

<b>2.5 REFERENCE NO - 19/503528/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing garage, outbuilding and boundary wall. Erection of 3no. detached, three bedroom dwellings with associated landscaping, parking and access.			
<b>ADDRESS</b> The Vicarage, Church Lane, Newington, Sittingbourne, Kent ME9 7JU			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The proposal is located within the built-up area boundary of Newington where the principle of development is generally supported. The size of the units are fully compliant with relevant policy and SPG and all units provide a good standard of accommodation and would contribute to the Councils housing supply within a sustainable location. No adverse impacts have been identified for the amenities of neighbouring properties.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council Objection			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Mr Julian Hills <b>AGENT</b> John Bishop And Associates	
<b>DECISION DUE DATE</b> 10/10/19		<b>PUBLICITY EXPIRY DATE</b> 12/09/19	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/504665/FULL	Demolition of existing garages and boundary wall and construction of three detached 3 bedroom house with associated landscaping parking and access	Approved	15.10.2016
SW/14/0180	Demolition of existing garages and boundary wall and construction of one detached 3 bedroom house, two 3 bedroom semi-detached houses and a terraced house consisting of two four bedroom units and one three bedroom unit with associated landscaping, parking	Withdrawn	14.08.14

## 1. BACKGROUND

- 1.1 Planning permission for a similar scheme was granted on 15th October 2016 under reference 14/504665/FULL. However the applicants were unable to implement the proposal before the end of the three year period for the permission had expired.

- 1.2 Only minor changes are proposed to this current application which include the re-figuration of the parking layout and associated changes to the landscaping.

## 2. DESCRIPTION OF SITE

- 2.1 The application site totals 0.18ha and lies within the built up area boundary of Newington. The site currently comprises the side and rear garden of The Vicarage, a large detached two storey dwelling. This property has a small pitched roof outbuilding and a flat roof garage with a parking space to the front located close to Church Lane. The ground is relatively flat across the site but is approximately 1m higher than Church Lane and the adjacent housing at Vicarage Court to the north.
- 2.2 There is a TPO (TPO no. 2/2014) tree located to the front of the existing dwelling. This would be untouched by the proposal. There are a number of mature trees within the application site. The site lies 160m to the north of the Newington High Street Conservation Area.
- 2.3 The surrounding area is characterised by residential properties of different types and designs. The land to the west of the application site is used as agricultural fields.

## 3. PROPOSAL

- 3.1 The proposal is for the erection of three detached two storey dwellings. A new vehicular access is proposed off Church Lane and this would provide access to the parking spaces for the existing and proposed dwellings. The existing access would be reinstated as footway. Two parking spaces are shown to be provided for the existing dwelling and two parking spaces are proposed for each of the new dwellings with three additional spaces available for visitors. The existing outbuilding, flat roof garage and front boundary wall would be demolished and some of the existing trees (excluding the TPO tree) would be removed.
- 3.2 Each property would have generously sized rear gardens. The houses would have pitched roofs with gable features, chimneys and canopies outside the front doors. The main ridge heights would be 500mm higher than The Vicarage and roughly the same height as the properties to the south.
- 3.3 Unit 1 would be located towards the front of the site, close to no. 65 Church Lane and set forward of The Vicarage by 10m. Units 2 and 3 would be located towards the rear of the site, behind The Vicarage. There would be a distance of 21m between the rear elevation of The Vicarage and the front elevation of unit 3.

## 4. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	1826m <sup>2</sup>	800.5m <sup>2</sup> (The Vicarage – retained)	
Approximate Ridge Height (m)	7.5m <sup>2</sup> (The Vicarage)	8m	

Approximate Eaves Height (m)	5m (The Vicarage)	5m	
No. of Storeys	2	2	
Net Floor Area	107m <sup>2</sup>	2	
Parking Spaces	2	11	9
No. of Residential Units	1	4	3
No. of Affordable Units	0	0	0

## 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).
- 5.2 National Planning Practice Guidance (NPPG): Design.
- 5.3 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); DM7 (Vehicle parking); DM14 (General development criteria); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage).

## 6. LOCAL REPRESENTATIONS

- 6.1 Newington Parish Council Objection; for the reason summarised below:
- Aimed to improve diocesan finances rather than parochial benefits
  - Traffic congestion
  - Impact upon residential amenity – air quality
  - Windfall site
- 6.2 The Council received three letters of objection from residents, raising the following issues:
- Unsustainable development – impact upon environment
  - Overdevelopment – loss of village
  - Loss of trees and natural habitat
  - Impact upon residential amenity – loss of privacy
  - Parking congestion
  - Highway safety
  - Flood risk – increased risk on infrastructure

## 7. CONSULTATIONS

- 7.1 Environmental Health Scientific Officer: raises no objection. The site lies in close proximity to the Newington Air Quality Management Area and I have considered the impact of this proposal. I would recommend the inclusion of the standard air quality mitigation measures as expected on all developments in Swale. In addition I would

recommend a standard construction hours condition to protect the residential amenity of neighbouring properties during the construction phase.

