

**PLANNING COMMITTEE – 15 SEPTEMBER 2022****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 22/502256/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 5no. two storey three bed dwellings and 1no. single storey two bed dwelling with rooms in the roof space.		
<b>ADDRESS</b> Land Off Imperial Drive Warden Kent ME12 4SE		
<b>RECOMMENDATION</b> Grant subject to conditions and receipt of SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development represents appropriate infill development within the built up area boundary of Warden. It will not cause unacceptable harm to visual or residential amenity, and will include the resurfacing of part of Imperial Drive, which is currently unmade.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Warden	<b>APPLICANT</b> Gemma Nash <b>AGENT</b> S Graham Architects Limited
<b>DECISION DUE DATE</b> 04/07/22	<b>PUBLICITY EXPIRY DATE</b> 30/08/22	<b>CASE OFFICER</b> Megan Harris

**Planning History**

21/502778/OUT

Outline application for the erection of 6no. dwellings (Layout and Access being sought).

Pending Consideration      Decision Date:

**1. DESCRIPTION OF SITE**

- 1.1 The application site is comprised of an empty plot of land on the northern side of Imperial Drive, an unmade road. It is roughly rectangular and measures approximately 0.22 hectares in area. The site is currently covered in overgrown vegetation. A mature willow tree is located in the south western corner of the site, which is protected by a TPO.
- 1.2 The surrounding area is characterised by residential development of various forms and scales. Immediately west are two detached chalet bungalows which front Thorn Hill Road (one of which, No. 42 Thorn Hill Road, is owned by the applicant). To the north and east are detached bungalows and chalet bungalows, whilst to the south are two storey terraces.
- 1.3 The site lies within the built up area boundary of Warden.

- 1.4 There is an outline application currently pending consideration for this site (ref. 21/502778/OUT). The application was submitted in 2021 and seeks outline permission for six dwellings on the site. There were various issues with the application, and this application for full planning permission was subsequently submitted to address the issues. It is envisaged that the applicant will withdraw the outline application once this application is determined.

## 2. PROPOSAL

- 2.1 This application seeks planning permission for the erection of six dwellings at the site.
- 2.2 Plot 1 will be a detached two storey property, set back from Imperial Drive by roughly 18.5m in order to avoid the TPO willow tree in the south western corner of the site. Plot 2 and 3 will be a two storey semi detached pair which front Imperial Drive. Plot 4 is a chalet bungalow located to the east of plots 2 and 3, also fronting Imperial Drive. Plots 5 and 6 are a two storey semi detached pair, set within the rear part of the site, with the front elevations facing westwards, which will result in the semis sitting perpendicular to Imperial Drive. All properties will have a standard gable roof, apart from plots 2 and 3 which will have barn hips. Each property will have a suitably-sized rear garden.
- 2.3 Access to the dwellings will be taken from Imperial Drive, with an internal access road providing access to plots 1, 5 and 6. Plots 2, 3 and 4 will have driveways to the front which are directly accessed from Imperial Drive. Each property will have two parking spaces. As part of the development, the section of Imperial Drive to the front of the site which leads to Thorn Hill Road to the west (all included within the red line edge on the site plan) will be resurfaced.
- 2.4 Amendments were sought during the course of the application, to address the concerns raised in relation to the TPO (parking spaces were originally proposed in close proximity to the crown of the tree) and the appearance of plots 2, 3 and 4 in relation to the streetscene to the east.
- 2.5 It also came to light during the course of the application that notice had not been served on all the owners of the site. The section of Imperial Drive to the front of the site leading to Thorn Hill Road is partly owned by the terraced properties opposite the site, and notice was served on these property owners during the application. I am now satisfied that all relevant owners have been notified of the application.

## 3. PLANNING CONSTRAINTS

- 3.1 TPO willow tree on site.

## 4. POLICY AND CONSIDERATION

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Development Plan – Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:
- ST1 (Delivering sustainable development in Swale)
  - ST3 (The Swale settlement strategy)
  - ST6 (The Isle of Sheppey area strategy)
  - CP3 (Delivering a wide choice of high quality homes)
  - CP4 (Good design)
  - DM6 (Managing transport demand and impact)

DM7 (Vehicle parking)  
 DM14 (General development criteria)  
 DM19 (Sustainable design and construction)  
 DM28 (Biodiversity and geological conservation)  
 DM29 (Woodlands, trees and hedges)

- 4.3 Swale Borough Council adopted SPG entitled 'Designing an Extension: A Guide for Householders'
- 4.4 The DCLG published "Technical housing standards – nationally described space standard" in 2015, which sets out the minimal gross internal floor areas within new dwellings.
- 4.5 SBC Vehicle Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM7 of the Bearing Fruits Local Plan Adopted 2017 was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.

