

<b>2.3 REFERENCE NO - 21/506474/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Erection of 2no. four bedroom semi-detached dwellings and 1no. detached garage, with associated fencing, gates, access and parking.		
<b>ADDRESS</b> Burntwick The Street Upchurch Sittingbourne Kent ME9 7EU		
<b>RECOMMENDATION</b> Grant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The site lies outside of the built-up area boundary of the village, however the site is located close to the centre of the village and is surrounded by built form on all sides so the proposal is not considered to negatively impact the character and appearance of the countryside around the village. The proposed new dwellings are also considered to be appropriately designed and are not considered to result in undue harm to neighbouring amenity or to the designated heritage assets in the vicinity. Taking into account the current lack of a 5-year housing supply, the potential benefits of the proposal are considered to outweigh the harm to the countryside.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Upchurch Parish Council have objected to the scheme due to the concerns of residents. Councillors Horton and Palmer have also requested that the application should be called in to the Planning Committee due to local concerns raised relating to the overdevelopment of the site, the over-bearing impact on neighbouring properties and the detrimental impact on the village setting.		
<b>WARD</b>	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b>
Hartlip, Newington And Upchurch	Upchurch	Mr Steve Smith <b>AGENT</b> Mark Carter Associates
<b>DECISION DUE DATE</b>		<b>PUBLICITY EXPIRY DATE</b>
14/02/22		21/04/22

**RELEVANT PLANNING HISTORY**

SW/87/0760 – Erection of house - Approved pre 1990      Decision Date: 29.07.1987

SW/86/1292 – Outline application for one four-bedroom house - Approved pre 1990  
Decision Date: 13.01.1987

**1. DESCRIPTION OF SITE**

- 1.1 The application site is a plot of garden land located to the side of a property known as 'Burntwick'. The site measures approximately 0.13 hectares in size and features a manmade pond. The site is located close to the centre of Upchurch village and it borders the rear gardens to a number of other residential properties along 'The Street' and 'The Poles'. The village hall is located to the north of the proposed development site.
- 1.2 The site lies adjacent to the Upchurch Conservation Area boundary and it is situated adjacent to but outside of the built-up area boundary of the village. St Mary's church further to the south is a Grade I listed building.

## **2. PROPOSAL**

- 2.1 The development proposal relates to the erection of two semi-detached houses , together with associated hard and soft landscaping works. The initial proposal was for two detached houses on the site but this has since been revised to reduce the potential impact of the proposed scheme. The proposed new dwellings will each have 4 bedrooms and will benefit from parking spaces and a private access road leading to a shared access road serving Burntwick, the public house and the village hall. A single garage is also to be erected on the site and will be allocated to one of the proposed dwellings.

## **3. PLANNING CONSTRAINTS**

- 3.1 The site constraints are as follows:

Adjacent to Upchurch Conservation Area boundary  
Within the setting of a listed church  
SSSI Impact Risk Zone  
Swale Explosives Sites  
Area of Archaeological Potential  
Outside of the built-up area boundary

## **4. POLICY AND CONSIDERATIONS**

- 4.1 National Planning Policy Framework 2021  
4.2 Bearing Fruits 2031: The Swale Borough Local Plan 2017

ST1 Delivering sustainable development in Swale  
ST3 The Swale Settlement Strategy  
ST5 The Sittingbourne Area Strategy  
CP2 Promoting sustainable transport  
CP3 Delivering a wide choice of high-quality homes  
CP4 Requiring good design  
DM7 Vehicle parking  
DM14 General development criteria  
DM19 Sustainable design and construction  
DM28 Biodiversity and geological conservation  
DM32 Development involving Listed Buildings  
DM33 Development affecting a Conservation Area

Swale Borough Council Parking Standards 2020

Departments for Communities and Local Government: Technical Housing Standards – Nationally described space standards

Upchurch Conservation Area Appraisal

## 5. LOCAL REPRESENTATIONS

- 5.1 30 representations (from 14 households) have been received during the application process, 12 of which were received in response to the amendments to the drawings. One comment has been received in support of the proposal and three comments have been received neither objecting to nor supporting the proposal.
- 5.2 26 of those responses commenting on the application have objected to the proposal on the following grounds:
- Loss of privacy
  - Loss of outlook
  - Out of character with the area
  - Impact on the Conservation Area
  - Highway safety issues associated with narrow access
  - Potential for damage to the access road caused by heavy vehicles
  - Loss of light
  - Impact on access to the village hall, particularly during the construction phase
  - Impact on water supply/sewage pipe serving the village hall
  - Rights of way issues
  - Noise/dust issues during construction phase
  - Parking stress
  - Ecological impact
  - Fire safety concerns