7.2 Natural England: No objection, subject to SAMMS Payment Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

7.3 KCC Highways: No objection (Summary)

‘... although the development at Parsonage Farm has been built out since the original scheme was approved in 2016 and traffic flows on Church Lane may therefore have increased, Parsonage Farm (SW/14/0486) would have been known about back then when this site was approved. The 14 houses built at Parsonage Farm would be expected to generate around 7 vehicle movements in the AM and PM peak hours, and maybe not all of those would route through Church Lane anyway, so the increase would be imperceptible given there were already around 150 movements on Church Lane back then during the AM peak hour.

Similarly, the current application for the site would only be likely to generate between 1 to 2 movements during the AM and PM peak hours, so it shouldn't really be expected for the transport statement to go into the level of detail that it has into in order to justify the acceptance of a negligible amount of traffic generation onto Church Lane.

The bottom line though is that the NPPF will only allow refusal on highway grounds if the impact of a development is going to be “severe”. There is no way that you would convince a planning inspector at appeal that an additional 1 or 2 vehicle movements an hour on Church Lane should be considered severe.’

7.4 KCC Ecological Officer

We have reviewed the ecological information submitted with the planning application and we advise that sufficient information has been provided to determine the planning officer.

The following surveys have been submitted with the planning application and they confirmed that slow worms, common lizards and soprano pipistrelles and brown long eared bats were present within the site.

- Preliminary Ecological Appraisal (PEA) 2020
- Extended Phase 1 Habit Survey, Reptile Survey and Ecological and Enhancement Plan 2014
- Bat Emergence Survey 2014

When we originally commented on the application we raised concerns that the 2014 surveys would no longer be valid. However the 2020 PEA has satisfied that the site has not changed significantly since the reptile and bat emergence surveys have been carried out and the conclusions are unlikely to have changed significantly.

The only change in the survey results are that in 2020 a single long eared bat was recorded and the ecologist has provided the following information to demonstrate why they are satisfied that the building is unlikely to be used by maternity roost:

*The three bat surveys undertaken by Corylus Ecology in 2014 recorded no roosting brown long eared bats within the building and the internal inspection record no evidence suggesting the presence or past presence of a significant roost, such as a maternity roost. No bat droppings were recorded in the loft in 2014. A single roosting soprano pipistrelle bat recorded under roof tiles.*

*Given that five bat summer roosting seasons have passed since 2014, the absence of a large quantity of droppings within the building indicates that it is unlikely that a significant brown long-eared roost is now present or has been present in the intervening years since 2014. The loft space was fully accessible during the survey. The habitats within the site have not changed, nor has the use of the building for storage of the roosting conditions in the loft.*

*A single brown long-eared bat was recorded roosting in the loft during our PEA survey in late February 2020, along with approximately 10 non-recent droppings commensurate of that of brown long-eared bats scattered across the floor of the loft space. The mitigation set out within our PEA report is considered suitable for the provision of day roosting opportunities for a small number of roosting brown long-eared and soprano pipistrelle bats. Development proposals allow for the inclusion of integrated bat boxes to compensate for the loss of the known roosts.*

Based on the additional information provided we accept, on this occasion, that the emergence surveys are not required prior to determination. We have taken this view as the existing survey information demonstrates that bats are known to roost within the building, it is unlikely to be a maternity roost and the submitted information has confirmed that the mitigation can be integrated in to the strategy.

However the updated bat emergence surveys will be required to inform a detailed mitigation strategy. If planning permission is granted we recommend subject to condition:

- Detailed bat mitigation strategy
- SAMMS Payment

## **8. BACKGROUND PAPERS AND PLANS**

- 8.1 Existing and proposed plans and elevations; site location plan; Arboricultural Survey, Bat Emergency Survey; Habitat Survey, Reptile Survey; Design and Access Statement

## **9. APPRAISAL**

### **Principle of development**

- 9.1 The site lies within the built-up area boundary of Newington and is therefore considered to be a sustainable location for new housing development of a scheme this size. There is a general need for additional houses across the borough and I consider that this scheme would go some way towards contributing toward this need. I therefore consider that the proposal would be acceptable in principle.
- 9.2 In addition to housing, the proposal also seeks the demolition of existing garage, outbuilding and boundary wall fronting the eastern boundary. These structures are not located within a curtilage of a listed building, nor is the proposal located within a

conservation area. As such the principle of demolition is acceptable subject to consideration on visual impact discussed in further detail below.

### **Visual Impact**

- 9.3 The most prominent of the proposed dwellings would be unit 1. This would be a comparable height and scale to the adjacent houses and in my opinion would be of a good standard of design. The surrounding properties are a mix of types and design and the proposal would simply add to this mix whilst respecting the more traditional and rural feel of the village. The two proposed dwellings to the rear would be far less prominent from Church Lane and I am of the view that the same conclusions reached for unit 1 apply to these properties. I consider it sensible to remove permitted development rights for extensions and alterations to the dwellings, in order to control future works which might compromise the design quality, and therefore the visual impact, of the development.
- 9.4 The proposal shows a 4.8m wide hard surfaced road and vehicle entrance which is a reduction in the previous scheme. The existing pedestrian entrance has been maintained albeit changes to surface materials and landscaping and overall I consider that a reasonable level of landscaping has been maintained fronting Church Road. As such, the development would not detract from the visual amenities of the area and would achieve a good standard of design that it in-keeping with the character and appearance of the area.