## 5. LOCAL REPRESENTATIONS

- 5.1 Four objections were received from three neighbouring properties. Their contents are summarised below:
- Concerned Imperial Drive will be impacted by the development – properties opposite have private parking on the Drive itself, which has already been impacted by overgrown bushes on the site. The development could take away these spaces.
  - Development could result in additional parking on Imperial Drive, which will take away the allocated parking for existing dwellings opposite the site.
  - If road is resurfaced, it would create a rat run. Currently it is safe for children to play in the vicinity, but if the road were made up it could be busier and less safe.

## 6. CONSULTATIONS

- 6.1 Warden Parish Council – *"We the Parish Council feel that the site is being overdeveloped. We also feel that due to the extra traffic that the residential development would cause. The Applicant should be expected to bring the whole road to an adoptable standard between Thornhill Road and Imperial Drive."*
- 6.2 KCC Ecology – *"We have reviewed the ecological information and we are satisfied that sufficient survey information has been provided however additional information is required on the proposed reptile receptor site."*

*The ecological information submitted with the planning application has detailed that a breeding population of slow worms are present and there is potential for roosting/foraging bats and breeding birds within the site."*

Further information was provided regarding the receptor site and the following response was received from KCC Ecology:

*"We have reviewed the ecological information and we are satisfied that sufficient survey information has been provided to determine the planning application."*

Conditions relating to the receptor site, lighting strategy and ecological enhancements are imposed, along with an informative relating to breeding birds. These are all imposed below.

- 6.3 Natural England – Development will result in new dwellings and as such mitigation is required.

- 6.4 Environmental Health – No objections subject to conditions relating to EV charging points, hours of construction and pile driving.
- 6.5 KCC Highways – *“It is noted that the proposed development will be accessed directly from an unmade private road, and as such Kent County Council in its capacity as the Local Highway Authority has limited interest in the application. I do not consider that the additional traffic generated by the proposed 6 dwellings will have a material impact upon the adopted sections of Imperial Drive or Thorn Hill Road that provide the connections to the private road. Consequently, I would not raise an objection to the proposals. However, in order to assist the Local Planning Authority in its consideration of the development, I would offer the following comments:*
- *The LPA may consider it reasonable to seek that the developer makes improvements to the unmade portion of Imperial Drive, as responsibility to maintain this private road will fall on the frontagers. It is noted from the red and blue boundary lines shown on the submitted location plan that the applicant owns almost 50% of the frontage onto the unmade road, so does hold a sizeable proportion of the responsibility.*
  - *The drawings do not show clearly how the development will tie into Imperial Drive, as the proposed radius kerbs are taken to a tangent point at the theoretical back of footway alignment, rather than the edge of carriageway. The 5m strip of land between the frontage of the site boundary and the existing vehicular running lane is currently overgrown scrub, and none of the drawings indicate how this will be surfaced. The image below demonstrates the position of the existing road alignment and how far back the site frontage is set;*
  - *Plots 2 and 3 are only shown to have 1 parking space each, rather than 2 that would be required to conform with the Borough Council’s adopted parking standards. The second vehicle is likely to park in tandem therefore, on the 5m strip of land mentioned above, where the footway and verge would be located, if the road were ever to be made up as per the rest of Imperial Drive.*
  - *Each dwelling should have an EV charging point and secure cycle storage.”*

Additional plans were provided showing the section of Imperial Drive to the front of the site and up to Thorn Hill Road will be made up. KCC Highways were reconsulted, and confirmed they have no objections to the scheme, subject to the imposition of conditions relating to EV charging points, cycle storage and a construction management plan.

## 7. **BACKGROUND PAPERS AND PLANS**

- 7.1 Plans and documents relating to application 22/502256/FULL.