## 6. CONSULTATIONS

- 6.1 **Upchurch Parish Council** – Object to the application proposal due to the concerns raised by the residents. They do not consider that the amended design has mitigated the concerns.
- 6.2 **Ward Councillors** – Comments received from Cllrs Horton and Palmer objecting to the proposal on the grounds that the development is considered to constitute an overdevelopment of the site. They also object to the over-bearing impact of the proposal on neighbouring properties and to the detrimental impact of the development on the village setting.
- 6.3 **Kent County Council Flood and Water Management Team** – No comment, falls outside of their consultation criteria.
- 6.4 **Natural England** – No objection, subject to the appropriate financial contribution being secured
- 6.5 **Kent County Council Minerals and Waste Planning Policy Team** – No objection
- 6.6 **Health and Safety Executive** - No comment to make on the planning application provided that the development is not classed as a 'vulnerable building'
- 6.7 **Kent County Council Archaeology Team** – No objection, subject to condition
- 6.8 **Kent County Council Highways Team** – Falls outside their remit for comment. However, verbal confirmation received that there is no objection. They have

recommended conditions relating to a construction traffic management plan for the site and a condition relating to visibility splays at the entrance to the site.

- 6.9 **Kent Fire and Rescue Service** –Comments on initial scheme indicate that Fire Service access and facility provisions need to be provided as they are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service. No comments have been received on the revised plans.

## 7. BACKGROUND PAPERS AND PLANS

- 7.1 Please refer to the existing and proposed plans provided.

## 8. APPRAISAL

### Principle of Development

- 8.1 Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres in the borough. It states that development will not be permitted on land which falls outside of the defined built-up area boundaries unless the development proposal is supported by national policy and the development would contribute to protecting and enhancing the landscape setting.
- 8.2 The property is located immediately adjacent to the built-up area boundary of Upchurch village but it lies outside of the defined boundary and in an area classed as countryside. In this location, the principle of erecting new dwellings is not generally supported in policy terms.
- 8.3 However, the Council is currently unable to demonstrate a 5 year housing supply and at the current time it is only able to demonstrate a 4.6 year supply of housing. As a consequence, as per Paragraph 11.d of the National Planning Policy Framework, the tilted balance is engaged.
- 8.4 Paragraph 11.d of the NPPF states that in cases where a five year supply of housing cannot be demonstrated, relevant policies relating to the supply of housing should not be considered up to date and there should be a presumption in favour of sustainable development, unless “(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed” or “(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 8.5 In this case, the proposed development site lies near the centre of the village and within the curtilage of an existing residential dwelling. The site is also surrounded by built form on all sides so it is considered that any proposed development in this location is unlikely to significantly harm the character and appearance of the countryside surrounding the village. The proposal will also boost the local housing supply in the area and is likely to benefit the rural economy during the construction phase by providing employment opportunities, albeit that these benefits would be minor.

- 8.6 In light of this, the benefits of the proposal are considered to outweigh the potential harm to the countryside and the principle of carrying out development on the site may be considered acceptable, subject to the proposal meeting the policy requirements set out below.

