

PLANNING COMMITTEE – 10 DECEMBER 2020**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO – 20/502524/FULL		
APPLICATION PROPOSAL Erection of 1no. two bedroom end of terrace dwelling.		
ADDRESS Land Adjacent To 6 St Michaels Close Sittingbourne Kent ME10 3DH		
RECOMMENDATION Grant subject to conditions and SAMMs payment.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would provide an additional dwelling within a sustainable location without giving rise to any unacceptable harm to residential, visual or highway amenity and would not harm the setting of either the adjacent conservation area or the grade II* listed church.		
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Councillor Ghlin Whelan.		
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Mr Robert & Mrs Sheila Dooley AGENT
DECISION DUE DATE 17/08/20		PUBLICITY EXPIRY DATE 12/11/20

Planning History

17/503048/FULL

Erection of 1no. two bedroom end of terrace house

Approved Decision Date: 17.10.2017

1. DESCRIPTION OF SITE

- 1.1 The application site comprises a vacant plot of land adjacent and opposite two existing rows of terraced properties. At its deepest the plot measures 27m in length and 8m in width at its widest point. The plot tapers inwards towards the rear.
- 1.2 The site is situated at the end of a residential close with the access road known as 'The Butts' running to the south and west of the site. The grade II* St Michaels Church is located approximately 42m to the south of the site with the Sittingbourne High Street conservation area running immediately to the south of the site.

2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of a two storey, two bedroom property which will extend the existing terrace. The ground floor will contain a living room, toilet and kitchen/dining room. The first floor will contain two double bedrooms, a study and a bathroom.
- 2.2 The dwelling would be similar in scale to the row of terraces and measure 8.1m in depth, 6.1m in width, 5.5m to the eaves and 7.5m in overall height. The property is also staggered, set slightly to the front of no.6.
- 2.3 The rear garden measures approximately 15m in depth.
- 2.4 The proposed facing materials will match the existing properties in St Michaels Close.

3. PLANNING CONSTRAINTS

- 3.1 Adjacent to Sittingbourne High Street Conservation Area
- 3.2 Adjacent to the Grade II* listed St Michaels Church

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.
- 4.2 Policies SP3 (The Swale Settlement Strategy); CP4 (Requiring good design); Regen1 (Central Sittingbourne: Regeneration Area); DM1 (Maintaining and enhancing the vitality and viability of town centres and other areas); DM7 (Vehicle parking); DM14 (General Development Criteria); DM32 (Development involving listed buildings) and DM33 (Development affecting a conservation area) of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

5. LOCAL REPRESENTATIONS

- 5.1 Three comments from two separate residences were received raising the following concerns:
 - Insufficient parking
 - Overlooking to the front which will reduce privacy
 - Reduction in light
- 5.2 Ward Councillor Ghlin Whelan called the application into planning committee stating:

“The area is already congested and parking already a major problem with more houses and vehicles than there are parking spaces, More building will exacerbate the situation. This plot was designed to be a green open space.”

6. CONSULTATIONS

- 6.1 Natural England: No objection, subject to SAMMs payment.

- 6.2 Environmental Health Manager: No objection subject to an hours of construction condition.
- 6.3 Historic England: No comments, advise consulting Heritage and Conservation Officer.

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documents relating to application 20/502524/FULL.

8. APPRAISAL

Principle of Development

- 8.1 The application site lies in Sittingbourne town centre within the built up area boundary and also within the Central Sittingbourne Regeneration area. The site also lies adjacent to both the Sittingbourne High Street conservation area and the grade II* listed church.
- 8.2 Point B.3 of policy Regen 1 in the local plan which relates to central Sittingbourne states that “All development proposals will provide for residential development of a suitable type and scale above commercial premises, or as part of mixed use developments, or on other suitable sites.” This site is a vacant plot adjacent to an existing row of terraced properties and therefore I believe that the proposal would satisfy the above stated aims of the policy. I also believe that the proposal would enhance the vitality and viability of the town centre and is acceptable in principle in this built up area.
- 8.3 It should be noted that an almost identical scheme for a new dwelling was approved under delegated powers at the site in October 2017 under reference 17/503048/FULL. The permission was not implemented and has since expired. The amount of accommodation proposed is the same as application 17/503048/FULL but my officers have negotiated improvements to the design of the dwelling, with the ridge height reduced and the siting of the property now following the staggered pattern of the row of terraces.

Visual Impact

- 8.4 The location of the site adjacent to the Sittingbourne High Street conservation area and the grade II* listed church means that careful consideration will need to be taken as to the impact the development would have upon these designated heritage assets. The Conservation Officer has been consulted and after some minor design changes, including reducing the ridge height of the dwelling, staggering the rear elevation and altering the fenestration has no objection to the proposal as it would blend in with the terraces that it would form a part of and is not considered to harm the setting of the listed church.
- 8.5 The proposal broadly mirrors the existing properties which make up St Michaels Close in terms of scale, positioning and design and would be constructed with matching materials. I therefore consider that the proposal is in keeping with the surrounding form of development and on this basis, in my view, the proposal would not give rise to any significant harm to the setting of the listed building and would preserve the character of the conservation area.