## 8. **APPRAISAL**

### Principle of Development

- 8.1 The application site lies within the built-up area of Warden, with its range of facilities and services in a residential area where the principle of minor infill residential development accords with Policy ST3 of Bearing Fruits 2031 – The Swale Borough Local Plan 2017.
- 8.2 Policy CP3 aims to steer new development to the built-up area boundaries where in this instance, the site’s location is considered fairly sustainable, situated within the defines of an urban area with a range of services which can be reached by sustainable travel modes.

- 8.3 Furthermore, the proposal would contribute towards the Borough's housing land supply under Policy CP3, and whilst I acknowledge that an uplift of six dwellings is only a modest contribution, it is a positive contribution nonetheless.
- 8.4 Overall, I consider the principle of development consistent with policies ST1, ST3, CP3 of the Local Plan (2017) as adopted, subject to considerations set out in further detail below.

#### Visual Impact

- 8.5 The principal objective of policy CP3 of the adopted local plan is to deliver a wide choice of high quality homes within the borough. The policy requires that residential densities are determined by the context and the defining characteristics of an area.
- 8.6 The proposed six dwellings sit comfortably on the site in my view, and represent a density similar to the terraced dwellings to the south of the site. There is some variety in the design of the properties, which in my opinion is appropriate, and will ensure the development blends in with the varied character of residential development in the surrounding area. The application form sets out that brickwork, slate tiles and dark grey UPVC will be used on the development, however no specific details of materials have been provided, so I include a condition below securing this.
- 8.7 I was initially concerned about how the development would tie into the streetscene to the east, which is comprised of narrow width, shallow roofed bungalows. A chalet bungalow is proposed immediately west of Sea Reach, the bungalow to the east of the site, and whilst it is taller and bulkier than this existing neighbour, taking into account the gap between the properties, I do not envisage that the difference in height of the properties will appear odd. Barn hips have been added to plots 2 and 3 to lessen their bulk when compared to the proposed chalet bungalow, and following the submission of amended plans, I am satisfied that the development coherently ties into the existing streetscene.
- 8.8 Plots 2, 3 and 4 at the front of the site are set slightly forward of the Sea Reach and No. 42 either side of the site, but I note the building line along this stretch of Imperial Drive is not very strong, and these plots will sit in line with Gratel, the bungalow to the east of Sea Reach. As such, the siting of the proposed dwellings will not cause harm to the character and appearance of the streetscene in my view.
- 8.9 I note the Parish Council's concerns relating to the overdevelopment of the site, however for the reasons set out above, I consider the six proposed dwellings can be comfortably accommodated on the site, without causing harm to the character and appearance of the area.
- 8.10 Overall, I am of the opinion that the proposal would reasonably assimilate within the context of its setting, consistent with the aims of policies CP4 and DM14 of the Local Plan (2017).

#### Residential Amenity

- 8.11 Policy DM14 advises that development should respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not create loss of sunlight, overshadowing, overlooking or result in excessive noise, activity or vehicular movements or visual intrusion.
- 8.12 The proposed dwellings would provide a good standard of amenity for future occupants. Internal layouts are sensible and practical, meeting the national space standards, and garden areas are suitably sized, all being 10m in depth.

- 8.13 The location of the dwellings within the site is acceptable, and ensures that distances of 11m between flank and rear elevations are met. As such, I do not envisage the development will lead to harmful overshadowing or overbearing impacts within the development.
- 8.14 Turning to consider the impact of the proposed development on the existing properties, the dwellings will lie a minimum 21m from the properties to the west of the site along Thorn Hill Drive. Due to this distance, I do not consider there will be any harmful amenity impacts to these neighbouring properties. The development will lie a minimum of 25m from the terraces to the south, and as such I don't consider any impacts to these properties will be significantly harmful. The side elevation of plot 6 will lie in excess of 21m from the rear elevation of the properties along Sea Approach to the north, and this distance is sufficient to ensure any impacts to residential amenity are minimum in my view.
- 8.15 Turning to consider the impact to the bungalow to the east of the site, Sea Reach, I note plot 4, the chalet bungalow will sit approximately 1.2m forwards of Sea Reach. Taking into account the 2.7m gap between the properties, I do not consider this forward projection will cause any harm to this neighbouring bungalow. The proposed chalet bungalow does not project rearwards of Sea Reach, and this neighbouring property will in fact sit 4m rearwards of plot 4. Taking into account Sea Reach is single storey and the gap of 2.7m between properties, I do not consider that the projection will cause unacceptable harm to the amenity of future occupiers of plot 4.
- 8.16 There is potential for overlooking of the rear garden of Sea Reach from the rear elevations of plots 5 and 6 at the rear of the site. The agent has addressed this by placing only bathroom windows on the rear elevation at first floor level. Bathrooms are non-habitable and in this instance will be served by obscure glazed windows which would be non-opening under a height of 1.7m and this would be secured by condition. As such I consider that the impact upon the amenities of Sea Reach have been adequately addressed.

