

2.4 REFERENCE NO - 22/501556/FULL		
APPLICATION PROPOSAL Demolition of existing dwelling and erection of 2no. five bedroom dwellings with associated parking and private amenity space (Resubmission of 21/504571/FULL).		
ADDRESS Greystone Bannister Hill Borden Kent ME9 8HU		
RECOMMENDATION Grant subject to receipt of additional comments (closing date 5 May 2022) and to conditions set out below, and to receipt of SAMMS payment (1 x £275.88)		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Borden And Grove Park	PARISH/TOWN COUNCIL Borden	APPLICANT Ashbyrne Homes Ltd AGENT Kent Design Partnership
DECISION DUE DATE 20/05/22	PUBLICITY EXPIRY DATE 05/05/22	

Planning History

22/500019/FULL

Section 73 - Application for Minor Material Amendment to condition 2 (to allow alterations to roof, including change of dining area roof to a flat roof behind a parapet and replacement of dormer with 2no rooflights, and to include details of external condenser locations) pursuant to 21/503888/FULL for - Section 73 - Application for minor material amendment to approved plans condition 2 (alterations to both plots including removal of chimney breasts to front, adjustments to window positions and alterations to roofs) pursuant to 20/500051/FULL for - Demolition of existing attached garage, erection of replacement detached garage, and construction of 2no. detached 5 bedroom properties with access from an extension of the existing driveway.

Approved Decision Date: 03.03.2022

21/504571/FULL

Demolition of existing property and erection of 2no. five bedroom dwellings with associated parking and private amenity space as amended by drawing no's. 21.29_PL_11 Rev A; 21.29_PL_12 Rev B; 21.29_PL13 Rev B; 21.29_PL14 Rev A and 21.29_PL_20.

Refused Decision Date: 17.12.2021

21/504590/FULL

Section 73 - Minor material amendment to condition 10 (hard and soft landscaping) pursuant to 21/503888/FULL for - Section 73 - Application for minor material amendment to approved plans condition 2 (alterations to both plots including removal of chimney breasts to front, adjustments to window positions and alterations to roofs) pursuant to 20/500051/FULL for - Demolition of existing attached garage, erection of replacement detached garage, and construction of 2no. detached 5 bedroom properties with access from an extension of the existing driveway.

Approved Decision Date: 14.10.2021

21/503888/FULL

Section 73 - Application for minor material amendment to approved plans condition 2 (alterations to both plots including removal of chimney breasts to front, adjustments to window positions and alterations to roofs) pursuant to 20/500051/FULL for - Demolition of existing attached garage, erection of replacement detached garage, and construction of 2no. detached 5 bedroom properties with access from an extension of the existing driveway.

Approved Decision Date: 16.08.2021

21/503535/SUB

Submission of details pursuant to condition 5 (Materials), Condition 9 (Arboricultural), Condition 10 (Landscaping) and Condition 13 (Energy) in relation to planning permission 20/500051/FULL.

Approved Decision Date: 30.07.2021

20/500051/FULL

Demolition of existing attached garage, erection of replacement detached garage, and construction of 2no. detached 5 bedroom properties with access from an extension of the existing driveway.

Approved Decision Date: 01.04.2020

17/504348/FULL

Demolition of existing attached garage, erection of replacement detached garage, and erection of 2no. detached dwellings with attached garages, accessed via extension of existing driveway with widened access as approved under application SW/14/0479.

Approved Decision Date: 20.10.2017

SW/14/0479

Outline planning permission for demolition of existing attached garage & erection of replacement detached garage, bin store, 2 x two storey 4 bedroom detached dwellings, with attached garages, accessed via extension of existing driveway, as clarified by email dated 3 June 2014 clarifying the eaves height of the proposed houses, and by drawing received 28 July 2014 showing a wider driveway and sight lines.

Approved Decision Date: 14.01.2015

SW/81/1221

Outline application for erection of one dwelling and garage

Refused Decision Date: 26.01.1982

SW/76/0057

Detached house and garage

Approved pre 1990 Decision Date: 18.06.1976

1. DESCRIPTION OF SITE

1.1 This site of approximately 0.23 hectares in area lies within the Local Plan defined built-up area boundary of Borden and includes a two storey 4 bed detached dwelling known as Greystone. This property originally had a very large garden, which doglegged away at the rear, but construction works are currently underway on the far part of the garden to build two 5 bedroom detached dwellings with attached garages, approved last year under planning reference 20/500051/FULL. Pre-commencement conditions for that application have been approved as have minor material changes to design and landscaping details.