Impact on Heritage/Visual Amenity

- 8.7 Policy DM32 of the Swale Local Plan 2017 states that proposals that affect a designated heritage asset, or its setting, will be permitted only where the building's special architectural or historic interest, and its setting and any features of special architectural or historic interest which it possesses, are preserved.
- 8.8 Policy DM33 of the Swale Local Plan 2017 states that new development within, or adjacent to, a Conservation Area is expected to be both of an appropriate use, of a very high standard of design, and to respond positively to the grain of the historic area by preserving or enhancing the character or appearance of the place.
- 8.9 Policy CP4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.
- 8.10 As stated above, two 4-bedroom semi-detached dwellings are proposed on the site. The proposed new dwellings will have a barn hip roof design and projecting gable features to the front and rear. Each dwelling will have a canopy porch with a catslide roof feature. The proposed new dwellings are to be constructed using a mix of modern and traditional materials which include brick and render. The fenestration on the two properties will be modern in style. The two dwellings will benefit from three parking spaces each and the second dwelling on the north-eastern side of the plot will also benefit from a detached single garage with pitched roof.
- 8.11 With regards to the design of the new properties and the potential impact of the proposal upon the character and appearance of the streetscene, the two proposed dwellings will be set back from The Street on a backland plot and will not be widely visible from public vantage points. The proposed new dwellings will measure approximately 7.7 metres in height in line with the neighbouring property at Burntwick. Accordingly the two dwellings should not appear excessively tall in the site context. The properties will be set back from the nearest neighbouring boundaries by at least 7 metres and they are considered to be proportionate to the size of the plot. The design of the new proposed dwellings incorporates the use of some traditional architectural features and construction materials which are considered to respect the setting. The proposed single garage measures approximately 5.5 metres in height and is considered to be of an appropriate scale. In my opinion, the properties are well designed, discreetly positioned on a backland plot and do not appear out of place in the context of the wider area.
- 8.12 With regards to the designated heritage assets in the vicinity of the proposed development site, the site borders Upchurch Conservation Area on three sides and it lies approximately 65 metres from St Mary's, a grade I listed church dating from approximately 1300. The significance of the listed church lies in its age and its distinctive architectural features. It is also considered to make a significant contribution to

Upchurch Conservation Area and is revered as a landmark building and important community facility in the centre of the village.

- 8.13 With regards to the potential impact of the development upon the significance of the designated heritage assets, the dwellings are to be sited in a discreet location within the garden plot which currently serves Burntwick. The properties will be sited behind the properties along The Street and The Poles and they will not detrimentally impact any important views leading into the Conservation Area. Whilst the proposed new dwellings are relatively modern in appearance, their design incorporates the use of traditional architectural features and the two dwellings are to be constructed using appropriate materials so their design and appearance should not negatively impact the scenic qualities of the Conservation Area and the appearance of the historic core of the village will remain unchanged. The proposed new dwellings are also not considered to negatively impact the setting of the listed church given the separation distance and intervening buildings. I have consulted with the Conservation Officer, who raises no objection to the proposed development.
- 8.14 In light of the above, the proposal is considered to be policy compliant from a heritage and visual amenity perspective, and would protect the setting of the identified heritage assets.

#### Residential Amenity

- 8.15 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, in an unreasonable loss of privacy, in an unreasonable loss of outlook or in excessive noise or odour pollution.

#### *21 The Street*

- 8.16 The two proposed new dwellings are to be located approximately 7 metres from the boundary shared with 21 The Street and approximately 9 metres from the flank wall of the property. The proposed single garage is to be located approximately 2 metres from the shared boundary with the neighbouring property and approximately 5 metres from the front elevation of the property. The proposed new dwellings and single garage do not directly align with 21 The Street, which reduces the potential for impacts. In their proposed location, the new dwellings and proposed outbuilding are considered to be a sufficient distance from No 21 to avoid any unacceptable impacts on daylight and sunlight.
- 8.17 With regards to the potential impact of the proposal upon neighbouring privacy, the glazing along the front and side elevations of the new proposed dwelling on the north eastern side of the plot has the potential to afford some views towards the neighbouring dwelling and garden. However, any direct or oblique views afforded from the windows at ground floor level would be largely obscured by the high-level fencing along the boundary. With regards to the proposed glazing at first floor level, as the new dwelling is not directly aligned with 21 The Street, the windows along the front elevation of the new dwelling at first floor level will only afford limited oblique views towards the garden

serving the neighbouring property and are not considered to harmfully impact neighbouring privacy. With regards to the proposed window at first floor level along the side elevation of the new proposed property, this will serve a bathroom and it is considered that any potential for overlooking can be effectively mitigated via an obscure glazing condition.