#### Highways

- 8.17 Policies DM6 and DM7 of the Local Plan 2017 seek to ensure that new developments do not create unacceptable highways impacts and provide suitable parking.
- 8.18 KCC Highways were consulted on the application and they set out that the traffic generated by the addition of six dwellings will not cause harm to the adopted roads in the vicinity of the site. As such, I am satisfied the development will not lead to harm to highway safety and convenience in the highway network.
- 8.19 The road to the front of the site is currently unmade, and the Highways Authority have suggested that the developer should resurface the road as part of the development. The proposal will lead to additional vehicle movements along this section of Imperial Drive, and I consider it necessary for the development to make improvements to this road, a request which was also made by Warden Parish Council. The agent provided plans showing this, and I impose a condition below requiring the majority of the works to the road to be carried out prior to the building of the dwellings beyond foundation level. The condition will require the final wearing course to be completed prior to the occupation of the units.
- 8.20 With regard to the parking provision, two spaces are provided per dwelling. This provision is in line with adopted SBC Parking Standards SPD, and as such I consider the parking provision to be acceptable and will not lead to additional parking in Imperial Drive or nearby roads. I include a condition below to ensure the spaces are retained. Details of cycle storage and EV charging points have not been provided, so these matters are secured via condition.

- 8.21 I note the concerns raised by neighbours relating to the resurfacing of the road, however the development will not result in the road reducing in width, and as such the existing parking situation for neighbouring properties will remain the same.

#### Landscaping

- 8.22 DM29 seeks to safeguard trees, woodland, old orchard trees and hedgerows as features, habitats and areas to ensure they continue to be an essential part of the environment. The mature willow on the site is protected by a TPO. Following the submission of a tree protection plan and the relocation of parking spaces away from the tree, the Council's Tree Consultant is satisfied that the development will not harm this protected feature. I impose a condition below ensuring the tree protection plan and measures set out in the arb report are implemented during construction.
- 8.23 Only limited details of landscaping have been provided. Therefore in the event of planning permission being granted it is recommended that landscaping and planting details should be secured by condition.

#### SPA Payment

- 8.24 I have for completeness set out an Appropriate Assessment below. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £275.88 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee in principle.

#### Other Matters

- 8.25 Due to the overgrown nature of the site, ecological surveys were required. KCC Ecology have reviewed the submitted details, and note that there are a breeding population of slow worms within the site, and there is potential for roosting/foraging bats and breeding birds. Following clarification from the applicant, they are satisfied that the proposed receptor site for the slow worms is appropriate, and request a condition is imposed requiring the mitigation detailed within the Reptile Method Statement to be implemented. This is imposed below.
- 8.26 The TPO willow tree contains suitable features to be used by roosting bats. As bats are therefore likely to be present within the site, KCC Ecology request a condition is imposed to require the submission of a lighting strategy which avoids light spill onto the willow tree and minimises light spill within the wider site. This condition is imposed below. An ecological enhancement plans has been provided as part of the application, and KCC Ecology are satisfied with the proposed measures, but do request that hedgehog highways are included in all close boarded fencing. This is secured via condition below. With these conditions in place, I am satisfied the development is acceptable from an ecological perspective.

### **9. CONCLUSION**

- 9.1 The principle of residential development on this infill site is acceptable, and the amended scheme represents good design which makes effective use of the land, without causing harm to visual or residential amenity. The proposal provides adequate parking provision and includes the resurfacing of the section of Imperial Drive to the front and west of the site, which will be a public benefit to all users of the road, which is currently in a poor state. As such, I recommend this application is approved.

