourne Society, referring to the comments from the Sittingbourne Heritage Museum and asks that the Council's Conservation Officer considers carefully the historic and architectural merits of the building before advising of a decision.

6.3 One comment was received neither objecting or supporting the proposal, and outlined that if the application is approved the site and area would benefit from the retention of trees.

7. CONSULTATIONS

7.1 **Environment Agency** raise no objection (06/12/2019) subject to conditions regarding contamination (regarding water).

7.2 **Natural England** comment (06/12/2019) that this proposal will give rise to increased recreational disturbance to the coastal Special Protection Area and Ramsar site. However, 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. However, due to the People Over Wind ruling by the Court of Justice of the European Union, Natural England advise that the measures to avoid or reduce the likely harmful effects from the development may need to be formally checked and confirmed via an Appropriate Assessment. It is for the

Council to decide whether an Appropriate Assessment is required and Natural England must be consulted.

An Appropriate Assessment has been carried out and Natural England have confirmed (13/05/2020) they raise no objection, subject to the standard financial contribution.

7.3 **Southern Water** raise no objection, subject to conditions regarding foul and surface water sewerage disposal and the public water supply main (10/12/2019).

7.4 **KCC Economic Development** request the following contributions (23/12/2019)

- Primary Education - £3324 per applicable dwelling (total £ 36,564.00 towards the expansion of Regis Manor Primary School)
- Secondary Education - £4115 per applicable dwelling (total £ 45,265.00 towards the expansion of Westlands Secondary School)
- Community learning - £16.42 per dwelling (total £246.30 towards additional equipment and classes at Sittingbourne Adult Education Centre)
- Youth Service - £65.50 per dwelling (total £982.50 towards additional equipment and classes at Sittingbourne Adult Education Centre)
- Library Bookstock- £55.45 per new dwelling (total £831.75 towards additional equipment and classes at Sittingbourne Adult Education Centre)
- Social Care - £146.88 per dwelling (total £2,203.20 towards specialist care accommodation within Swale Borough)
- Waste - £237.45 per dwelling (total £3563.10 towards additional capacity at the HWRC & WTS in Sittingbourne)
- A condition regarding high speed fibre optic broadband connection

7.5 **KCC Flood and Water** raise no objection subject to conditions seeking a detailed sustainable surface water scheme (04/12/2019). The comments note that the drainage strategy includes a controlled discharge of 2l/s into an existing opening of a tributary stream of Milton Creek south of the site. KCC support the proposal for the attenuation tank to be sized to accommodate flows up to the 100 +40% event and for sufficient storage to be provided should the outlet into the stream be blocked due to high water levels of the receiving stream. As part of a future design, supporting calculations should be provided to demonstrate that sufficient attenuation space is provided on site in the event of the outlet being blocked.

7.6 **KCC Highways and Transportation** raise no objection subject to requirements sought by condition or planning obligation (29/11/2019). This includes conditions securing the provision and retention of vehicle parking spaces; cycle parking facilities; provision of suitable visibility splays; provision of parking facilities during construction; and details of a construction management.

KCC Highways note that this is an outline application with all matters reserved, therefore the applicant should consider the following points at any subsequent reserved matters application;

- “The proposed development would not require the wide bell mouth junction at the access, as shown on the submitted plans. A standard vehicle crossover would be adequate for the proposed number of vehicle spaces.
- Parking spaces 13 to 17 may prove difficult to manoeuvre in and out of, due to the limited space behind the parking spaces.
- All dwellings with private off-street car parking should have an electric vehicle (EV)

charging point installed and this should be subject to a planning condition. Where communal car parks are proposed EV charging points should be provided at a rate of 10% of the total car parking provision.”

- 7.7 **KCC Minerals and Waste** raise no objection (03/12/2019). KCC note that the proposal is entirely within the built-up confines of Sittingbourne, thus the presence of safeguarded minerals is not considered relevant to its determination as mineral safeguarding does not apply within the built up confines of Kent’s urban areas and settlements.
- 7.8 **Environmental Health Manager** raises no objection (12/02/2020) subject to air quality mitigation measures and damage costs to form part of a S.106 agreement, and conditions regarding noise mitigation; and land contamination.

08/01/2020: Objected to the application as the submitted Air Quality (AQ) assessment did not offer sufficient information that the proposal would not impact or be impacted by elevated air pollution in the neighbourhood, and requested revised AQ assessment should be submitted.

The comments outline that the officer agrees with the submitted noise assessment and its conclusions subject to noise conditions, and details of the submitted land contamination report subject to further information sought by condition.