- 8.18 With regards to the potential for the proposal to impact neighbouring outlook, two windows are located at ground floor level, one window is located at first floor level, and one window is located at second floor level along the flank elevation of 21 The Street and the windows face directly into the proposed development site. However, as the new proposed dwellings are not directly aligned, the outlook from the windows will be on to the corner of the second dwelling and into proposed parking area. It is understood that the two windows at ground floor level serve the lounge of the property and they do not provide the principal source of outlook for the room owing to the fact that there are two other windows along the front and rear elevations of the property. The window at first floor level is understood to serve a bedroom. However, it is not considered to be the principal source of outlook for the room as the room benefits from a second window along the front elevation. With regards to the window at second floor level, the window is believed to serve a bedroom and it is believed to be the principal window to the room. However, as the window is set at a high level and it is set back from the neighbouring boundary by approximately 6 metres, given the distance of approximately 13 metres between the flank wall of the new proposed dwelling and the window, it is considered that, whilst the new proposed development will be visible and the views from the window may be affected, the outlook from the window will not be unreasonably obscured.

#### *11-19 The Street*

- 8.19 The rear elevations of properties at 11-19 The Street are located approximately 30 metres from the proposed new dwellings and the rear and flank elevations of The Crown Public House are located approximately 42 metres away. Given the distance between the proposed new houses and the existing properties, it is not considered that the proposed development will result in an unreasonable degree of overshadowing. In addition, it is not considered to harmfully impact neighbouring privacy or outlook, taking into account that the normal 21 metre separate distance used by the Council is met and exceeded.

- 8.20 With regards to concerns raised in the representations as to the potential impact of the development upon The Crown during the construction phase, it is considered that any potential congestion can be sufficiently mitigated via a construction traffic management plan. A condition will be added in this regard.

#### *7-21 The Poles*

- 8.21 The new proposed dwellings will be located approximately 6.5 metres from the rear boundaries shared with 7-21 The Poles when measured at their closest point and the rear elevations of 7-21 The Poles will be located at least 23 metres away from the new proposed properties when measured at the closest point. At this distance, it is considered that the new proposed development is unlikely to unreasonably impact the neighbouring dwellings in terms of daylight, sunlight, privacy or outlook issues. Whilst it

is acknowledged that there is a difference in land levels along The Poles and the proposed new dwellings may be visible from the rear gardens of the properties, this is not considered to be at an extent that would cause undue harm to neighbouring amenity.

#### *Burntwick*

- 8.22 The flank elevation of the new proposed property on the south-western side of the plot will be located approximately 4 metres from the flank elevation of Burntwick. The new dwellings do not project significantly beyond the front or rear elevations of this property, and as such would not cause unacceptable impacts in relation to daylight, sunlight or outlook.
- 8.23 With regards to the potential impact of the proposal upon neighbouring privacy, several new full-length windows are proposed at ground floor level and one new window is proposed at first floor level along the flank elevation of the new dwelling on the south-western side of the plot and the windows will face directly on the boundary shared with Burntwick, although all of these are either secondary or non-habitable windows. . Any views from the new glazing at ground floor level will be obscured by fencing along the boundary and the first floor window to a bathroom can be mitigated via an obscure glazing condition. With regards to the proposed glazing along the rear elevation of the new proposed dwelling, the proposed windows will face directly into the garden serving the new proposed property. Whilst the windows will afford some oblique views to the neighbouring plot, the views afforded are considered to be typical of usual relationships between houses and would not unreasonably impact neighbouring privacy.
- 8.24 With regards to the potential impact of the proposed development upon neighbouring outlook, there are three windows along the flank elevation of Burntwick which are likely to be affected by the development. However, one of the windows on the ground floor does not serve a habitable room and the other window does not provide the sole source of outlook to the room as there is a second window to the room along the front elevation. With regards to the window at first floor level, the window is believed to serve a bedroom. Although the outlook from the window along the side elevation will be impacted, the room is also served by a low-level roof light which affords views to the rear garden. As a consequence, the outlook from the room will not be unreasonably obscured.

#### *Village Hall*

- 8.25 The village hall is to be located approximately 33 metres from the proposed new dwellings and it will not be overshadowed or unreasonably affected in amenity terms. Some concerns have been raised as to the potential impact of the construction phase of the development upon the water and waste facilities and the access to the church hall. However, the way in which traffic is to be managed will be controlled via a construction traffic management plan condition. Given the separation distances, activities in the village hall would be unlikely to impact upon future residents in an unacceptable way.

#### Parking/Highways

- 8.26 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with adopted vehicle parking standards.



