

<b>REFERENCE NO - 14/505359/FULL</b>			
<b>APPLICATION PROPOSAL</b> Retrospective application for the retention of a bund and fencing and associated proposed landscaping.			
<b>ADDRESS</b> Former Development Site Kemsley Area B Swale Way Sittingbourne Kent			
<b>RECOMMENDATION</b> APPROVE			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development and landscaping would not give rise to harm to residential or visual amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Significance			
<b>WARD</b> Kemsley	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Taylor Wimpey South East <b>AGENT</b> Mr Richard Jones	
<b>DECISION DUE DATE</b> 16/01/15	<b>PUBLICITY EXPIRY DATE</b> 16/01/15	<b>OFFICER SITE VISIT DATE</b>	
<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>
SW/91/0117, SW/91/0125, SW/91/0130	Planning permission for residential and business B1 development, including provision for a district distributor road and associated estate roads, car parking and landscaping	Allowed on appeal	22 January 1993, subsequently renewed under SW/99/847 and SW/01/0831
SW/04/0948	Approval of reserved matters of SW/91/0125 for the erection of 1, 2, 3 & 4 bedroom homes, associated roads, parking and drainage	Approved	25 <sup>th</sup> March 2005
SW/05/0574	Approval of reserved matters of SW/91/0125 for the hard and soft landscaping works to new housing site	Approved	11 <sup>th</sup> July 2005

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 Outline planning permission was granted for the development of this site, together with the area to the west (known as Kemsley Fields) for residential development, and land to the north for industrial development in the early 1990s. This permission was renewed a number of times, and reserved matters applications for the housing here were submitted in 2004 and 2005. The landscaping of the estate was approved under reference SW/05/0574.

The housing sits to the south and west of Swale Way, the Northern Relief Road, which runs round part of the perimeter of the site. As part of the approved landscaping scheme, the perimeter of the eastern portion of the site should have had a flat landscaped belt between the NRR and the dwellings, and a 1.8 metre high brick wall built on the back edge of the footway. What has, in fact, been constructed at the site is a large bund in the area supposed to be planted with trees, and a post and rail fence on the back edge of the footway.

## **2.0 PROPOSAL**

- 2.01 This retrospective application seeks permission for the bund and then fence, and proposes substantial landscaping along the top of the bund for its full length, (8 rows of thorny and non-thorny species together with feathered trees/whips) with groups of trees (hornbeam) at regular intervals on the road facing side of the bund.
- 2.02 The application is accompanied by a design and access statement and a landscape management scheme, which amongst other things sets out the scale of planting, a regime for ensuring that trees, shrubs etc are planted in conditions in which they should thrive (provision of topsoil etc) and a maintenance scheme.

## **3.0 PLANNING CONSTRAINTS**

- 3.01 None identified

## **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF):

Paragraph 58 states that, amongst other things, planning decisions should aim that all developments are visually attractive as a result of good architecture and appropriate landscaping.

- 4.02 Swale Borough Local Plan 2008:

E1 – General Development Criteria: Development should respond positively by reflecting the positive characteristics and features of the site and locality, cause no demonstrable harm to residential amenity, be both well sited and of a scale, design and appearance, that is appropriate to the location with a high standard of landscaping.

E19 – creating safe, accessible, comfortable, varied and attractive places, providing native (regional or local) plant species for soft landscaping and hard landscaping, surface and boundary treatments that respond positively to the character of the locality.

- 4.03 Publication Draft – Bearing Fruits 2031 – The Swale Borough Local Plan Part 1

CP4 – Requiring Good Design – Development should provide a high standard of locally native plant species and trees (of local provenance and supportive of biodiversity) for soft (including green walls) landscaping, providing hard landscaping, surface and boundary treatments that are locally distinct and that respond positively to the character of the locality;

DM14 – General Development Criteria – Development should cause no significant harm to amenity and other sensitive uses or areas; Be both well sited and of a scale, design, appearance and detail that is sympathetic and appropriate to the location; Reflect the positive characteristics and features of the site and locality; Provide for an integrated landscape strategy that will achieve a high standard landscaping scheme that informs the earliest stages of a development proposal

## 5.0 LOCAL REPRESENTATIONS

5.01 54 representations (including a number of duplicate representations) have been received, all raising objection to the proposals.