1.2 The site is located to the south of the Borden-Harman's Corner conservation area and although the existing house itself is not within the conservation area, the boundary of the

conservation area includes an extremely small corner of the development site at its entrance onto Bannister Hill.

- 1.3 The existing property was built in the 1970s and is set well back from the highway. Apart from it occupying a relatively large garden with some mature planting, the building itself has no heritage merit or contribution to the setting of the conservation area. The land at this location slopes gradually uphill in a north-westerly direction meaning that it sits higher than that of the adjoining properties fronting Hearts Delight Road to the east, which back on to the site.
- 1.4 The current applicants sought planning permission (21/504571/FULL) last year for the demolition of Greystone and the erection of 2 two storey 5 bedroom detached dwellings with double garages. That application was considered by Members at a site meeting on 29th November 2021, was the subject of a report by independent highway consultants, and was refused by Members (against my recommendation) for the following reasons:

(1) Having had the benefit of an on-site meeting to see and consider the impact of this development, at which time the footprint of the 5 bedroom dwelling on Plot 4 was pegged out on site, the Council considers that the proposed dwelling at Plot 4 would, due to its scale and height, and its siting close to the site boundary and directly in front of the rear windows to the property known as Wykeham to the east, result in an overbearing structure which would have an unacceptable impact on the amenities, quiet enjoyment of their property, and the mental health of any occupiers of that adjacent property in a manner contrary to policies CP4 and DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

(2) The significant increase in traffic arising from the proposed development and the requirement to provide clear sightlines with only low level planting within the sightlines at the site entrance, added to the proposed removal of the existing wall to widen the site entrance which might destabilise the existing soft landscaped bank or require new stabilisation works, would create a development which will detrimentally impact the current appearance of this rural site and result in a development that will negatively affect the setting of the Borden-Harman's Corner conservation area. This would give rise to an impact of less than substantial harm, against which only limited public benefit can be demonstrated in mitigation, meaning that the harm should not be accepted. As such the proposal represents development contrary to policies CP8, DM14 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

An appeal has been lodged against this decision, but that appeal process has not yet been started.

2. PROPOSAL

- 2.1 The proposal is essentially for an amended scheme to address the first reason for refusal by replacing the two-storey 5-bedroom dwelling on what is being called Plot 4 (House type C) with a 4-bedroom chalet bungalow (Type E). The proposal is again for the demolition of the existing two storey 4-bedroom dwelling and the erection of two new dwellings with double garages. The dwellings would be side by side facing north and side-on to both the new houses now being built and to the rear of properties on Hearts Delight Road.

- 2.2 The dwelling on Plot 4 (Chalet Bungalow type E) is substantially smaller in height than the previously refused dwelling here, although its front to back depth is increased by approximately 500mm. This 4-bedroom chalet bungalow will have a total ridge height of 7.2m (reduced from 8.6m) and an eaves height 2.2m (reduced from 5.0m). The chalet bungalow is positioned 2.2m away from the rear boundary of the property known as Wykeham, which fronts Hearts Delight Road. There will be just a single side bathroom roof window at first floor and two small side windows (to an en-suite and a secondary window to a living room) at ground floor that face the rear of Wykeham, whereas the existing property has a large bedroom window and a bathroom window facing Wykeham, albeit at slightly greater range. A new 6ft close boarded boundary fence would be erected along the boundary line between these two properties. Adjacent to the access road will be a single storey detached double garage, measuring 6.5m wide and 7.5m long (internal dimensions 6.0m x 7.0m) with two car parking spaces in front of the garage. The remaining space in front of the dwelling will provide a small front garden with some tree planting along the boundary, and a long rear garden some 20 metres in length. The chalet bungalow would be finished in red stock bricks with a red feature plinth and plain clay tile hanging on the upper walls, black UPVC windows, and a plain clay tiled roof.
- 2.3 Plot 3 (House type D) is set further back from the access drive and away from the rear boundary of properties fronting Hearts Delight Road, and its north-western flank wall will face the new houses currently being built. The other flank wall faces the side of Plot 4 and will have a single storey attached double garage, measuring 6.0m wide and 7.2m long (internal dimensions 5.6m x 7.0m), with two car parking spaces in front and another within the front garden. The rear elevation of the house will face towards the far end of the long rear garden to the property known as Brierley and will have a good-sized garden to the rear measuring 10 metres long. This house would be finished in red stock bricks with black stained timber weatherboarding to the upper walls, black UPVC windows and a plain clay tiled roof with a maximum ridge height of 9.5m (eaves height 5.0m).
- 2.4 The existing access driveway off Bannister Hill will be widened where it meets the highway as already approved for the ongoing development of two houses elsewhere on the site. It will also be slightly widened again further into the site (from 3.1m to 3.7m in width) and will include a shared driveway for the two proposed dwellings, and the two new dwellings currently being built, as well as an additional four car parking spaces situated along the side boundary to Plot 3.
- 2.5 The agent has advised that the two cedar trees close to the highway, identified within the tree survey as Category C (Low Value) and Category U (Poor Condition), fell down during the recent storm. The tree survey plan shows there is a Category C (Low Value) birch tree situated along the eastern boundary of the site but this will need to be removed to accommodate the proposed dwelling on Plot 4. The proposed block plan indicates the very tall coniferous trees growing along the garden boundary to Brierley will be retained and crown lifted (although neighbours say that they have in fact now been removed – see below), as well as the hedge along the garden boundary to Highglade House.
- 2.6 The application is supported by a Design, Heritage and Access Statement, which sets out the following justification for the revised scheme:

Reason for Refusal 1

Following constructive dialogue with the planning case officer during the application process the plot 04's position on site was altered to provide additional separation distances from neighbouring dwellings, in particular Wykeham. The final position which the application was determined on was more than 13 metres from the single storey rear extension to Wykeham and over 15.5 metres to the original building. The case officer highlighted to the planning committee in his report that this far exceeds the minimum separation distance of 11m which is usually required.

The application which this document supports aims to satisfactorily address the first reason for refusal by replacing the two storey dwelling on plot 04 (HT-C) with a chalet bungalow (CB-E). This proposal significantly reduces the overall scale and height of the plot and therefore is considered to minimise the perceived impact on neighbouring dwellings. Whilst the overall footprint of the building and location are consistent with the previous application the chalet bungalow eaves height has been reduced from 5.05m to 2.25m. The ridge height has been reduced from 8.65m on the refused application to 7.28m. Further to this the proposed ground level has been reduced by 300mm from the previous application and when all of these reductions are combined we believe that any perceived impact on the neighbouring dwellings has been considered. This is demonstrated through the site section A-A on drawing 21.29_PL_16.

Reason for Refusal 2

The second reason for refusal, we believe, is a result of some confusion over what the proposals were for and what has already been approved under a previous application 20/500051/FULL. The refused application did not propose to change the access arrangement from the application site onto Bannister Hill and this subsequent re-submission does not propose any alterations either.

During the application process KCC Highways were consulted and raised no objection to the development. Concerns were raised about highways safety by members of the public and an independent transport consultant was employed by Swale Borough Council to assess the scheme. Additional information was sought and on receipt of this information the independent consultant was satisfied that the application was acceptable on highways grounds.

It is important to highlight that the Greystone application site as whole has approval for three dwellings so the application proposals to demolish the original dwelling and replace with two dwellings only represents a nett gain of one dwelling. Therefore, to consider that one additional dwelling will have a significant increase in traffic is questionable. General accepted transport practice suggests a trip generation rate of approximately 5 trips per day for rural sites within confines, per dwelling. At typical peak hours this will be one additional trip and cannot be considered a significant increase in traffic.

The widening of the access to Greystone has been approved under application 20/500051/FULL (and previously under application 17/504348/FULL) to 4.8m for the first 10m into the application site. The only considerable difference between the

approved application and that which was refused is the widening of the access road within the application site beyond that to 3.7m. This is simply to allow access for a fire tender into the site in case of emergency. The existing wall we do not believe significantly contributes to the setting of the conservation area but regardless the application proposals will retain this wall, there is no intention for it to be removed.

The approved design (20/500051) for an additional two dwellings within the curtilage of Greystone did not make consideration for the access of a fire tender to these properties. This application seeks to widen the approved access drive from 3.1m to 3.7m and to provide a turning head compliant with approved document B. This will utilise the proposed access drive to Housetype D (Plot 03) to turn the tender and the positioning of the proposed dwellings is formed around this. The vehicle and pedestrian access to the site will be as per the previously approved design – via the existing drive from Bannister Hill, the improvements to the vision splays are to remain as previously approved.

