

<b>2.5 REFERENCE NO - 20/504067/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing garage and erection of 1no. dwelling with creation of new access and parking.		
<b>ADDRESS</b> 37 Princes Avenue Minster-on-sea Sheerness Kent ME12 2HJ		
<b>RECOMMENDATION</b> Grant subject to conditions and SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Following amendments, the development will not cause any unacceptable impacts to visual or residential amenities.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Ms Nicky Catterwell <b>AGENT</b> W&M Architects LLP
<b>DECISION DUE DATE</b> 16/11/20	<b>PUBLICITY EXPIRY DATE</b> 24/12/20	

### Planning History

14/502574/LAWPRO

An application for a certificate of lawfulness for existing garage to be demolished - subsequently rebuilt as existing in form, materials match existing, location and position. Works required due to damage as a result of subsidence (Proposed)

Approved Decision Date: 15.12.2014

#### 1. DESCRIPTION OF SITE

- 1.1 37 Princes Avenue is a two storey detached property located within the built up area boundary of Minster. It is located to the north east of the junction between Princes Avenue and Scarborough Drive, which are both un-made roads. There is a detached garage to the side of the dwelling, and parking is provided to the front of this structure and the main dwelling. Private amenity space is provided to the rear and side of the dwelling. The site slopes gently upwards from north to south.
- 1.2 The surrounding area is characterised by residential development of various scales and designs.

#### 2. PROPOSAL

- 2.1 This application seeks planning permission for the demolition of existing garage and the erection of a detached dwelling, including the creation of a new access and parking. The new dwelling will have a maximum length of 11.3m and a maximum width of 7.9m. It will have a gable roof with an eaves height of 4.5m – 4.9m (due to the sloping land) and a ridge height of 7.5m. Internally, an open plan living/dining room, kitchen, utility room and

toilet will be provided on the ground floor, whilst three bedrooms (two with an en-suite) and a bathroom will be provided on the first floor.

- 2.2 A new access from Scarborough Drive is proposed, and two parking spaces will be provided to the rear of the new dwelling. The existing driveway to the front of the existing dwelling will be retained and will provide two spaces for the existing property. The rear garden will be split in two to provide private amenity space for both dwellings. The trees located along the southern boundary of the site will be removed as part of the application.
- 2.3 The plans were amended during the course of the application to overcome residential and visual amenity concerns. These changes will be discussed in more detail below.

### **3. PLANNING CONSTRAINTS**

- 3.1 None

### **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Policies ST1, ST3, CP4, DM7, DM14, DM19 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.3 Supplementary Planning Guidance (SPG): 'Designing an Extension – A Guide for Householders' and Supplementary Planning Document (SPD): Parking Standards (adopted June 2020) are both relevant in the consideration of this application.

### **5. LOCAL REPRESENTATIONS**

- 5.1 Twelve objections from five addresses have been received during the two consultation periods. Their contents are summarised below:
- First floor windows of proposed dwelling will overlook neighbouring dwellings and gardens, causing loss of privacy - Amended dwelling will still cause overlooking.
  - Dwelling will overshadow neighbouring gardens.
  - We have no objection to a single storey dwelling.
  - Concerned about removal of trees which offer seasonal privacy and wildlife enjoyment.
  - Concerns about proximity of foundations of new dwelling to trees.
  - A two storey building on this cramped plot will greatly affect my view and would be an eyesore.
  - We brought our property 6 years ago with the understanding no one was able to build a two story property in this area due to the impact this would have upon views.
  - We already have parking problems in this area due to narrow roads so any more traffic is not wanted.