- The existing post and rail fence does not provide adequate protection from the noise levels generated from the passing traffic;
- The existing post and rail fence MUST be replaced with an acoustic barrier akin to the existing fence which is in place on the adjoining Kemsley Fields development. A similar acoustic fence also runs along the length of the euro link and the fence boarding Chandlers croft should be replaced to match.
- Residents have requested on numerous times that we have some kind of sound proofing in the form of a wall or a fence. It is impossible to have a conversation in the garden with the lorries and cars going past. In the summer, you can't sleep with the window open because of the noise. The bund is a waste of space. It needs to be managed and made into something to improve the lives of the residents because currently we cannot enjoy our open space in the garden, not enjoy a decent night sleep with the window open.
- We also have to put up with people walking along the bund, setting off fireworks, peering into our garden to see what they can steal. When I purchased this house, I was led to believe I would have sufficient sound proofing, and that the view from my lounge window would not be of industrial units as per the plans that George Wimpey had. It would be nice to have some privacy rather than lorry drivers sitting in the traffic watching you. I'm very disappointed that leaving this bund is even being suggested.
- Swale way is one of the busiest single carriageways used by lorries in Kent, with traffic at all hours of the day and night. The opening of the Nicholls yard near the A249 roundabout is guaranteed to ensure that the traffic continues to grow. Once the end of the Sittingbourne relief road is decided and built this will add to further traffic. This means that residents on Chandlers croft will receive no let up in the noise of traffic suffered.
- The current bund is a rubble filled mound on which nothing useful will grow. it is nothing short of an eye sore which does nothing to assist in the reduction of noise.
- When people buy houses, they buy them with reasonable expectations that they and the development will be of a certain standard, this standard being defined by the planning application amongst other things.
- It is therefore very clear that the proposed plan of just a fence and a few clumps of trees is not at all acceptable, as these will just be destroyed and will end up making the buffer zone the same unsightly mess it is at present. This is not acceptable to expect residents to pay for the up keep of a mound. The traffic along Swale Way is very busy as it's a route to Eurolink, which is used a lot by lorries and commuters. The noise of the traffic is a constant drone and Chandlers Croft residents should have the same as Kemsley Field and Recreation way, surrounding our estate to reduce the noise.
- Not only is it aesthetically unappealing but it also doesn't do the job of reducing traffic noise on an increasingly popular industrial road.
- It should be levelled or the rubble removed at the expense of the developer.