- 8.27 The Council's adopted car parking SPD states that where 4 bedroom units in this location are proposed, generally they will require up to 3 parking spaces per dwelling. The plans provided indicate that each new dwelling will benefit from 3 parking spaces and that one of the dwellings will also have the use of a single garage. The policy requirements in respect of parking are therefore considered to have been met.
- 8.28 With regards to the proposed new access, the access road will be located adjacent to the entrance to Burntwick and the site will be gated. Whilst I note that some concerns have been raised as to the impact of the access upon existing users of the access road to the village hall and the public house, the creation of two dwellings in this location is likely to give rise to an average of 10 vehicle movements per day and vehicles are likely to be travelling at low speeds due to the width of the road. I have consulted with Kent County Council Highways team who have confirmed that the proposed access is appropriate and does not give rise to highway safety concerns. They have recommended that a condition relating to visibility splays at the entrance to the site and a condition relating to a construction traffic management plan should be added to any future consent to reduce the potential for congestion. These conditions will be added accordingly.

### Trees

The tree removal plan provided highlights the fact that some trees are to be removed from the site as part of the proposal. I have consulted with the Conservation Officer, who has advised that the removal of trees from the site will not unduly impact the character of the Conservation Area due to the small size and quality of the trees being removed. A condition will be added to any future consent to require the applicant or their successors to protect those trees being retained during the construction phase and to submit further details of hard and soft landscaping works including a planting schedule to ensure that the verdant quality of the site is protected.

### Biodiversity and Climate Change

- 8.29 Due to the effects of Climate Change, the Council currently seek an energy efficiency pre-commencement condition on the grant of future planning permissions to ensure 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). A condition is recommended on this basis.
- 8.30 Policy DM28 of the Swale Local Plan 2017 states that any new proposed development should conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 8.31 As an existing domestic garden, impacts on protected species are not envisaged. A condition will be added to any future consent to request that ecological enhancements should be added to the site in order to encourage biodiversity.
- 8.32 The site lies within 6km of the Medway Estuary and Marshes Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat

Regulations). In accordance with the adopted practice, a standard financial contribution will be collected from the applicant prior to determination to mitigate against the potential harm to the SPA in accordance with the current agreement in Natural England, subject to the approval of the proposed scheme. I have attached an Appropriate Assessment for this development.

#### Other Matters

- 8.33 Archaeological Potential – The site is located within an area of archaeological potential. I have consulted with the Kent County Council Archaeology team, who have recommended a condition relating to the recording of any finds during the construction phase of the development. A condition will be added accordingly.

### **9. CONCLUSION**

- 9.1 As the Council cannot currently demonstrate a 5-year housing supply, the tilted balance under paragraph 11 (d) of the NPPF applies. The proposal would represent residential development in the countryside, where such development is usually resisted. However, in this instance the effects of the development on rural character and amenity are very limited due to the extent of built form around the site. The scheme is acceptable in design, neighbouring amenity and heritage terms, it is considered that the development will make a small contribution to the provision of new housing in the village, and these benefits would outweigh the very limited harm arising from new residential development beyond the existing built confines. Accordingly it is recommended that the application should be approved, subject to payment of the SAMMS contribution.

### **10. RECOMMENDATION**

That planning permission is GRANTED subject to payment of the SAMMS contribution and the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in accordance with the following approved plans:

3319 – 009 Rev A, 3319 – 010, BW/TPP-00-04 Rev A, BW/TRP/00-03 Rev A, 3319 – 005, 3319-006

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

3. No development beyond the construction of foundations shall take place until samples of the external finishing and roofing materials for the new dwellings and garage have been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To conserve and enhance the character of the Conservation Area.

4. No development beyond the construction of foundations shall take place until large-scale (1:5 or 1:10) section and construction drawings of the window joinery, reveal depths, verge, eaves and half-dormer details 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: To conserve and enhance the character of the Conservation Area.

5. No demolition or construction works shall take place on the site other than between the hours of 0730 – 1900 from Monday to Friday and 0730 – 1300 hours on Saturdays and no construction or demolition works shall take place at any time on Sundays or on Bank or Public Holidays.

Reason: In the interest of the amenities of occupiers of neighbouring properties

6. The parking spaces shown on the submitted plans 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 access to the parking spaces. The parking spaces shall be provided prior to the occupation of the residential units hereby approved.

Reason: To ensure adequate parking provision and prevent congestion on the highway.

7. 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.

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

9. No development shall be commenced until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, and shall include the following:
  - (a) Routing of construction and delivery vehicles to / from the site

- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

The approved details shall be adhered to throughout the construction process.