- At the moment Scarborough Drive is a single carriage way due to previous owners land-grabbing.
- Lorries and large vans have difficulty turning on this corner and have already damaged the fence at No. 35. This building should not be allowed as the junction of Princes Avenue and Scarborough Drive is far too narrow for any development.
- Proposed parking for new dwelling will make turning even more difficult.
- The applicant who has applied for this planning permission has inherited this property and is selling this as a money making project, with no consideration for the neighbours who actually live here.
- The existing garage has been replaced due to subsidence, so how can a two storey property replace this?
- The building work will cause massive and irreversible damage to the soil and cause erosion that will damage the home as well as the natural environment.
- The end of the road is very near to a SSSI and I worry the building work may harm this.
- Providing 2 parking spaces for a 3 bedroom house in this day and age isn't sufficient.
- It states the new plans will be a 1.5 high property (a chalet bungalow) but you state the height will still be the same height as property 37.
- Relocating the parking to the side of the property will leave the narrow single dirt track worse than it currently is.

5.2 The agent/applicant has provided various responses to the objections, setting out why the proposal is acceptable in their view.

## 6. CONSULTATIONS

6.1 Minster Parish Council originally objected the application, stating the following:

*“This is over-intensive development of the site. Put simply, the proposal does not fit the plot. Furthermore, it will have an adverse impact on the unadopted road as well as on the amenities neighbouring residents might reasonably be expected to enjoy.”*

6.2 Following the submission of amended plans, Minster Parish Council were reconsulted, and objected again, providing the following comments:

*“Over intensive development, out of keeping with other building in the area. Part of building and parking space appears to be in area for future road construction.”*

6.3 Natural England – No objections subject to appropriate mitigation being secured.

6.4 KCC Highways – Development does not meet the criteria to warrant involvement from the Highways Authority.

6.5 Environmental Health – No objections subject to conditions relating to hours of construction and electric vehicle charging points.

## 7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents associated with application 20/504067/FULL.

## 8. APPRAISAL

### Principle of Development

- 8.1 The site lies within the built up area boundary of Minster, where the principle of development is generally acceptable, subject to the relevant policy considerations, discussed below.

### Visual Impact

- 8.2 Princes Avenue contains a large mixture of housing types, designs and materials. This application proposes a detached dwelling of a similar ridge height to the existing dwelling at the site, albeit with a different roof design. I originally raised concerns regarding the scale of the new dwelling in relation to the plot, which I believed appeared cramped. The agent provided amended plans, reducing the footprint and height of the proposal, and relocated the proposed parking from the front to the rear, allowing the front garden to be landscaped.

Following these amendments, I consider the proposed dwelling is on balance acceptable, and the relocation of the parking to the rear garden results in it being much less prominent in the streetscene. The gaps between existing properties in the surrounding area are not uniform. There is a gap of 2.3m to the existing property at the site, (No. 37) and whilst the new dwelling will be extremely close to the southern boundary of the site in places, I have no significant concerns in this regard as Scarborough Drive runs to the south of the site. The front elevation will sit in line with No. 37, and therefore follows the building line along this stretch of Princes Avenue. Overall, I do not consider the scheme will cause any unacceptable harm to the character and appearance of the streetscene.

### Residential Amenity

- 8.3 There will be a gap of 2.3m between the proposed dwelling and the existing dwelling at the site. Following amendments, the new dwelling will project 1.8m past the rear elevation of No. 37. This projection is in line with the Council's SPG entitled 'Design an Extension: A Guide for Householders', which recommends two storey extensions close to common boundaries project a maximum of 1.8m past neighbouring properties. Whilst I do note this SPG refers to extensions, I still consider it to be relevant here. Taking into account the projection accords with the SPG and the gap between the two properties, I believe the projection will not give rise to a harmful overshadowing and overbearing impact at the existing dwelling.
- 8.4 The new dwelling will be sited a minimum of 25.5m from the properties to the rear namely Lindisfarne and Elveden. The Council expects a rear to rear distance of 21m to limit harmful overlooking/overshadowing, and taking into account the distance proposed here is in excess of this amount, I do not envisage there will be harmful impacts to amenity at these neighbouring properties.