28/01/2020: *“Following my comments, more information has been submitted concerning mitigation measures and a damage cost calculation. This is an improvement on the first report with a realisation about the necessity to describe and calculate the necessary mitigation measures for this development.*

I am aware that the levels at this locality are likely to be less than that identified at the St Pauls AQMA, but that should not detract from the fact that there are elevated levels of particulates not far away and any activity that might increase them during demolition and construction activities should be accounted for and minimised. I hope that the dust and construction mitigation measures described in the report are effective and carried out as described.

The damage cost sum calculated for mitigation is small but I am satisfied with the methodology arrived at. There should be a definite purpose and measure described where this sum will be used in mitigation.

The report refers to an outdated version of the Kent AQ Planning Technical Guidance on the Kent Air website. There is an updated 2019 version for Swale but it is not on the website yet so no blame can be made for not being aware of this document. That said, the description of electric charging points and low NOx boilers is welcome and appropriate for this locality.

Although not perfect, this report is significantly better than the original. Provided the mitigation measures are carried out as described in it and a description of how the damage cost sum is to be used, I will remove my initial objection on air quality grounds.”

12/02/2020: “No objections to this proposal after receiving sufficient reassurance concerning air quality mitigation measures and damage costs which should form part of a section 106 agreement with mitigation measures to be described and submitted to the Local Planning Authority for approval.” They also request conditions regarding noise mitigation and land contamination.

- 7.9 **SBC Affordable Housing Manager** raises no objection (21/11/2019) subject to the provision of two affordable flats as set out below;

“In line with Swale’s policy DM8 10% of the total number of dwellings on this development should be provided as two affordable flats.

When the policy requirement of the 90%-10% tenure split is applied to these 2 flats, this would be rounded up to deliver 2 affordable rent tenure homes. However, in a block with 13 other open market homes this may not be acceptable for a Housing Association to deliver. It is more likely, if we were able to secure a housing association on this site with such a very low number of affordable homes that they would choose to deliver these two flats as shared ownership.

As supported by policy CP3, a mix of housing types should be made available for a variety of groups including families, vulnerable and older persons households including those homes to be provided as affordable housing. Along with housing need demonstrated on the Council’s Housing Register and with the requirements of the Equality Act, I would recommend that at least one affordable dwelling be provided to Part M4(3) standard (wheelchair user dwelling) and that a one-bedroom ground floor flat would best meet this need. The other affordable housing unit should be provided as Part M4(2) standard (accessible and adaptable dwellings). I am not sure if this is possible in the design of this block of flats, and as previously noted it may be difficult to secure a Housing Association delivery partner on this site anyway.

I can confirm that Swale’s Housing Register demonstrates a need for all types and sizes of affordable accommodation for those in housing need in the Sittingbourne area.

To summarise my comments above, shared ownership flats in the same block as private sale is likely to be acceptable to a housing association, and it is also worth bearing in mind that there are currently no Housing Associations operating in Swale who would be willing to accept two affordable dwellings on an individual site.”

- 7.10 **SBC Greenspaces Manager** raises no objection (17/04/2020) subject to a contribution towards local play/fitness facilities.

“Clearly appreciated that there is little room from an onsite open space perspective, although the Mill Pond Linear Park once fully delivered would provide a level of provision opposite. Despite identification in the Design & Access Statement the Waterside Park is unlikely to be delivered, but Milton Creek Country Park is acknowledged as being within walking distance.

The Council would seek a contribution toward increasing capacity of local play/fitness facilities at Milton Creek Country Park for the additional population created by the new development at a level of £446 per dwelling as identified in the Open Spaces and play Strategy.”

- 7.11 **Kent Police** object (28/11/2019) to the application and note concern with the design of the proposal and ground floor podium parking. Areas of concern include lack of access control to vehicle entry of the parking area; lack of secure route to lift/stairs from the parking area; the need for formal access control is required for the lift, staircase and the lobby door sets to all floors; lack of security for bike store; soft landscaping needs full access control; and outline specification for communal doors, openings and communal mail.

Officer Note: Members will note that the application is for outline consent with all matters reserved for future consideration, and the issues raised by Kent Police can be addressed at reserved matters stage, and a condition is attached to address this.

8. BACKGROUND PAPERS AND PLANS

Location Plan; Existing Floor and Elevations; Existing Views; Indicative Floor plans; Indicative Elevations; Indicative Views; Visibility Splay; Acoustic Report; Flood Risk Assessment, Drainage Strategy & Groundwater Protection Report; Air Quality Assessment; Phase 1 Desk Study Report; Heritage Statement; Design and Access Statement.

