

3.2 REFERENCE NO - 20/505466/FULL		
APPLICATION PROPOSAL Conversion of first floor and loft into 3no. one bedroom apartments, together with erection of three storey external staircase enclosure, three dormer windows, section of flat roof to south west elevation, changes to fenestration, creation of roof terraces and creation of external access and amenity area. Internal alterations to existing Pub and Restaurant.		
ADDRESS Napier Hotel 1 Alma Road Sheerness Kent ME12 2NZ		
RECOMMENDATION Refuse		
SUMMARY OF REASONS FOR REFUSAL The application proposes additional residential units within Flood Zone 3, and without evidence to the contrary, could give rise to significant and unacceptable risk to human life in the event of flooding. The design of the development, namely the dormer windows and external staircase would cause significant harm to the character and appearance of the area.		
REASON FOR REFERRAL TO COMMITTEE Town Council support		
WARD Sheerness	TOWN COUNCIL Sheerness Town Council	APPLICANT Mr Paul Newton AGENT Richard Baker Partnership
DECISION DUE DATE 21/01/21	PUBLICITY EXPIRY DATE 28/01/21	

Planning History

20/504578/SUB

Submission of Details to Discharge Condition 2 (Materials) Condition 3 (Hard and Soft Landscaping) Condition 4 (Energy Efficiency) Condition 7 (Construction Method Statement) Condition 8 (Method of Disposal of Foul and Surface Waters) and Condition 9 (Obscure Glazing) Subject to 18/501872/FULL

Approved Decision Date: 04.01.2021

18/501872/FULL

Construction of 2 no. two bedroom dwellings with associated parking and ancillary facilities.

Approved Decision Date: 18.06.2018

17/504958/FULL

Removal of hard standing and construction of 2no. two bedroom houses with widening of dropped kerb and associated parking

Withdrawn Decision Date: 07.03.2018

SW/90/0432

New toilets

Grant of Conditional PP Decision Date: 03.05.1990

SW/87/1039

Corporate lamp

Approved pre 1990 Decision Date: 08.10.1987

1. DESCRIPTION OF SITE

- 1.1 The application site is comprised of a large detached two storey building located on a corner plot between Alma Road and Marine Parade. It is currently used as a pub/restaurant on the ground floor, with a three bedroom flat situated on the first floor.
- 1.2 The site lies within the defined built-up area boundary of Sheerness and within Flood Zone 3, as defined by the Environment Agency Flood Map as having a high probability of flooding. The surrounding area is characterised by terraced properties, and immediately south of the site is an empty plot of land, currently being redeveloped into a pair of semi-detached dwellings.

2. PROPOSAL

- 2.1 This application seeks planning permission for the conversion of first floor and loft into three one-bedroom flats. The ground floor will remain in pub/restaurant use, with some minor internal alterations to the position of the kitchen proposed.
- 2.2 Access to the flats will be provided by a proposed three storey external staircase enclosure, which will be located on the rear elevation of the building. A section of flat roof is proposed on the rear elevation on the third storey in order to create an internal hallway to the flat proposed in the loft. Three flat roof dormer windows (two on the north east roof slope and one on the north west roof slope) are proposed on the roof. The existing single storey extension at the rear of the building will be used to create two first floor roof terraces. A small area of outdoor amenity space is proposed at the rear of the building.

3. PLANNING CONSTRAINTS

- 3.1 Environment Agency Flood Zone 3

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan: Policies ST3, ST6, CP4, DM7, DM14, DM16, DM21 and DM28 of Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.3 Supplementary Planning Guidance (SPG): 'The Conversion of Buildings into Flats & Houses in Multiple Occupation'

5. LOCAL REPRESENTATIONS

- 5.1 None

6. CONSULTATIONS

- 6.1 KCC Highways – The development does not meet the criteria to warrant involvement from the Highways Authority.
- 6.2 Environment Agency – Object due to the location of the site in FZ3 and the lack of a Flood Risk Assessment.
- 6.3 Environmental Health – No adverse comments to make.

6.4 Sheerness Town Council support the scheme, stating the following:

“Agree with the changes but suggest the following

- 1) In view of there being no car park, provisions be made for safe cycle storage and electric power point for electric bikes.*
- 2) In view of the location near to local schools and the hospital, at least one flat be made available for teachers or NHS workers.”*

7. BACKGROUND PAPERS AND PLANS

7.1 Plans and documents for application 20/505466/FULL.

8. APPRAISAL

Principle of Development

8.1 The principle of the development is acceptable in my view, as the proposal retains the ground floor of the building for commercial use, and proposes an intensified residential use on the first and second floors, which is appropriate in this location, within the built up area boundary of Sheerness.