- A noise reflective noise barrier should be erected from Lloyd drive to Reams Way as a start.
- The Council in my opinion along with Kent Highways have already set a precedent because they erected the fence from Lloyd drive upwards to toward the roundabout and again from Reams Way to the printers, we are closer to the road yet we have no noise protection.
- Why is Chandlers Croft without a barrier when all the other developments around about have their noise barrier but nowhere near the volume of traffic they now use that road now.
- The bund itself should have a hedge on it that should be maintained by Swale same with the noise barrier, interspersed with low maintenance trees and shrubs.
- A consultant engineer should be commissioned to conduct a noise survey and a proper noise attenuation barrier be installed that is both future and maintenance proof.
- I moved onto the development in 2006, the traffic noise has increased greatly with Morrisons, Firmins and now Nicholls lorries going up and down the road 24hrs a day. Added to this is the daily traffic that now uses Swale Way, which at certain times of the day queues from Grovehurst roundabout to the Mill. We were all sold properties with the promise of a flat landscaped buffer zone with a brick wall surrounding it that would protect the development from the noise of this traffic, which to date we are still waiting for.
- In the original planning application for this development it was raised as a concern and highlighted that the residents were to be protected from the noise of the mill and traffic.
- Kemsley Fields has acoustic fencing along Swale Way and so does Recreation Way so why should it be deemed ok for Chandlers Croft, whose houses are closer to the road than the other developments, not to need such protection.
- The bund is an unsightly area of building rubble covered in weeds which will not support the growth of trees. Those that were planted a few years ago quickly died and disappeared. The picket rail fence that is currently in situ is often broken and does nothing to stop people walking across the top of the bund peering into the houses invading people's privacy.
- To protect the development and the residents TW should NOT be allowed to leave this area as is and should be made to comply with the original plans. A flat area, landscaped with a range of trees and shrubs and the development to have acoustic fencing or wall as protection as originally agreed.
- As residents we should have the development and protection that we were all sold by TW and we signed contracts for not the unsightly mess we have been left with.
- If the trees are not planted into fertile ground that will sustain their growth and have to constantly be replaced the residents will look to seek financial compensation for the extra costs incurred by the management company.
- The bund is full of builders rubble so that any planting of trees or bushes don't survive. The bund should be levelled, all rubble removed and in place should be a flat landscaped area with adequate noise protection for all the properties on the Chandlers Croft estate.
- In the application form, it states there is currently scrub (low shrubs) on the bund, this is not the case. At one time trees were planted, but due to the extremely poor quality of builders rubble and damage and general lack of maintenance to the trees, these quickly died.
- With the approval of the new Nicholls site increasing the lorry usage of the Swale Way, and the 24/7 constant drone of vehicles, we are unable to enjoy our gardens, or keep windows open at the rear of any property that backs towards the main road.
- Essentially I now live on the edge of a distribution hub with Morrison's, Knauf, Ridham docks, Firmin and now Nichols all moving HGV's along Swale Way within

earshot of my property. I omitted to mention the paper mill as I already knew they were here when I bought my house. The addition of the link road has increased traffic immensely since it opened and will only increase once the other section is completed.

- Whilst it is used by many commuters, HGV's account for a great deal of traffic movements and will further increase as new business comes into Swale via the Eurolink estate and those that will take up development sites close to Morrison's and Knauf. Taking into account the location and the size of these sites they are likely to attract warehousing and distribution operators which will increase the numbers of HGV's using Swale Way and the link road substantially.
- The traffic noise from the road is 24/7 and peaks at rush hour along with the various times that shifts change across the businesses that operate within close proximity.
- My property does not actually sit next to the road but the traffic noise is very audible throughout the day; I dread to imagine what it is like for those living closer to the buffer zone.
- In my case I've noticed a significant rise in noise levels since 2006 and I'm not prepared to suffer even more. Action is needed NOW to improve the quality of life for the residents and I urge the council not to approve the proposal of the developer.
- Acoustic fencing and considerate landscaping is what is needed to absorb the noise from the busy roads that surround the development. It will enhance the appearance of the site, provide some privacy and ultimately improve the quality of life for the residents.
- The application to not put up acoustic fencing is simply ridiculous given the ever increasing road noise along Swale Way. When I moved in in 2007 there was a tolerable amount of road noise, a few lorries for the paper mill. However now I'm unable to have the windows at the back of my house open at night (the back faces onto Swale Way) as the road noise is unbearable.
- I bought my house on this estate in 2007. The road outside my house was a quiet road as is led nowhere. Over the past few years it's got ridiculous. Every truck, lorry, van and boy racer going in and out of Sittingbourne goes past my house. I hear every long, drawn out gear change from 40 tonne trucks as they slow down and accelerate at the roundabout. It's painful, I cannot keep windows open in summer at night due to the noise, its unbearable.
- There are so many haulage firms in the area, Morrisons, Nicholls, Kemsley Mill, Lafarge, Hansons, Ridham Dock traffic, and Bretts, they all use this roundabout as well as all Eurolink traffic and commuter traffic in the town. At a guess, it's probably at least 1 truck every 15 seconds pulling away and braking during the day. The queues start from one end of Swale way to the other, from 4.30 most evenings too, all sitting with idling engines outside my house. I am fed up with this and the constant estate problems I've endured and so something needs to be done as fed up with noise, dirt dust and tin cans coming in from this very busy at times fast road.
- We bought our house after knowing that the northern relief road would be open one day to be used after being told that there would be a sound proof solution which was to be a wall or fence to dampen the noise especially from the huge increase of traffic from the surrounding companies and beyond.
- At the weekends the road is used by boy racers who use it to do speed trials which the police are aware of. Taylor Wimpey had planted trees at the beginning but these had not grown and eventually died this is due to the mound being full of the builder waste.
- It is vital that TW provide the adequate sound proof fencing or buffer zone and the landscape that was promised to the people who have bought these properties. Windows are kept shut and I can just imagine it all getting busier, noisier over a short space of time.