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.

Heritage Considerations

- 9.2 Policy CP8 (conserving and enhancing the historic environment) outlines that development will sustain and enhance the significance of designated and non-designated heritage assets, and that development proposals will accord with national policy in respect of heritage matters (as set out in paras 184 – 202 of the NPPF).
- 9.3 The building is not listed, nor is it situated within a Conservation Area. Local representations were received from the Sittingbourne Society and the Sittingbourne Heritage Museum raising concern regarding the loss of the building and the impact on heritage from the loss of a former public house. As such, advice was sought from the Council's Conservation team regarding the heritage impact of the proposed development.
- 9.4 In initial comments received from the Conservation team it was concluded that the former pub should be considered as an undesignated heritage asset (non-designated heritage asset) which forms part of the industrial history of Sittingbourne. Concerns were raised regarding the demolition of the building, and that further information in the form of a heritage assessment was required to support the application. The comments also outline that there may be scope for national statutory designation and/or that it would be a good candidate for a future local list of non-designated heritage assets.
- 9.5 It should be noted that the Council does not currently have a local list regarding non-designated heritage assets, nor is there a timeline for producing such a list.
- 9.6 Following these initial comments a heritage statement was submitted which has been reviewed by the Conservation team. The submitted heritage statement sets out the following regarding the significance of the heritage asset (pages 28 and 29);

- *“This is not a site of archaeological interest*
- *This is a building of little architectural and/or artistic interest*
- *The design of the building is not unique, there were pubs of similar design in the area and they were demolished in earlier clearances*
- *The building stopped trading as a pub, and stood empty and derelict for more than 30 years before the applicants parents purchased the building and obtained approval to change it into a house in 1979*
- *The site has lost all of its historic content and nothing of its historic setting remains. Everything west of Charlotte Street was removed in the 1970’s and in the 2000’s. There is nothing physically left of the historical social and industrial context of the area for the building to refer or add significance to.*
- *In its current state the building is not a good example of a public house of its period, the building has lost 85% of its historic features from years of standing derelict, from its conversion into a dwelling, and from the passing of time. Very little is left that identifies it as a pub of its period. The building has not traded as a pub since 1945.*
- *The overall quality and heritage significance of the asset is low. Therefore the impact of the proposals on the heritage asset is low.”*

9.7 The comments provided by the Conservation team outline that the submitted information within the Heritage Statement is acceptable and provides adequate justification for demolition. The comments also note that the site would not be worthy of statutory designation.

9.8 As set out in the NPPF, para 197 is relevant for non-designated heritage assets such as this and states: *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

9.9 As outlined above it is considered that the site is a non-designated heritage asset of low quality and significance. The Conservation team believe that the proposal represents less than substantial harm impact given the level of alterations that have occurred to the existing building and its residential use, and on balance therefore do not object to its demolition. The proposed new building would not impact on any locally designated heritage assets as there are none within close proximity to the site. The site is a very sustainable location, and would make efficient use of a brownfield site. The proposed residential units would compliment the existing mixed uses of the area and provide much needed housing, including the provision of affordable units when the Council can not demonstrate a 5 year housing land supply. As such, it is not considered that the proposed development would conflict with paragraph 197 of the NPPF.

9.10 The Conservation team support the potential for the conversion of the building, however this is not being proposed under the current application. Furthermore, the site falls within flood zones 2 & 3, where living/bedroom accommodation would be prohibited at ground floor level which would limit the conversion potential of the existing site – for example conversion into flats.

Visual Amenity

9.11 As set out above, all matters are reserved for future consideration should this application be approved. As such, this is largely an issue to be dealt with at the reserved matters stage. Nevertheless, it is reasonable to conclude that a block of flats

comprising 15 dwellings can be accommodated on the site, without a harmful impact on visual amenity or the character of the wider area.