Both dwellings have been designed to minimise height and visual impact from neighbouring properties, Chalet Bungalow Type E has a typical eaves height of 2.25m and maximum ridge height of 7.28m, Housetype D has an eaves height of 3.3m/ 5.05m and ridge heights of 7.5m/ 9.5m. Site section A-A on drawing 21.29_PL_16 demonstrates how the proposals gradually step following the general topography of the overall Greystone site.

The buildings have been positioned so that their flank walls are perpendicular to the rear elevations of the dwellings along Bannister Hill. This ensures that there is no direct overlooking into those dwellings and their private amenity space. In comparison to the siting and orientation of the existing dwelling this is a vast improvement.

A carefully selected material palette is proposed in line with the materials proposed for the approved dwellings and generally in keeping with the local semi-rural vernacular. A combination of stock brickwork with feature plinths, plain clay tile hanging (Chalet Bungalow E), stained timber weatherboarding (Housetype D) and plain tiles to the roof's are proposed.

Heritage

Harman's Corner Conservation Area extends up to the application site boundary and entrance to the site. The application proposals for two new dwellings are set back from Bannister Hill with the nearest being approximately 42 metres from the conservation area boundary. It is important to highlight that the alterations to the access into the application site have already been approved under previous applications, originally under application reference 14/0479. The conservation officer did not provide written comment on the previous application (21/504571/FULL) however the case officer concluded within his report to the planning committee that there were no direct impacts on the heritage asset arising from the development and that the proposed development would preserve the character and appearance of the conservation area.

Conclusion

The planning application which this document accompanies is a resubmission of application reference 21/504571/FULL for two additional five-bedroom dwellings in place of the existing Greystone property. The resubmission documentation clearly demonstrate that the applicant has positively addressed the reasons for refusal of that application, particularly the first reason for refusal. This document succinctly explains that the second reason for refusal is unjust and may have been the result of a misunderstanding of the proposals. Through careful redesign and consideration of comments made throughout the previous application we consider that the proposals for a two storey dwelling and chalet bungalow are acceptable and should be granted planning approval at the earliest opportunity.

3. PLANNING CONSTRAINTS

- 3.1 Conservation Area Harmans Corner, Borden

4. POLICY AND CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF): Paragraphs 8, 11, 130 and 206.

- 4.2 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017:

Policy ST1 Delivering sustainable development in Swale

Policy ST3 The Swale settlement strategy

Policy CP3 Delivering a wide choice of high quality homes

Policy CP4 Requiring good design

Policy DM7 Vehicle parking

Policy DM14 General development criteria

Policy DM19 Sustainable design and construction

Policy DM21 Water, flooding and drainage

Policy DM33 Development affecting a conservation area

- 4.3 Supplementary Planning Guidance (SPG) entitled “Parking Standards”. The recommendation for a 4 or 5-bedroom house in a rural location is 3+ parking space with 0.2 spaces per property as visitor parking. The recommended dimensions for a two-car garage are 6 metres wide and 7 metres deep.

5. LOCAL REPRESENTATIONS

- 5.1 Eight objections have been received and their comments can be summarised as follows:

- The Council was very clear in its reason for refusal and any resubmission should have addressed this in full.

- There has been no change to the proximity and siting of the dwelling on Plot 4 and it remains in front of all the rear windows of Wykeham, and the footprint appears to be slightly larger than that refused.
- The proposed development is still overbearing and would have a substantial, unacceptable impact on the residential amenities of Wykeham.
- Simply using the term 'chalet bungalow' does not make it a single storey building – the property is a 2-storey house with a height nearing 8m high with the floor space on the first floor being virtually the same as it is on the ground floor.
- There is an additional issue of privacy – the SE elevation shows there is a window from a habitable room that has a clear view into Wykeham's rear private living space.
- Given the applicants' history of incremental development changes through amendments, including the addition of dormers to the properties higher up on the site; there is clearly a major risk of further breaches of privacy using the vast roof on the proposed property.
- There is still an overdevelopment of the site and would still result in the same increase of traffic movement as the refused scheme and would still impact the conservation area.
- The proposed development would have a serious impact on the privacy and amenity of Brierley, as well as other surrounding dwellings.
- The proposals are in direct conflict with Policy DM14.
- The drawing 21.29_PL_16 does not show a visibility splay from Plot 03. If this had been included, it would have demonstrated that the proposed dwelling would overlook the entire back garden of Brierley at a distance of just 10m. The committee report dated 11 Nov Item 8.7 states the rear garden to Brierley is largely screened by the existing tall boundary hedging but this has now been removed and does not provide privacy. The idea that the windows overlook the furthest part of the garden is clearly not correct.
- NOTE: This would not relate to the normally private area immediately behind the house, but to the wider garden area where privacy cannot normally be guaranteed/protected. The submitted drawings show the boundary trees to be retained, but even if this is not the case, then Council's normal privacy standards would be met.
- The current proposal still creates overlooking of the rear ground floor rooms of Bellami. The 45 degree splay shown on the Block Plan of both the previous and current applications suggests it is just the garden of Bellami that will be overlooked. This is misleading. This 45 degree 'rule' is a guideline to determine the impact on sunlight and daylight to neighbouring properties, not an overlooking issue.
- At the site visit attended by Members, the Planning Officer commented that the rear wall of Bellami was already overlooked by the rear windows of Greystone, but it is