Reason: In the interest of highway safety

10. The site access as shown on the submitted plans, shall be completed prior to the use of the site commencing and maintained for such use thereafter.

Reason: In the interest of highway safety.

11. Prior to the first occupation of the dwellings, details of the visibility splays to be provided at the entrance to the site shall be submitted to the Local Planning Authority for their prior written approval. The visibility splays shall be implemented on site prior to first use of the access and maintained thereafter, with no obstructions over 0.6 metres above carriageway level within the splays.

Reason: In the interest of highway safety.

12. The first floor windows on the side elevations of the approved dwellings shall be obscure-glazed and non-openable up to a height of 1.7 metres above the internal finished floor level and once installed they shall be retained as such hereafter.

Reason: In the interests of preserving neighbouring privacy.

13. No development shall commence until details of the proposed means of foul sewerage and surface water disposal, including measures to prevent the discharge of surface water onto the highway, have been submitted to and approved in writing by, the Local Planning Authority. The drainage systems shall be implemented on site in accordance with the approved details prior to first occupation of the development.

Reason: In order to ensure that existing drainage systems are not overloaded and to prevent surface water runoff on to the highway.

14. One Electric Vehicle charging point per dwelling shall be provided at the site prior to the occupation of the development hereby permitted and they shall be retained permanently thereafter. All Electric Vehicle charging points shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). (Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list> )

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

15. No development beyond the construction of foundations shall take place until a scheme of biodiversity enhancement measures have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with provision of native species

planting. The approved details shall be completed prior to first occupation of the development and thereafter retained.

Reason: To minimise impacts on and provide net gains for biodiversity in accordance with the requirements of the NPPF.

16. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority. The programme of archaeological work should in the first instance comprise targeted trial trenches to evaluate the potential of the site.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

17. Notwithstanding the submitted plans, no development beyond the construction of foundations shall take place until full details of both hard and soft landscape works and any replacement or new boundary treatments have been submitted to and approved in writing by the Local Planning Authority. These details shall include details of existing and replacement trees to mitigate the impact of those which have been removed from the site, shrubs and other features, planting schedules for new plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

18. 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. Upon completion of the approved hard and soft landscaping scheme as detailed on the approved drawings, if any trees or shrubs are removed, die, become severely damaged or become seriously diseased within five years of planting, they shall be replaced with trees/shrubs of a similar size and species unless otherwise agreed in writing with the Local Planning Authority.

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

19. The proposed new dwellings as illustrated on the approved plans shall not be subject to further development, whether permitted by Classes A, AA, B or E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, without the prior permission in writing of the Local Planning Authority.

Reason: In the interest of maintaining the visual and neighbouring amenity of the area and the setting of the conservation area.

20. No development shall take place until details of existing and proposed levels (site levels and finished floor levels) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accord with the approved details.

Reason: In the interests of visual and neighbouring amenity.

21. The tree protection measures as outlined on plan ref: BW/TPP-00-04 Rev A shall be implemented on the site prior to the commencement of works and shall be retained for the duration of the construction phase. No works, storage or other uses or operations shall take place within the protected areas unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

## **INFORMATIVES**

1. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

### **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.

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**

The site lies within 6km of The Medway Estuary and Marshes Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