- 9.12 To the south and west of the site is a new residential development comprising 150 dwellings, including a four storey accommodation block opposite the site, and two storey terraced dwellings fronting onto Church Street. Taking into account the existing four storey flat block opposite the site, it is considered a proposal of a similar scale and massing is likely to be acceptable on this site.
- 9.13 The indicative proposals show that the building would be set back from the front boundary of the site, which would be reflective of the relationship that exists on the other side of Church Street, and provides scope for a scheme of soft landscaping to be incorporated along the frontage of the site.
- 9.14 A proposed indicative elevation has been provided to indicate massing and shows that the building would be five storeys, with accommodation on the fifth floor being served by a flat roof section of the building set back from the external walls of the building. The surrounding residential development is characterised by buildings with pitched gable roofs, including gables fronting onto the streetscene, which may be a more suitable design approach to reflect the character of the area and will be considered at the reserved matters stage.
- 9.15 The indicative proposal includes undercroft parking, and careful design will be needed to ensure this does not appear as a harsh or dominant feature on the building or streetscene.

Residential Amenity

- 9.16 DM14 of the Local Plan states that all developments should cause no significant harm to the amenities of surrounding uses or area. The detailed scheme for the new dwellings would be secured at the reserved matters stage and this will include the design, form and scale of the dwellings including details such as window/door placement and details of boundary treatments.
- 9.17 The existing dwelling is a two storey building situated hard up against the front boundary of the site with windows facing the apartment block on the opposite side of Church Street which are considered to have an acceptable relationship in terms of residential amenity.
The indicative proposal would increase the number of storeys, however would be set further back than the existing building and it is considered that the proposal would not result in any significant harm in terms of loss of light or outlook to the neighbouring properties on the other side of Church Street. In terms of privacy it is considered there is sufficient depth for front-front windows, however location and siting of windows would be fully addressed at the reserved matters stage.
- 9.18 With regard to the future residential amenity, the indicative proposals show a small area of external amenity space around the building, and the inclusion of an external balcony for each flat which is considered to provide a suitable level of amenity space for the 1 and 2 bedroom flats. Careful consideration at the reserved matters stage regarding window types and placement will be needed to ensure that all properties have a suitable level of light, outlook and privacy especially noting the large B&M Steel building to the north of the site.

- 9.19 The application has been supported by an acoustic assessment due to the site's relationship with nearby busy roads and an adjacent industrial use. The Environmental Health Officer has reviewed the submitted information and proposed mitigation measures which include enhanced glazing, non-opening windows, and suitable ventilation for internal living areas. The Environmental Health Officer comments outline the submitted acoustic assessment and conclusions are acceptable and raises no objection regarding noise impacts subject to details of noise mitigation measures sought by condition. This is attached at condition (16) and will ensure there is appropriate mitigation for the final design of the dwellings at the reserved matters stage.
- 9.20 Taking the above into account, it is considered that the development could be designed to avoid unacceptable impacts on neighbours, and comply with the above policies.

Access, Highways and Parking

- 9.21 Details of access are reserved for future consideration and KCC Highways and Transportation have raised no objection subject to conditions securing the provision and retention of vehicle parking spaces; cycle parking facilities; provision of suitable visibility splays; provision of parking facilities during construction; and details of a construction management.
- 9.22 KCC Highways and Transportation also note considerations that should be addressed at the reserved matters stage including amendment to the indicative vehicular access. This is currently shown as a wide bell mouth junction; whereas KCC Highways and Transportation note that a standard vehicular crossover would be adequate for the proposed number of vehicle spaces.
- 9.23 The proposed indicative layout provides 17 parking spaces, 2 of which are visitor spaces, and 15 bicycle spaces which would be broadly in accordance with the KCC Residential Parking standards. KCC Highways and Transportation note that the indicative layout for parking spaces 13-17 off Church Street may be difficult to manoeuvre in and out of, and this should be addressed at the reserved matters stage. As such, it is considered that appropriate details regarding parking can be secured at the reserved matters stage.
- 9.24 KCC Highways and Transportation outlined that all dwellings with private off-street car parking should have an electric vehicle (EV) charging point installed and this should be subject to a planning condition, as the proposed parking arrangements are on the site this condition will be sought at condition (12).

Affordable Housing

- 9.25 Policy DM8 requires 10% of the total number of homes on this site to be delivered as affordable housing. This equates to 2 affordable homes. When the policy requirement of the 90%-10% tenure split is applied to these 2 flats, this would be rounded up to deliver 2 affordable rent tenure homes. The Affordable Housing Manager notes that in a block with 13 other open market homes this may not be acceptable for a Housing Association to deliver. It is more likely, that if a housing association is secured for the site that they would choose to deliver these to flats as shared ownership due to the low number of affordable units.
- 9.26 The Affordable Housing Manager outlines that at least one affordable dwelling be provided to Part M4(3) standard (wheelchair user dwelling), the other affordable

housing unit should be provided as Part M4(2) standard (accessible and adaptable dwellings) which is supported by Policy CP3 which requires a mix of housing types.