overlooked now because the applicant cleared the garden area around Greystone some nine months ago.

- The nearest 1st floor window of the dwelling on Plot 4 is 19.5 metres from the rear wall of Bellami. This is less than the guideline of 21 metres minimum for facing windows.

NOTE: The applicants' drawing shows the distance from the centre of the window, and this window is not facing towards the rear of Bellami but at ninety degrees thereto.

- The re-submitted plans are hardly any different to the current plans apart from a sloping roof, these houses will overlook & block so much light from neighbouring houses.
- The traffic on Bannister Hill is extremely busy and there have been numerous accidents within yards of Greystones driveway.
- The bottom of Bannister Hill floods during heavy rainfall.
- We often see hedgehogs and badgers crossing the bottom of Bannister Hill.
- This is overdevelopment of an infill site purely for financial gain.
- The new "chalet bungalow" is in fact a full 5 bedroom house occupying the same footprint and position on the site as the previous application, with only an amended roofline and a minimal reduction in height.
- We are already having to tolerate the current houses being built in the back garden of Greystones, which are much taller than our house, are just over a metre from our boundary, and are very overbearing. They have cut a lot of light from the South-West.
- The developer is trying to turn this single house site of Greystones, into a close of four houses with a lot of additional noise pollution to adjacent properties as well as losing privacy.
- The proposed property 3 will not only overlook the entire garden of Highglade House and that of The Hollies, but also into our existing windows, robbing us of our properties' current privacy.
- Two MORE large houses on this site is over development for the Harmans corner conservation area, and will cause additional parking and traffic issues.
- Applying for the planning permission for a two storey house and a chalet bungalow (which is a two bedroomed house by another name) rather than ONE storey bungalows, is purely for additional profit and shows no consideration for the mental health, welfare, privacy of current residents and the over density of this area.

5.2 A site notice has been displayed and an advert published in the local press. The deadline for comments is 5 May 2022. This report is subject to the receipt of additional comments which will be reported at the meeting.

6. CONSULTATIONS

6.1 Borden Parish Council objects on the following grounds:

- 1. Proposed alterations were insufficient to reduce visual intrusion which was detrimental to living environment.*
- 2. No part of the new submission tackles the 2nd refusal by SBC neither does it tackle original objections.*

6.2 Kent Highways and Transportation consider this to be a non-protocol matter.

6.3 The Environmental Health Manager recommends conditions relating to construction hours, pile driving hours, and provision of electric vehicle charging points. Relevant conditions are recommended below, along with conditions regarding asbestos removal and dust suppression which were previously suggested.

6.4 The Council's Tree Consultant raises no objection to the application subject to a condition requiring details of tree protection measures to be submitted before development commences.

7. BACKGROUND PAPERS AND PLANS

7.1 Application papers and drawings relating to application reference 22/501556/FULL.

8. APPRAISAL

Principle of Development

8.1 This application site lies within the Local Plan defined built-up area boundary of Borden, and the recent approval of planning permission 20/500051/FULL for the erection of two detached homes on land adjoining the site indicates that the principle of residential development on this site is acceptable. The existing property itself is not of architectural or historical interest and its demolition is unobjectionable in my view. However, planning permission (21/504571/FULL) was refused by Members last year for the erection of two 2 storey dwellings here. That application was refused on the grounds that the proposed dwelling on Plot 4 would result in an overbearing structure that would harm the residential amenities of Wykeham, and the provision of sightlines to cater for additional traffic arising from the proposed development would negatively affect the setting of the conservation area.

8.2 This revised scheme has sought to address these issues by reducing the height and massing of the proposed dwelling on Plot 4, and by clarifying the reasons for widening the access to the site. The current submission confirms that the access arrangements now proposed are in fact as already approved for the on-going approved development. What falls to be considered under this application is the acceptability of the submitted scheme in terms of scale, design, access, landscaping, amenity, and its impact on the setting of the conservation area.