- 8.5 No. 35 Princes Avenue lies to the south of the site. It is a detached bungalow and has several windows in the side elevation of the property, serving a living area, kitchen and bedroom (though I note there are additional windows in the front and rear elevations serving the living area and bedroom). The new property will lie 12m from this neighbouring bungalow. Due to this distance and the fact that the site lies to the north of this dwelling, I do not envisage there will be any unacceptable overbearing or overshadowing impacts. There are three windows and one rooflight proposed in the side elevation of the new dwelling, serving the bathroom and utility on the ground floor and the landing and bathroom on the first floor. None of these windows serve habitable rooms, and therefore I believe they could be obscure glazed to prevent any harmful overlooking of No. 35. I include a condition below to ensure these windows are obscure glazed.
- 8.6 No. 40 Princes Avenue lies opposite the site. The relationship between this neighbouring property and the new dwelling will be similar to the existing properties on either side of Princes Avenue, and therefore I believe there will be no unacceptable impacts to amenity here.
- 8.7 When considering the amenity of future occupiers of the new dwelling, I note that the floorspace provided is in accordance with the Nationally Described Space Standards. The rear garden at the property is also adequately sized, being 10m in depth. As such I believe the standard of amenity provided at the new dwelling is acceptable. The subdivision of the plot will reduce the width of the garden at No. 37 to 12m. Taking into account the reasonable depth of the garden, I believe the scale of the garden will be acceptable and will not lead to unacceptable amenity impacts for occupiers of this existing dwelling.
- 8.8 I note an objector was concerned that the development will result in the loss of views from their property. The loss of a view is not a material planning consideration and therefore will not be taken into account here.

### **Highways**

- 8.9 Two parking spaces are provided to the front of the existing dwelling and two spaces will be provided to the rear of the proposed dwelling. This parking provision is in accordance with the recently adopted SBC Parking Standards SPD and therefore I believe the parking provision to be adequate.
- 8.10 I acknowledge neighbours concerns regarding parking in this area; however the development will not lead to an increase in parking in the surrounding roads in my opinion. The parking provided for the new and existing dwelling is in line with the SBC Parking Standards, and as such, should not lead to an increase in on-street parking in the area. I also note the Parish Council's concerns that part of the building and parking area is located on an area for future road construction. The proposed dwelling and associated parking is located wholly within the side garden of No. 37 and does not encroach onto Princes Avenue or Scarborough Drive.

### **Landscaping**

8.11 The Council's Tree Consultant has reviewed the submitted arboricultural information and is satisfied with its recommendations. I do not believe the removal of trees along the side boundary of the site to be unacceptable due to their poor quality, and I include a condition below to ensure adequate replacement planting is secured on site.

### **SPA Payment**

8.12 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur 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 new dwelling. The agent has confirmed the applicant will be willing to pay this fee in principle.

## **9. CONCLUSION**

9.1 As set out above, I believe the amended plans provided during the course of the application overcomes the concerns I raised, and the scheme is now well designed and will not cause any unacceptable impacts to residential or visual amenities. As such, I recommend planning permission is granted.

**10. RECOMMENDATION** – Grant subject to the following conditions and to receipt of a SAMMS payment:

### **CONDITIONS**

(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 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 that 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.

(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 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.

- (5) 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.

- (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) 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 0730 - 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 local amenity.

- (8) The area shown on the submitted plan as car parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling 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.

- (9) One electric vehicle charging point shall be provided at the site prior to the occupation of the dwelling hereby permitted and shall be retained permanently.

Reason: To ensure the provision and retention of electric vehicle charging facilities in the interest of reducing greenhouse gas emissions.

- (10) The development must be carried out in accordance with the tree protection measures recommended in the submitted Arboricultural Method Statement and Tree Protection Plan by Down to Earth Trees Ltd, dated 10/08/2020 and 02/09/20 respectively.

Reason: In the interests of visual amenity.

- (11) The development hereby permitted shall be carried in accordance with the following approved plans and the materials listed on the application form: NC-03 Rev D, NC-04 Rev A, NC-05 Rev B and NC-L Rev D.

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

## **INFORMATIVES**

- (1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries> . The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

**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 will be secured prior to the determination of this application) will

ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).

### **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.