- I strongly object to this buffer zone staying as it is, it looks horrendous and the noise needs to be blocked from the main busy rd. the development company should complete this development as per original plans.
- The fencing which is at present in situ was only meant to be a temporary boundary fence whilst building was taking place. I therefore object to the retrospective application.
- The bund is an eyesore and I feel it should be levelled and then turfed and landscaped as per the original plan. Why should we have to look at a weed infested heap of builders waste that makes up the bund. The fence does nothing to prevent rubbish and litter being blown onto the development, and is not even the same as the other fence which lines the main road on the other side of Lloyd Drive.
- If one half of Swale Way has acoustic fencing in place, why not the other half - our development? I trust that the council will take the appropriate action and not approve the application put forward by Taylor Wimpey and listen to the objections from those that live here.
- We have no privacy in our garden with teenagers walking across it. There is no insurance paid for it.
- The lorries from the mill carrying waste paper constantly have no netting on their roofs and this mound constantly works as a collection point for lists of waste paper. The drone of lorries using the swale way now that the ndr is open is not helping with us living here.
- We cannot have our windows open or sit in our garden.
- We were promised a wall but as the Kemsley fields and new build amicus site both have acoustic fencing that would be much better and in keeping so that it looks like it's one place not plots that are treated differently. None of the other acoustic fencing has ever been treated or damaged and it's got to be the best solution for everyone.
- To leave the buffer zone like this would be disgraceful. This is not what we were promised when we bought our homes from Taylor Wimpey. It is one big mess and to even consider leaving it as it is a joke.
- With the increase in traffic it also means an increase in noise pollution and the residents deserve nothing less than the best possible protection; leaving the bund as it is, is not the answer. Taylor Wimpey must revert back to their original plan to install acoustic fencing or a wall along with a flat landscaped area. Acoustic fencing has been installed in Swale Way and the new development that joins our development, why should Chandlers Croft not have this benefit?
- The current level of noise pollution on swale way is shocking and posed significant mental health risk.
- The works should be carried out as was originally set out to make good this bund for noise reduction and to tidy it up, not leave it as is.
- I believe that there are two problems with the current bund at present. Firstly, it does nothing to reduce the noise from traffic travelling along Swale Way. Since the relief road has opened, noise levels on the estate have been unacceptable - this is only set to increase once the building of the logistics hub is finished as even more lorries will be using the road. Secondly, the bund offers no protection from the waste paper that is falling off of the top of the lorries that travel to-and-fro from the paper mill. This litter is therefore collecting along the bund and is very unsightly. I believe that at the very least, the original planning application should be adhered to and the wall should be built. However, both the Kemsley Fields development and the new Amicus site have acoustic fencing. I would suggest that provision of an acoustic fence would be a better solution to the noise problem than the wall and this would also be in better keeping with the surroundings.
- The bund and fencing is completely inadequate. I believe in the original planning discussions about this site there were concerns raised about noise levels. Since then, the bridge over the creek has been built, the morrison's depot build as well as

other developments in the Ridham docks area. All of this has led to a huge surge in traffic using swale way, including a large number of HGV's. The noise generated by these is unacceptable. I therefore cannot see any logical or sensible reason to approve this application.