Impact on setting of conservation area

- 8.3 The property itself is not within the Harman's Corner conservation area, but the boundary of the conservation area includes the northern corner of the development site boundary along Bannister Hill. The development is therefore regarded as being within the setting of the conservation area.
- 8.4 The Character Appraisal and Management Plan for Harman's corner (adopted April 2021) describes the area as:

Geographic character and historical development

Harman's corner lies at the eastern end of Borden village. It is a small enclave of historic buildings situated around the junction of The Street with Borden Lane; it also includes the area immediately to the south, where development has spread a short distance down Bannister Hill.

General Statement

Harman's Corner is a small enclave of historic properties with some modern infill development. An outstanding feature of the Conservation Area is a group of three medieval and early post-medieval framed timbered houses. These have architectural and historic epitomising Kentish vernacular building of the period. They form a group with the later 18th and 19th century historic buildings of Bloomfield (Grade II) and 241 Borden Lane, and several buildings of local importance.

Harman's Corner was once a hamlet in its own right and the buildings at Harman's Corner provide the physical evidence of wealthy past times in the parish of Borden. It is a pleasing contrast with the suburban character of much of the surrounding development.

Bannister Hill (west and south sides)

Starting at the north there are three modern dwellings set back from the road. In part the boundary is formed of a bank dropping down to the carriageway with sycamores on top. The semi natural screen of trees contributes to the enclosed street scene. On the corner of the bend of Bannister Hill is Bannister Hall (Grade II LB No 1069422) identified as a 16th century timber framed house. It has origins in the 14th century.

Setting

The setting of Harman's Corner Conservation Area is now formed of housing developments which surround it to the north, west and south with open land surviving on the eastern side. It is approached to the south by a narrow country lane known as Hearts Delight Lane/Bannister Hill.

Modern 20th century development means that it is now joined to the village of Borden to the west and in some respects Sittingbourne to the north due to the frontage development along Borden Lane.

- 8.5 Section 72(1) of The Town and Country Planning (Conservation and Listed Buildings Act) 1990 places a statutory duty on the Local Planning Authority to pay special attention

to the desirability of preserving and enhancing the character and appearance of conservation areas.

- 8.6 The properties along Bannister Hill are characterised by mostly detached properties set within generous plots and between large mature roadside trees. There are reasonable gaps between buildings with gardens and established trees and shrubs giving the area a semi-rural character. The mature trees present a dense and visually dominant green, leafy foil to the individual properties especially in summer, offering a verdant setting for both the southwestern boundary of the conservation area as well as the properties along Bannister Hill.
- 8.7 The existing property to be demolished was built in the 1970s. Apart from it occupying a relatively large garden with some mature planting in character with other properties within the area, the building itself has no heritage merit or special contribution to the setting of the heritage assets. Its demolition and replacement with two new houses set between other relatively modern properties on smaller plots would, in my view, not have any material impact on the setting of the conservation area.
- 8.8 The design and materials of the proposed dwellings closely match that of the approved dwellings currently being built. I therefore consider the proposed dwellings have been appropriately designed and will conserve the setting of the conservation area.
- 8.9 More significantly, the access arrangements that Members were concerned about are already as approved and this scheme will have no additional requirement /impact here. I do not believe that reason 2 from the previous decision was reasonable or tenable, and I urge Members not to repeat it now.

Impact upon neighbouring properties

- 8.10 The land levels at this location slope downwards towards Hearts Delight Road meaning that the adjoining dwellings here sit at a lower level than the development site. Nevertheless, the flank wall of the chalet bungalow on Plot 4 would lie approximately 15.6m from the original rear wall of Wykeham, and approximately 13.1m from the ground floor rear extension, which is more than the 11-metre minimum distance that I would normally wish to see in a rear window to new flank wall situation, and this should ensure that a suitable standard of outlook is available from the rear windows of Wykeham. The first-floor side window within the roof slope of the bungalow will serve a family bathroom. I recommend imposing a condition which requires this to be a high level rooflight with an internal cill height of at least 1.7m above the finished floor levels of the room it serves. On this basis, no loss of privacy would occur from this rooflight. A further two small flank windows at ground floor serving an en-suite and a secondary window to the living room are also proposed. These windows will be situated 2.2m from the side boundary but the boundary fence here will prevent any loss of privacy to a significant degree. Nevertheless, I recommend imposing a condition requiring these windows to be obscure glazed and non-opening. Furthermore, a condition has been recommended below which restricts any additional windows being inserted on the south-east flank wall to safeguard privacy to this neighbouring property. As such, I do not consider that the proposal would have a pronounced impact on the residential amenities of the occupiers of Wykeham compared to the current situation.