- 8.6 As set out above the scale, positioning and design of the dwelling would in my view be in keeping with the existing dwellings. A condition ensuring that the facing materials would match the adjacent property and row of terraces has been included below and as such I take the view that the proposal would not give rise to any significant harm to visual amenities.

Residential Amenity

- 8.7 Local concern has been raised in relation to the proposal giving rise to unacceptable levels of overlooking and causing a loss of light to surrounding properties. The dwelling will be built at the end of an existing row of terraces which face a row of properties on the opposite side of St Michaels Close. There is a distance of 15m between the front windows of the proposed dwelling and the front windows of no.5 which lies to the east of the development. This is not dissimilar to existing relationships along the close with neighbouring no.6 having a separation of just 16m from no.4 and as such I do not believe that this would lead to any unacceptable levels of overlooking. Given the 15m separation distance from no.5 I also do not consider that any significant loss of light would be experienced by the occupants of this dwelling.
- 8.8 The proposed property would have rear views of the private amenity space of the adjacent property no.6 but this is in a manner consistent with terraced properties and the proposal would not project to the rear of the adjacent property and therefore there would no harm caused to no.6.
- 8.9 On the front elevation, at ground floor level the proposal would not extend beyond the adjacent single storey element of no.6 and as a result would not cause harm. At first floor level the proposed dwelling would project by 1.1m beyond front elevation of No.6. Ordinarily this would not be acceptable, as first floor front projections are rarely acceptable as set out in the SPG. However in this instance the terrace is already staggered, with each property staggered to its neighbour to a similar extent. It is not considered that the 1.1m projection to the front of no.6 will cause significant harm to amenity in the form of loss of light or overbearing and would appear in keeping with the character and appearance of the area.
- 8.10 On amenity for future residents, the Departments for Communities and Local Government: Technical Housing Standards stipulates the provision for a two storey, two bed house for four person occupancy to be 79sqm in overall floor space. The internal floor space as proposed is 80.6sqm which is above the national minimum with internal built in storage spaces. The dwelling would therefore provide adequate level of accommodation for future occupants. There are windows on the eastern and western elevations of the building proposed which will provide adequate levels of natural light and outlook to all habitable rooms.
- 8.11 The adjacent neighbour no.6 would project 1.1m at first floor past the rear of the proposed dwelling, this is consistent with the existing relationships within St Michaels Close and is also in line with the SPG which recommends a maximum projection of 1.8m past the rear elevation at first floor. I therefore consider that amenity for future residents would be acceptable from this perspective. There is also rear amenity space proposed

for the dwelling which has a depth of 15m which is considered appropriate for the scale of the development.

- 8.12 As set out above I do not consider that any harmful overlooking, overbearing or overshadowing will occur to adjacent neighbouring properties or indeed future occupiers of the dwelling. In order to protect residential amenity, and the setting of the listed building and the character and appearance of the conservation area, I recommend removing all permitted development rights for works to the dwelling, and as the site does not front a highway, for means of enclosure too.

Highways and Parking

- 8.13 The application proposes a nil parking provision. The recently adopted SBC Vehicle Parking Standards SPD sets out that at town centre locations, one parking space for a 2 bedroom dwelling is advised, however it is possible to provide a lower provision if the site is in a sustainable location. In my view, the site is in a highly sustainable location, close to the train station (435m), bus stops and just to the rear of Sittingbourne High Street. As such, I am firmly of the view that a nil parking provision is acceptable here. Although I note that concern has been raised in relation to car parking, I do not believe that in this case that this would warrant a reason for refusal.

Other Matters

- 8.14 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation impacts to the SPA and Ramsar sites may result from increased recreational disturbance. 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 applicant has agreed to pay this contribution.

9. CONCLUSION

- 9.1 Overall I consider that the proposal would provide an additional dwelling within a sustainable location without giving rise to any unacceptable harm to residential, visual or highway amenity. I consider that the private amenity space associated with the dwelling would be of an acceptable size for this dwelling and the proposal would not harm the setting of either the adjacent conservation area or the grade II* listed church.

10. RECOMMENDATION

GRANT Subject to the provision of a SAMMS payment and to the following conditions:

CONDITIONS to include

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

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

- 2) The development hereby permitted shall take place in accordance with the following drawings:

SM002.1.PL001 Existing and Proposed Site Location Plans
SM002.1.PL010 Proposed Ground, First Floor and Roof Plans
SM002.1.PL011 Proposed Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) The dwelling 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.

- 4) No development beyond the construction of the foundations shall take place until details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- 5) No development beyond the construction of the 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 and to ensure that such matters are agreed prior to the commencement of development.

- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- 7) 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.

- 8) 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 unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- 9) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling shall not be occupied unless the notice for the dwelling 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.

- 10) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site, other than those expressly approved under this permission and pursuant to condition 5) above.

Reason: In the interests of the amenities of the area, the setting of the listed building, the character and appearance of the conservation area, and residential amenity.

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 dwellings are 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/>).

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.