- 9.27 The provision of two affordable units (affordable rent or shared ownership) on site would comply with Policy DM8, which requires 10% affordable housing for sites in Sittingbourne, and will be secured by a S.106 legal agreement.

Drainage / Flood Risk

- 9.28 The application has been supported by a Flood Risk Assessment, Drainage Strategy & Groundwater Protection Report (dated November 2019).
- 9.29 With regard to flood risk, the site is within Environment Agency Flood Zones 2 and 3, and the flood risk assessment (FRA) sets out that no residential accommodation would be proposed at ground floor level. The FRA sets out other mitigation measures including the use of the under-croft parking, providing access and escape routes, early warning and having all habitable space a minimum of 2.4m above the worst-case flood level. The potential maximum flood level is noted to be 6.12 AOD (2115 figure), and therefore the FRA sets out that habitable space should be 8.52 AOD or higher which will be achieved by restricting residential accommodation to first floor level and above. Taking into account the existing residential use of the site, proposed mitigation measures as set out within the FRA, it is considered the development would meet the Exception Test as set out within the NPPF. The Environment Agency have raised no objection regarding flood risk, and a condition (14) will be attached requiring residential accommodation to be above 8.52 AOD and at first floor level and above only.
- 9.30 With regard to surface water drainage, KCC Drainage outlined they raised no objection to the outline application subject to further details sought via condition. These conditions include the provision of a finalised layout to ensure the requirements for surface water drainage can be accommodated within the development site; submission of a surface water drainage scheme; and verification report pertaining to the surface water drainage system. 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.
- 9.31 The site is within a Groundwater Source Protection Zone and the impact of development is assessed in the submitted 'Flood Risk Assessment, Drainage Strategy & Groundwater Protection Report'. This has been reviewed by the Environment Agency who raise no objection (06/12/2019) subject to conditions regarding contamination. Southern Water raise no objection, subject to conditions regarding foul and surface water sewerage disposal and the public water supply main.

Sustainable design and Construction

- 9.32 The Council has declared a Climate Change and Biodiversity Emergency, and this is a material planning consideration. The supporting information notes that due to the outline nature of the scheme it does not propose any specific details regarding sustainable design or construction and that this will be fully addressed as part of a reserved matters application or controlled by a planning condition.
- 9.33 Therefore conditions have been incorporated to this application (nos. 12, 17 and 18) to ensure that the development incorporates sustainable measures. Condition 17 (which relates to achieving at least a 50% reduction in Carbon Emission Rates) is a pre-commencement condition, and Members will note that the applicant did not object or

comment on this condition during the required 10 working day notification period for pre-commencement conditions and as such it is included. Condition 18 is seeking a water consumption rate of no more than 110 litres per person per day in the interests of water conservation and sustainability which is considered reasonable for new developments. A condition requiring details of an electric charging point per dwelling is included at condition 12.

Ecology

- 9.34 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 extent of existing hardstanding on the site, it is not considered that detailed ecological surveys were required for the application. 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 also be controlled by condition to ensure an appropriate mix of native species planting for the site.

Developer Contributions

- 9.35 Members will note from the consultation responses received above that in line with normal procedures for a development of this size, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure. The contributions requested are as follows:

Primary Education - £3324 per applicable new dwelling	Total	£36,564
Secondary Education - £4115 per applicable new dwelling	Total	£45,265
Community Learning - £16.42 per dwelling	Total	£229.88
Youth Service - £65.50 per new dwelling	Total	£917
Library Bookstock- £55.45 per new dwelling	Total	£776.30
Social Care - £146.88 per new dwelling	Total	£2056.32
Waste - £237.54 per new dwelling	Total	£3325.56
SPA Mitigation (SAMMS) – £250.39 per new dwelling	Total	£3505.46
SBC Refuse Bins – £189.64 per flat	Total	£2654.96
SBC Play and Sports contribution– £446 per new dwelling	Total	£6244
Emissions Damage Cost (Air Quality)	Total	£1119
Administration and Monitoring Fee	Total	£5000

Provision of two affordable dwellings (to be affordable rent tenure homes or shared ownership) and one of the units to be built to Part M4(3) standard, and one of the units to be built to M4(2) standard.

Air quality mitigation measures and damage costs (with mitigation measures to be submitted to the Local Planning Authority for approval).