- 8.11 Another adjacent property, known as Brookwell, is situated to the northeast of the site, and its rear garden backs onto the grass verge at the front of the site. I do not believe the proposed detached double garage to Plot 4 will result in any loss of sunlight or any increased shading of the rear garden to this neighbouring property. I also consider there will be little impact from the front facing windows of the proposed chalet bungalow as any overlooking to this neighbouring property would be from an oblique angle only and any overlooking of the rear garden would be towards the far end where amenity space is generally less private.
- 8.12 To the southeast, the rear garden to Plot 4 will back onto the rear garden of the property known as Bellami. The rear elevation of this neighbouring property lies approximately 15m from the side boundary to Plot 4. A 45° splay has been shown on the proposed block plan to show the notional visibility from the centre of the nearest first-floor window of the dwelling on Plot 4, and a distance of 22m shown to the nearest first floor window of Bellami at a sharper angle. However, the local objection states it is in fact 19.5m which means it is less than the Council's policy guidance of minimum window to window distances in relation to rear windows. The position of this bedroom window in the chalet bungalow is no closer than that previously proposed in the two-storey dwelling on this plot. Moreover, the window in question does not face Bellami, but is at ninety degrees to it, which is more than the angle that existing windows in Greystone face Bellami at, reducing any sense of overlooking. Given that no issues of harmful overlooking to this neighbouring property were identified as a reason for refusing for the previous scheme, I believe it would be unreasonable for the Council to introduce new privacy issues now. I cannot see any increase harm arising from the revised scheme.
- 8.13 The proposed dwelling on Plot 3 (house type D) would lie approximately 10m from the rear garden boundary to the property known as Brierley. The bedroom windows will only provide views over the wider garden to this neighbouring property, not over the area immediately behind the house where privacy is more protected.

Highways

- 8.14 Bannister Hill at the site entrance is not a designated rural lane, although the route to the south is. It is proposed to use an existing entrance, which will not create physical harm, and in terms of the levels of traffic passing along the rural lane to the south of the site entrance, and through the Harman's Corner conservation area, I remain of the view that this will amount to anything more than the most marginal increase, that will have no appreciable impact on the character of either the conservation area or the rural lane, or be contrary to policies DM26 or DM33. Members will recall that our independent highway consultants did not raise any significant concerns on the previously refused scheme. Furthermore, Kent highways have again not felt it necessary to comment on the current application.
- 8.15 The size of the double garage on Plot 4 exceeds the current space dimensions and will provide covered parking spaces for two cars and secure bicycle storage, with an additional two spaces in front of the garage. The dwelling on Plot 3 will have three parking spaces on its drive and a further space (as well as cycle parking) within its garage. The submitted drawings show four visitor parking spaces at the end of the

access road. The amount of car parking spaces being proposed here therefore exceeds the current parking standards recommended in the recently adopted SPG.

- 8.16 I therefore do not see any reason for refusal of the application on highway or traffic grounds.

Landscaping

- 8.17 The Council's Tree Consultant does not raise any concerns regarding the loss of two cedar trees at the site entrance as he is satisfied there is sufficient space within the grass verge in which to plant new trees and it will enable the applicants to include more indigenous trees within its proposed landscaping scheme. I have recommended a landscaping condition to protect the character of the conservation area street scene, as well as a condition to ensure tree protection measures are submitted before development commences.

Sustainable design and construction

- 8.18 The submitted Design, Heritage an Access Statement states that the new dwellings will be constructed to very high standards of energy efficiency with high levels of insulation and air tightness. The applicant has agreed to the imposition of a pre-commencement condition requiring the new dwellings to be constructed to achieve a 50% reduction in carbon emissions.

SPA Impact

- 8.19 As Members will be aware, the Council seeks developer contributions on any application which proposes additional residential development within 6km of the Special Protection Area (SPA) to address potential harm to the SPA from additional recreational disturbance. The application site is within 6km of the SPA, and as such the Council seeks a mitigation contribution of £275.88 for one (net) new dwelling. This matter will need to be dealt with before any planning permission can be issued.