### **Residential Amenity**

- 9.5 The proposed dwellings would be positioned so that there would be very little, if any, overshadowing or overbearing impact. Unit 3 would be a sufficient distance (21m) from the rear of The Vicarage to ensure that there would be no mutual overlooking introduced between these properties. The 21m separation will ensure that overlooking from unit 3 into the rear garden of The Vicarage causes no significant harm to the residents of this existing property. Unit 3 would be further still from the rear of the flats within Vicarage Court, thereby ensuring that mutual overlooking between windows is minimised and causes no significant harm. Considering the position, orientation and windows within the fenestration no adverse amenity impacts have been identified for Units 1 or 2.

### **Highways**

- 9.6 A total of 11 vehicle parking bays are proposed. The current parking standards stipulates that a dwelling with 3 or more dwellings has a requirement of 2 accessible spaces per dwelling with a minimum size requirement of 2.5m x 5m which has been achieved in this instance with 3 additional spaces for visitors.
- 9.7 The proposal would introduce parking immediately to the front of The Vicarage and to unit 1. Whilst this can often result in parking dominating the street scene, in this case, the spaces are set back from the back edge of the footpath and there is a large garden area to the front of The Vicarage which is turfed and has trees, including the protected TPO tree. This would ensure that parking does not dominate this frontage. In terms of the visual impact of a parking space to the front of unit 1, I am of the view that, as

with the parking for The Vicarage, the front garden can adequately accommodate one parking space without detriment to visual amenities.

## **Landscaping**

- 9.8 Turning to landscaping, policy CP4 of the adopted local plan emphasises the retention of existing trees, hedgerows and other features which contributes to the character and quality of the area, whilst encouraging planting of trees and hedgerows as appropriate using native species. Policy DM14 requires the provision of an integrated landscape strategy that would achieve a high standard of landscaping scheme within the development. I note that the submission indicates the removal of a number of existing trees, however the two existing TPO's would be retained. The proposal is complemented by additional planting and well created landscaped amenity areas around each dwelling to help the development assimilate well within its surroundings.

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

- 9.9 Since this application would result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. An HRA/AA is appended below. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £250.39 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee.

## **10. CONCLUSION**

- 10.1 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. I consider the uplift on an additional 3 units can be reasonably accommodated within the site without given rise to unacceptable impacts to residential or visual amenities. As such I recommend this application is approved.

## **11. RECOMMENDATION**

GRANT Subject to the following conditions

### **CONDITIONS to include**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in accordance with the following approved plans as amended: 19-009/01 Rev A, 19-009/02 Rev A & 19-009/03 Rev A

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

3. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees,



shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

4. 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 a programme agreed in writing with the Local Planning Authority

Reason: In the interest of the visual amenities of the area.

5. Upon completion of the approved landscaping scheme, any trees or scrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

6. No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interest of the amenities of occupiers of neighbouring properties.

7. The area shown on the submitted plan as car parking space(s) 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 of cars is likely to lead to car parking inconvenient to other road users.

8. Provision and maintenance of 1m x 1m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

Reason: In the interests of pedestrian and highway safety.

9. The dwellings 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.

10. 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.

11. The commencement of the development shall not take place until a programme for the control and suppression of dust during the construction & demolition phase has been submitted to and approved in writing by the Local Planning Authority. The programme shall include monitoring & mitigation details in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition & Construction. 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.

12. Notwithstanding the provisions of Classes A, B, C, D, E and F of Schedule 2, Part 1, Class A Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that order, with or without modifications), no works shall be carried out without the prior permission of the Local Planning Authority, obtained through the submission of a planning application.

Reason: To prevent the overdevelopment of the site and to safeguard the living conditions of occupiers of adjoining properties and the appearance of the streetscene

13. Prior to works commencing on site a detailed bat mitigation strategy must be submitted to the PLA for written approval. It must include the following:

- Results of two emergence and one dawn re-entry surveys – carried out between May and August
- Overview of the mitigation required
- Detailed methodology to implement mitigation
- Timings of the proposed works
- Plan showing the location of the replacement roosts
- Details of monitoring

The mitigation must be implemented as detailed within the submitted plans

Reason: In the interests of biodiversity.

14. No dwelling shall be occupied until Electric Vehicle Charging facilities have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision and retention of electric vehicle charging facilities in

the interest of reducing greenhouse gas emissions

### **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.

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

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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

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

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

Due to the scale of development there is no scope to provide on site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been 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.



Ordnance Survey data derived from OS Premium

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