- The bund is unsightly. It is not planted or landscaped and covered with weeds. It is not suitable at all. And the fencing is not fit for any purpose.
- In fact, the current set up leaves houses vulnerable to burglary.
- The fencing allows an easy get away for would be thieves and the bund gives them the perfect shelter from the road. This needs to be flattened and a proper fence or wall erected to protect people living on the boundary. I just cannot see any reason why the proposals are in the best interest of the residents.
- Kemsley Fields has acoustic fencing, the new build also has acoustic fencing. We will present as a break in that fencing - again adding weight to the fact this is not a sensible or logical decision - if either side of us has acoustic fencing how can it be argued we do not need it.

## 6.0 CONSULTATIONS

- 6.01 The Council's Environmental Services Manager does not raise objection, and comments as follows:

*"I refer to the retrospective application for the retention of a 2 metre high earth bund and a rail fence on the back edge of the footway together with landscaping of the bund at Chandlers Croft.*

*In my view and provided the earth bund is constructed of suitable materials and landscaped sensibly, it can provide a functional noise mitigation solution comparable with and probably better than the original proposal of a 1.8 metre high wall and 16 metre wide flat landscaped buffer.*

*As far as I am aware, at the time of the development's original planning consent, there was no specific requirement imposed to protect garden/amenity areas from road traffic noise. That said, an acceptable level of noise attenuation required for habitable rooms (with windows closed) was to be achieved by the provision of reasonable standard double glazed window units incorporating acoustic vents as recommended by the developers acoustic design consultant at the time.*

*Commenting on the breach of landscaping condition at Chandlers Croft; I think that removal of a large bund and replacing it with a flat planted area and 1.8 metre high brick wall built on the back edge of the highway would not in my view benefit the residents of this development in terms of noise attenuation from the highway. Of the two options, provision of a 2 metre high earth bund properly constructed and landscaped would be the more favourable in terms of noise mitigation."*

- 6.02 No other representations have been received.

## 7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application plans, papers and supporting information for SW/91/0125, SW/04/0948, SW/05/0574 and 14/505359/FULL

## 8.0 APPRAISAL

- 8.01 Members will note the significant feelings/views of residents to the proposal and generally regarding the development, as set out in section 5 above. However, at the outset, it is important that Members are clear on what the issues are. A number of representations refer to the provision of acoustic fencing, that noise pollution was a concern at the time of the reserved matters approval, and many refer to an increase in traffic and the use of the land to the north of the housing estate for industrial/warehouse/distribution uses.

For the avoidance of doubt, Members should be clear that:

- Despite the repeated suggestion by residents, there has never been any requirement for the provision of an acoustic fence around this part of the residential development. Members cannot therefore afford this any weight in their consideration of the issues.
- The approved wall around the boundary of this site with Swale Way was never intended to act as a noise barrier. At the time of the approval of the reserved matters for the development relating to appearance, access, siting and design (SW/04/0948) the Environmental Health Manager commented as follows:

*“The provision of a 1.8 metre high close-boarded fence (non-acoustic) and 16 metre buffer zone around this part of the development together with good quality double glazing (Rw 35dB) as detailed in the Acoustic Design Consultants letter dated 2<sup>nd</sup> December 004 will fulfil the requirements of the current planning consent. This level of attenuation will ensure internal noise levels generated by traffic using the MKDR will be acceptable.*

*There is no specific requirement of the planning consent that outside amenity areas i.e. gardens meet the current WHO guidelines for such areas. If this more onerous standard is required then it will be necessary to incorporate an acoustic barrier adjacent to the road, which would form a continuous barrier with that required for the northern housing area (junction J2 westwards.)”*

Members should be clear that the issue of noise from the road was considered at the time of the original applications. At that point, it was envisaged that the NRR would be a well used route both to Eurolink and the Paper Mill, and to the industrial development to the north, including Ridham Dock and that approved concurrently with the residential estate. There was no requirement for noise attenuation then, and as such it would be incorrect to refuse planning permission on that basis here.