Other matters

- 8.20 Local concern refers to badgers passing through the area. However, Members will recall this issue was previously raised by the Parish Council as a recent sign had been put up in Hearts Delight Road just by Washley Hill, warning road users of the road by wildlife. The applicants responded at that time by instructing an Ecologist to carry out a walkover of the site to assess its potential to support badgers. The results of that walk over survey provided negative results with no signs of badgers or their activity on or within 30m of the site, and no further action or survey was recommended.

9. CONCLUSION

- 9.1 This site is located within the Local Plan defined built-up area boundary of Borden where the principle of residential development is acceptable in principle. I have considered the potential impact of this proposal on the setting of the conservation area, and to the objections from neighbouring properties. However, I believe the applicants have addressed the reasons for refusal of 21/504571/FULL, and as such cannot see there are any grounds to refuse this revised application.

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 Swale 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.

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 (to 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/>).

- 10. RECOMMENDATION** - GRANT Subject to the following conditions and the collection 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 hereby approved shall be carried out in accordance with approved drawings 21.29_PL14, 21.29_PL_16 and 21.29_P17 including the use of facing materials specified thereon.

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

- (3) Notwithstanding the indicative detail shown on approved drawing 21.29_PL_16, the development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels, along with details of screening measures along the south-eastern boundary of the site of not less than 1.8m above finished ground levels at the boundary, which shall first 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 and all approved boundary screening measures shall be completed prior to the occupation of the dwelling closest to the south-eastern boundary of the site. The approved screening measures shall be retained in place for the lifetime of the development.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site, and in order to safeguard the amenities of neighbouring properties by ensuring that users of the property are unlikely to invade the privacy of rear gardens of adjacent properties to the south-east.

- (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 should be native species and of a type that will enhance or encourage local biodiversity and wildlife), 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 residential amenity.

- (8) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor any other day except between the following times:-

Monday to Friday 0900-1700 hours unless in association with an emergency or with the written approval of the Local Planning Authority.

Reasons: In the interests of residential amenity.

- (9) The dwellings hereby approved shall be constructed and tested to achieve the following measure:

At least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations 2013 (as amended);

No development shall take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved in

writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of promoting energy efficiency and sustainable development.

- (10) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and no 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.

- (11) The dwellings hereby permitted shall not be occupied until they have each been provided with one electric vehicle charging point.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

- (12) The areas shown on approved drawing 21.29_PL_16 as car parking and turning 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 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 dwellings hereby permitted.

Reason: Development without adequate provision for the parking or turning of cars is likely to lead to car parking inconvenient to other road users, and a risk to highway safety.

- (13) Prior to the occupation of any dwelling hereby permitted the driveway to the properties shall be constructed such that any part within 10m of the public highway is no less than 4.8m wide, and this specification shall be maintained at all times thereafter.

Reason: Development without provision of adequate access is likely to be detrimental to highway safety and amenity.

- (14) Prior to the occupation of any dwelling hereby permitted sightlines of 2m x 20m to the north-west and 2m x 30m to the south east (as measured from the centreline of the access) shall be provided clear of any obstruction over 0.6m above carriageway level. Thereafter these sightlines shall be maintained clear of any such obstruction at all times.

Reason: In the interests of highway safety.

- (15) No asbestos containing material associated with any demolition shall remain on site.

Reason: To ensure any asbestos is adequately managed.

- (16) Mitigation of dust shall be in accordance with the institute of Air Quality

Management (IAQM) 'Guidance on the Assessment of Dust from Demolition and Construction'.

Reason: In the interests of the amenities of surrounding occupiers.

- (17) The proposed rooflight to the first-floor family bathroom window on the south east elevation of the proposed dwelling on Plot 4 hereby permitted shall have a cill height of not less than 1.7m above finished inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- (18) The ground floor windows on the south east elevation of the proposed dwelling on Plot 4 shall be obscure glazed and non-opening and shall be maintained as such at all times.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- (19) Notwithstanding the provisions of Class A, Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) order 2015 (as amended) or any order revoking and re-enacting that Order, no additional windows or openings shall be installed on the south east elevation of the proposed dwelling on Plot 4.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 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.

INFORMATIVES

- (1) This permission has only been granted after receipt of a financial contribution to the Strategic Access Management and Monitoring Strategy in respect of the nearby Special Protection Area.
- (2) The Council would expect to see the details submitted under condition (4) to include replacement trees for the two cedar trees recently lost from the site frontage. These trees are expected to be of a nature and scale that will be of a significant feature within the street scene.

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.