Total Developer Contributions: £107657.48

- 9.36 The above developer contributions have been worked out on the basis of a net gain of 14 dwellings as the site is in existing residential use. The level of contributions outlined above therefore differ from the KCC Economic Development consultation request as these have been based on 15 dwellings.
- 9.37 The applicant has agreed to pay these contributions and it is considered that they meet the relevant tests for planning obligations

- 9.38 It is also considered that a Section 106 Agreement is the best mechanism for addressing the SAMM contribution (of £250.39 per dwelling), the details of which are set out under the subheading 'The Conservation of Habitats and Species Regulations 2017'.

The Conservation of Habitats and Species Regulations 2017

- 9.39 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) and the Swale SPA which are 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.
- 9.40 Residential development within 6km of any access point to the SPAs has the potential for negative impacts upon that protected area by virtue of increased public access and degradation of special features therein. The HRA carried out by the Council as part of the Local Plan process (at the publication stage in April 2015 and one at the Main Mods stage in June 2016) considered the imposition of a tariff system to mitigate impacts upon the SPA (£250.39 per dwelling as ultimately agreed by the North Kent Environmental Planning Group and Natural England) – these mitigation measures are considered to be ecologically sound.
- 9.41 However, 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 (AA) solely on the basis of the agreed mitigation measures (SAMMS), and needs to progress to consideration under an AA.
- 9.42 In this regard, whilst there are likely to be impacts upon the SPAs arising from this development, the scale of development (15 dwellings within the built up area boundary with access to other recreation areas) and the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff I believe will ensure that these impacts will not be significant or long-term. However, in order to confirm this I have carried out an Appropriate Assessment and re-consulted with Natural England. The consultation response from Natural England (13/05/2020) outlines that they raise no objection to the Appropriate Assessment undertaken, subject to securing appropriate mitigation via the SAMMS payment. As set out, above, the applicant has agreed to pay the tariff and as such I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPAs.
- 9.43 Finally, 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/>).

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. The site is considered to be a non-designated heritage asset, and it has been determined there is no objection to the demolition of the building due to the low quality and significance of the building. The proposal is therefore considered to comply with para 197 of the NPPF, and weight has been given to the re-use of the site and provision of housing including affordable units. Whilst this is an application in outline only, it is considered that the site can accommodate such a development which will maintain the character of the local area and would not give rise to an unacceptable impact upon residential amenities. As such, I consider that outline planning permission should be granted subject to conditions set out below and the signing of a Section 106 agreement.

11. RECOMMENDATION

GRANT Subject to the following conditions:

CONDITIONS to include

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

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

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

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

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

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

4. The details submitted pursuant to condition (1) above shall show adequate land, reserved for the parking or garaging of cars and cycle parking facilities (in accordance with the currently adopted Kent County Council Vehicle Parking Standards or such other parking standards as shall have been adopted by the Council at the time that the reserved matters application is made) 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. The details submitted pursuant to condition (1) above shall include 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 (including the retention of the tree identified close to the southern end of the site on the 'Existing Ground Floor Plan', drawing 5226/PL/100), 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 the retention of existing trees within the site and an implementation programme. 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. Construction of the development shall not commence until details of the proposed means of foul and surface water 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.

8. 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 principles contained within the Flood Risk Assessment, Drainage Strategy & Groundwater Protection Report by Alan Baxter Partnership (November 2019) 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.

9. 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.

10. 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) Provision of parking and turning facilities for construction and delivery vehicles and site personnel and visitors for the duration of development.
 - (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.

11. Details of visibility splays shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall be implemented prior to the use of the site commencing.

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

12. Each dwelling shall be provided with 1 electric vehicle charging point (in accordance with details that shall first have been agreed in writing by the Local Planning Authority) 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.

13. 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.

14. The finished floor levels for the habitable residential accommodation shall be no lower than 8.52mAOD, and shall be at first floor level or above.

Reason: To minimise risk of internal flooding.

15. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site

2) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

3) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

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

16. No development beyond the construction of foundations shall take place until details of noise mitigation measures as outlined in the Acoustic Assessment (dated October 2019) have been submitted to and approved in writing by the Local Planning Authority. This shall include details for the construction of non-opening windows with appropriate glazing for living rooms and a suitable and effective ventilation system. The work/measures 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.

17. The dwelling(s) hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended); No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

18. 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.

19. 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

20. 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.

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

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

22. The details submitted pursuant to condition (1) (for the residential development) above shall include details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To provide high quality digital infrastructure.

23. 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.

24. 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

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.

INFORMATIVES

Southern Water:

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 our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>

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.