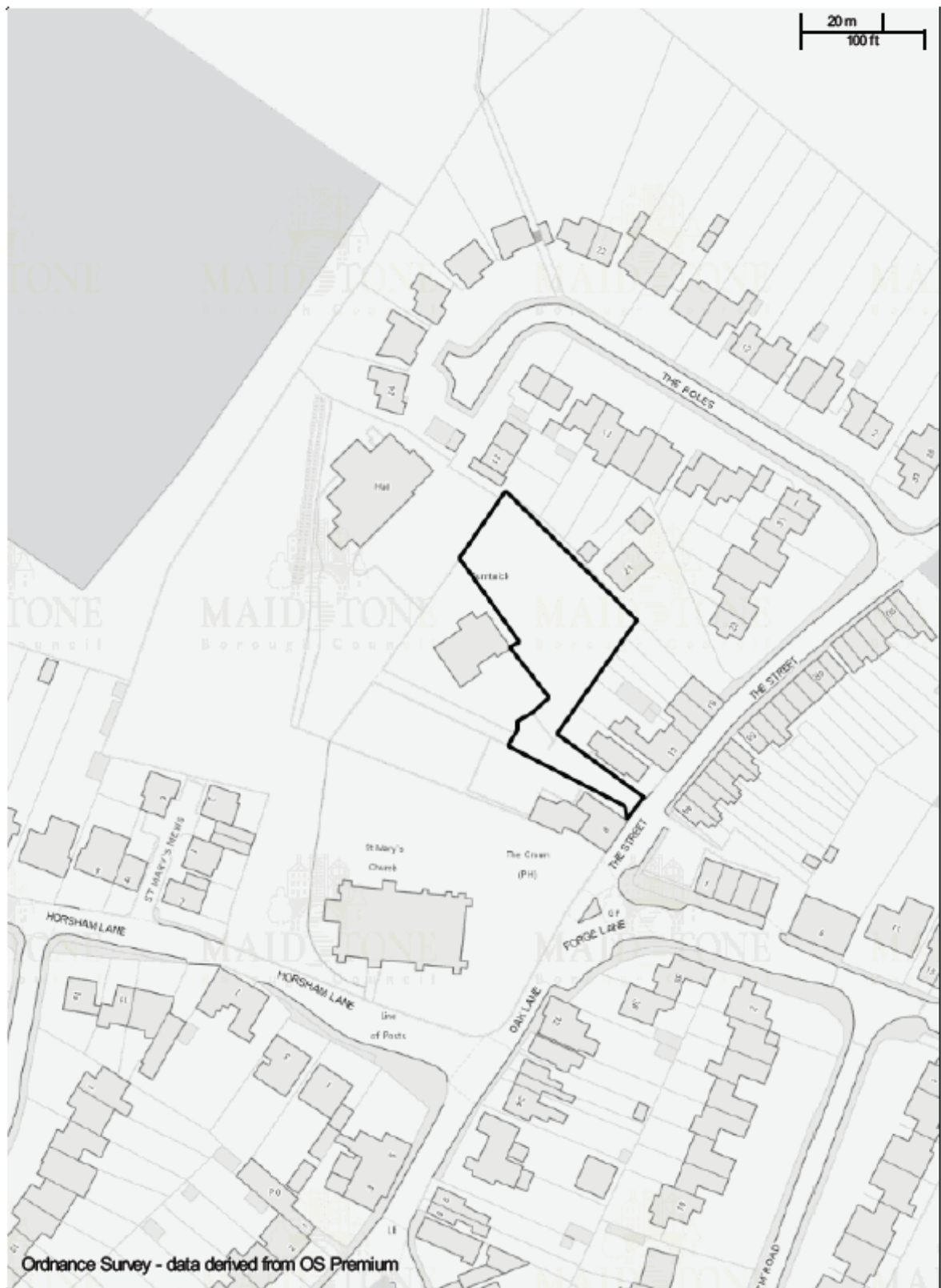
SPAs are protected sites classified for the prevalence of rare and vulnerable birds and for regularly occurring migratory species on the site. Article 4(4) of the Birds Directive (2009/147/EC) requires steps to be taken by the relevant authorities to avoid activities on the site which are likely to result in pollution or in the deterioration or disturbance of bird habitat. Accordingly an appropriate assessment is required to establish the likely impact of the development.

In the recent 'People Over Wind v Coillte Teoranta' (ref. C-323/17) ruling by the Court of Justice of the European Union, the Court concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site.

It is acknowledged that the proposed development will increase footfall to the area, which results in potential harm to the SPA. However, the development is sufficiently small scale to ensure that the level of harm is limited. In addition, it is considered that it would be possible to mitigate against the potential harm through either on-site or off-site measures.

In this case, off-site mitigation measures are deemed to be more appropriate. When considering any residential development within 6km of the SPA, the Council seek to 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). Such strategic mitigation must be in place before the development is occupied. The mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which will be secured prior to the determination of this application) are considered sufficient to mitigate against any adverse effect on the integrity of the SPA. A fee of £ £275.88 per residential unit will be secured from the applicant towards such mitigation prior to determination, subject to a resolution to approve the scheme.

I have consulted with Natural England, who have advised that the proposal is acceptable, subject to payment of the aforementioned financial contribution.



Ordnance Survey - data derived from OS Premium

21/506474/FULL - Burntwick The Street Upchurch ME9 7EU

Scale: 1:1250

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