10. **RECOMMENDATION** – That planning permission is GRANTED Subject to payment of the SAMMS contribution to mitigate impacts upon the SPA and subject to the following conditions:

### 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 permitted shall be carried out in accordance with the following approved plans: 2091 103, 2091 104, 2091 105 Rev C, 2091 106 Rev C, 2091 107 Rev C, 2091 110 Rev B, 2091 150 Rev D, 2091 151 Rev C, 2091 180 Rev C, 2091 181 Rev C, 2091 182 Rev C, 2091 200 Rev C, 2091 201 Rev C, 2091 202 Rev C, 2091 210 Rev C, 2091 211 Rev D, 2091 212 Rev C, 2091 220 Rev C, 2091 221 Rev C, 2091 222 Rev C, 2091 230 Rev C, 2091 231 Rev C, 2091 232 Rev C, 2091 500 Rev B, 2091 510 Rev C, 2091 520 Rev C and 2091 530 Rev B.

Reason: In the interests of proper planning and for the avoidance of doubt.

- (3) 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.

- (4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include details of the following:

- (a) Routing of construction and delivery vehicles to / from 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

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (5) Prior to works commencing the reptile mitigation within the Reptile Method Statement (Calumma Ecology; March 2022) must be implemented as detailed. On completion of the mitigation a letter must be submitted to the Local Planning Authority confirming the works have been carried out as detailed.

Reason: In the interests of biodiversity.



- (6) Within 2 months of works commencing a lighting plan must be submitted to and approved in writing by the Local Planning Authority which demonstrates it avoids any light spill on the mature willow tree and that has been designed following the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals: <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229>

Reason: In the interests of biodiversity.

- (7) No development beyond the construction of foundations of the proposed dwellings shall take place until the works to Imperial Drive, with the exception of the wearing course, are completed as referred to on plan no 2091-104 A. The wearing course shall be completed prior to the occupation of the dwellings hereby permitted.

Reason: In the interests of highway safety.

- (8) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (9) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. Particular attention should be paid to the boundary treatment and the replacement of lost trees towards the road frontage.

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

- (10) Prior to the occupation of the dwellings hereby permitted, a letter must be submitted to and approved in writing by the Local Planning Authority which confirms that the ecological enhancement detailed within the Preliminary Ecological Appraisal (Calumma Ecology; September 2021) and hedgehog highways have been incorporated into the site and information provided to the new owners about any management requirements. The letter must include a plan confirming the location of all the enhancement features.

Reason: In the interests of biodiversity.

- (11) Prior to the occupation of the dwellings hereby permitted, details of secure, covered cycle storage for each residential dwelling shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the development hereby approved.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- (12) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the development hereby approved is first occupied, and shall be retained for the use of the occupiers of, and visitors to, the dwellings, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (13) Prior to the occupation of the dwellings hereby permitted, one electric vehicle charging point per dwelling shall be provided. The Electric Vehicle charger must be provided to Mode 3 standard (providing up to 7kw). 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: In the interests of encouraging sustainable modes of transport and minimising the carbon footprint of the development.

- (14) 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 interest of residential amenity.

- (15) 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 on any other day except between the following times: - Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interest of residential amenity.

- (16) Before the development hereby permitted is first occupied, the first floor window openings on the east facing elevation on plots 5 and 6 serving the bathrooms (as shown on drawing no. 2091 231 Rev C) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such in perpetuity.

Reason: To prevent overlooking of adjoining property and to safeguard the privacy of existing and prospective occupiers.

- (17) 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.

- (18) 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.

- (19) The development must be carried out in accordance with the working methodology and tree protection measures recommended in the submitted Arboricultural and Planning Integration Report by GHA Trees (ref. GHA/DS/133460:21) and the Tree Protection Plan provided on 15.08.22.

Reason: In the interests of visual amenity.

- (20) 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 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.

- (21) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no gates, fences, walls or other means of enclosure shall be erected or provided in advance of the front walls of any dwelling.

Reason: In the interests of visual amenity.

## **INFORMATIVES**

- (1) The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, scrub, hedgerows and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Vegetation is present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- (2) It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners.

Irrespective of the ownership, this land may have highway rights over the topsoil. Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>.

Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

### **Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.**

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

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

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."

The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwellings are occupied.

Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which will be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

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

### **The Council's approach to the application**

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



**22/502256/FULL - Land off Imperial Drive Warden ME12 4SE**  
Scale: 1:1000  
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