- There was never any requirement for an acoustic fence to be provided on the Kemsley Fields development to the west. This appears to have been constructed by Kent Highway Services, on land they own, separate from the planning approvals at the site.
- The approvals for the site to the south of Chandlers Croft (Land off Ridham Avenue, Kemsley – application references SW/12/1425 and SW/13/1199) did not include any requirement for the provision of an acoustic fence. The environmental noise assessment submitted as part of the application, and accepted by the Environmental Health Manager (and ultimately by Members – application SW/12/1425 was approved by the Planning Committee) simply required dwellings to be built a minimum of 20 metres from Swale Way. No acoustic attenuation in the form of a

fence or other barrier was required. The plans were subsequently amended (not on our request).

- Issues regarding maintenance costs for the upkeep of the bund as shown on the drawings are a private matter between the residents and the management company responsible for maintaining it, and are not material considerations here.

8.02 Members will note that, notwithstanding my comments above regarding noise, the Environmental Services Manager has assessed the bund and planting proposed, and is clear that the bund and planting thereon would actually provide a better level of attenuation than the approved wall.

8.03 The key issues here centre around whether the bund and fence are an acceptable alternative to the approved scheme, namely their impact on visual and residential amenity, and whether the bund is capable of sustaining the planting proposed.

### **Visual Impact**

8.04 The post and rail fencing is in my view visually acceptable. It is not as noticeable as a solid boundary treatment, and complements the wider setting of the site, together with the open verdant character of the residential estate beyond.

8.05 The bund, if properly planted as per the submitted details, would provide an acceptable soft edge to the site, and would provide an appropriate visual buffer between the dwellings and the road (and the industrial development beyond.)

8.06 I am firmly of the view that the provision of a brick wall around the entire perimeter of this site would be a more harmful alternative to the details before Members here.

### **Residential Amenity**

8.07 The fence is unobjectionable in this regard, not being sited close to the dwellings.

8.08 The bund as it stands today, affords views down into the rear gardens of dwellings which back on to it. This is unacceptable. However – the submitted planting scheme shows a substantial band of planting along the top of the bund, such that walking along it would be impractical and unlikely to occur. In my view, the planting proposed would result in a structure that would not harm residential amenity.

### **Landscaping**

8.09 I am mindful that the bund may be constructed of building spoil – at a few points broken bricks etc are visible through the topsoil. However – I note the submitted planting schedule and maintenance scheme which sets out amongst other things that the planting sites will be excavated and backfilled with appropriate soil and ameliorants. I have discussed the details, together with the species proposed with the Council's Tree Consultant, who has confirmed that this will be sufficient for the planting to survive and thrive. Members will note the conditions below, which require the planting to be carried out in strict accordance with these details. Subject to this, I conclude that the planting should survive at the site.

## 9.0 CONCLUSION

9.01 I am firmly of the view that the fence, together with the bund and the planting proposed are an appropriate and attractive solution here. I do not envisage harm to visual or residential amenity, and I therefore recommend that planning permission is granted.

## 10.0 RECOMMENDATION – GRANT Subject to the following conditions

- 1) The scheme of tree planting and landscaping shown on submitted plan no.3165\_DR\_001-C shall be carried out, wholly in accordance with the details in “3165\_SP\_001-A Landscape Bund Specification”. The planting shall be completed within 12 months of the date of this decision, and shall be maintained thereafter, in accordance with the details in “Landscape Maintenance Schedule”, document reference 3165/SP 002-B. Any trees or shrubs 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.

Reason: In the interests of the visual amenities of the area

### The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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.