Visual Impact

8.2 The development involves various changes to the exterior of the building, which will be visible in the streetscene. The proposal in its entirety would harm the character and appearance of the building in my view, by adding additional built clutter and volume. The proposal, particularly with regards the dormer windows proposed, would not just harm the appearance of the building itself but would compromise the character of the wider street scene where there are no dormer windows present in the immediate or local setting.

8.3 Although the external stair tower and additional section of flat roof may not be highly visible from the streetscene due to their location at the rear, they would be unacceptable, poorly designed additions to the building in my view, which would also harm the character and appearance of the property. The use of flat roof at this height is unacceptable, and the tall eaves height and shallow pitched roof on the stair tower represents poor design in my view. This significant harm to visual amenities would amount to a reason for refusal.

Residential Amenity

8.4 Firstly considering the amenity impacts for future occupiers of the development, I note the floorspace in the three flats comply with both the Council's SPG and the National Space Standards. All habitable rooms are served by adequately positioned windows. A small area of outdoor amenity space is proposed at the rear of the building, as well as two roof terraces. Whilst these areas are limited in scale, I consider they are acceptable given the fact the flats only have one bedroom and are unlikely to be occupied by families. Furthermore the site is located close to the centre of Sheerness and the esplanade and given this central location, the lack of meaningful outdoor amenity space is not a significant issue here.

8.5 Regarding the impact on neighbouring properties, I do not envisage the additional built form at the site will cause any significantly harmful impacts to neighbouring dwellings.

The staircase and flat roof extension at the rear is set a sufficient distance from the new dwellings to the south of the site, and doesn't project rearwards of 1 Napier Terrace to the east. The proposed dormer windows are limited in scale and will not cause any unacceptable impacts to amenity in my view, providing views similar to the existing windows in the building.

- 8.6 I do have concerns regarding potential overlooking from the use of the existing flat roof at the rear as roof terraces. I believe overlooking of 1 Napier Terrace will be limited due to the two storey wing extension at this neighbouring property which will limit views from the terrace. However the roof terraces could overlook the gardens of the two new properties to the south of the site, causing detrimental harm to future occupiers of this development. If I was minded to approve the scheme, I would have included a condition ensuring privacy screens are erected along the south western side of the terraces to mitigate this impact.

Highways

- 8.7 Due to the sites location within the town centre and close to local shops, services and public transport links I consider this to be a sustainable location for residential development. As such, although the proposal provides no parking, I consider this is acceptable. I note the Town Council suggest that cycle storage should be provided on site. I agree, and if I was minded to approve the application, I would ensure this matter was addressed via an appropriately worded condition.

Flood Risk

- 8.8 The Environment Agency has objected to the proposal due to the lack of a Flood Risk Assessment. The site lies within Flood Zone 3 and proposes additional residential units on the first and second floors. In the absence of a Flood Risk Assessment, it is not possible to determine whether the development would cause a flood risk to future occupiers of the unit. Therefore this amounts to another reason for refusal.

SPA Payments

- 8.9 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 dwelling. As I am recommending refusal of this application, no payment has been sought from the applicant but it will be necessary to secure this payment should an appeal against the Council's decision be lodged and subsequently upheld.

9. CONCLUSION

- 9.1 The development is wholly unacceptable in my view, causing significant harm to the character and appearance of the building and wider area. Additionally, the potential flood risk impact has not been addressed. As such, I recommend planning permission is refused.

10. RECOMMENDATION - Refuse for the following reasons:

- (1) The proposed external changes to the building, namely the external stair tower, additional flat roof at the third storey and dormer windows would constitute poor design, amounting to unacceptable features on the building in a manner harmful to

its character and appearance, and the appearance of the area. The proposal is therefore contrary to policies CP4, DM14 and DM16 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'.

- (2) The proposal would introduce additional residential accommodation at the site which lies in Flood Zone 3 and in the absence of evidence to the contrary, could give rise to significant and unacceptable risk to human life in the event of flooding. The proposal would therefore be contrary to policies DM14 and DM21 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and to the advice of paragraphs 155 and 156 of the National Planning Policy Framework.
- (3) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14, and DM28 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.

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 not 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/>).

