

2.2 REFERENCE NO - 22/500989/FULL		
APPLICATION PROPOSAL Demolition of existing bungalow and outbuilding. Erection of 1 no. detached dwellinghouse and 3 no. detached bungalows with alterations to access and car parking.		
ADDRESS 103 Barton Hill Drive Minster-on-sea Sheerness Kent ME12 3ND		
RECOMMENDATION – That planning permission is Granted subject to conditions and securing SAMMS Payment.		
REASON FOR REFERRAL TO COMMITTEE Minster Parish Council object to the application.		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr P Scurfield AGENT Michael Gittings Associates
DECISION DUE DATE 12/05/22	PUBLICITY EXPIRY DATE 28/11/22	CASE OFFICER Emily Clark

Planning History

No planning history relevant to this application.

1. DESCRIPTION OF SITE

- 1.1 The site is located in the built-up boundary of Minster, the vicinity of the site is predominantly characterised by residential development of varied architectural design and style.
- 1.2 The site itself is a large parcel of land currently in use as a residential garden located to the rear of 103 Barton Hill Drive. There is an existing single storey dwelling on the site which fronts Barton Hill Drive and benefits from a vehicular access from the public highway. There are residential dwellings surrounding the site on all sides from Holyrood Drive, Hilltop Road and Barton Hill Drive.

2. PROPOSAL

- 2.1 Planning permission is sought for the demolition of the existing bungalow and the erection of four dwellings.
- 2.2 One dwelling will front Barton Hill Drive, this dwelling will be two storeys with three bungalows being located to the rear. The existing access will be widened and utilised for access to the rear of the plot.

3. PLANNING CONSTRAINTS

- 3.1 None.

4. POLICY AND CONSIDERATIONS

- 4.1 The development plan consists of the adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017 and policies:

Policy ST1 Delivering sustainable development in Swale
Policy ST2 Development plan for jobs and homes 2014-2031
Policy ST3 The Swale settlement strategy
Policy ST4 Meeting the Local Plan development targets
Policy ST6 The Isle of Sheppey area strategy
Policy CP2 Promoting sustainable transport
Policy CP3 Delivering a choice of high-quality homes
Policy CP4 Requiring good design
Policy DM6 Managing transport demand and impact
Policy DM7 Vehicle Parking
Policy DM14 General Development Criteria
Policy DM19 Sustainable design and construction
Policy DM21 Water, flooding and drainage

Supplementary Planning Guidance

Supplementary Planning Guidance (SPG) entitled 'Planting on New Developments: A guide for Developers'.

The Council's adopted Supplementary Planning Guidance (SPG) entitled 'Parking Standards (May 2020)

5. LOCAL REPRESENTATIONS

5.1 Letters were sent to neighbouring occupiers and eight representations were received, objecting to the application on the following grounds: -

- Loss of privacy and increased overlooking
- Increased noise and disturbance
- Reduction of light to gardens and windows
- Destruction of trees and habitats
- Air pollution from cars
- Highways safety concerns with entering and exiting the site due to poor visibility and a busy road
- Impacts on drainage and sewer systems
- Design of two storey property not in keeping
- Development out of character with the area
- Loss of value of property

A 23 signature petition was also received over the course of the application.

5.2 **Minster-On-Sea Parish Council** object to the application, on the following grounds: -

- Over-intensive development
- Not in keeping with street scene
- Inadequate access, parking and impact upon highway
- Impact upon neighbouring amenities

6. CONSULTATIONS

KCC Highways--No objection, subject to conditions relating to the provision of visibility splays, retention of parking and cycle storage areas and the submission of a Construction Management Plan.

KCC Ecology- No objection subject to a condition securing ecological enhancements to the site.

KCC Flood and Water Management - No comments to make on this occasion

Natural England- No objection subject to securing of the SAMMs payment.

Environmental Health-No objection subject conditions securing to the provision of electric charging points, hours of operation and measures for the control of dust.

7. APPRAISAL

7.1 The main considerations in the determination of this application are: -

- Principle
- Character and appearance
- Living conditions
- Highway safety
- Biodiversity and Ecology

Principle

7.2 Policy ST3 of the Swale Local Plan 2017 supports development within the urban confines of towns and local centres in the borough.

7.3 The application site lies within the built-up area of Minster, which is defined as a sustainable location that is suitable for new residential development. As such, the principle is acceptable in accordance with policy ST3 of the Swale Local Plan 2017 and the NPPF subject to the consideration of other material planning considerations.

Character and Appearance

7.4 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.

7.5 The proposed new dwellings would be situated to the rear of no.103 Barton Hill Drive and would represent back land development. Whilst such development can give rise to unacceptable impacts, I note in this instance that the existing frontage dwelling would be retained and that the site enjoys an unusually large rear garden for the surrounding area. The access would be in a similar position as existing (with some widening / improvement). The development has been designed so that the dwellings to the rear are single storey subservient in scale to the frontage development and they have been designed with modest heights and footprints to ensure that they are not overly prominent

within the streetscene and therefore are considered to have an acceptable impact upon the character and appearance of the streetscene.

- 7.6 Plot 4 will be located within the existing street frontage along Barton Hill Drive. It would be a two storey dwelling, similar in scale to the properties to the north, and is suitably designed to ensure that is not harmful to the character and appearance of the street.

Taking the above into account, the proposal is considered to have an acceptable impact upon the character and appearance of the street subject to conditions requiring the submission of materials and a landscaping. The proposal is considered to accord with policies CP4 and DM14 of the Swale Local Plan 2017 and the NPPF.

Living conditions

- 7.7 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.
- 7.8 Given the separation distance from neighbouring dwellings coupled with the single-storey nature of plots 1-3, it is considered that the proposed development would not have an unacceptable impact upon living conditions of neighbouring property occupiers. However, a condition should be imposed to ensure that alterations to the roof cannot be undertaken under permitted development in the future.
- 7.9 In relation to plot 4, this dwelling will be two storeys with windows located within the rear elevation. It would share a close relationship with no. 101 Barton Hill Drive and be off set from the boundary by approximately 1m. It will have a rear projection of approximately 1.7m at two storey and then a further 1.3m at single storey. Due to the limited projection rearwards coupled with the limited height of the single storey element, the proposal is not considered to be materially harmful to 101 Barton Hill Drive. The dwelling will benefit from first floor rear windows, however, due to the distance of separation from neighbouring dwellings this element of the proposal is considered to be acceptable. The dwelling is sufficiently removed from adjacent neighbour no.107 Barton Hill Drive with garages separating the two as well as a distance of 7m from the shared boundary.
- 7.10 There will be additional vehicles movements along the access road. The closest property to this would be No 107 Barton Hill Drive. However, the main living accommodation to this property is set away from the boundary and given the relatively small scale of development, the vehicular movements will be limited and any impact in terms of noise disturbance is not considered to be materially harmful.
- 7.11 Overall, I consider the proposal would comply with Policy DM14 in terms of impact upon surrounding neighbouring properties.

Living conditions of future occupiers

7.12 The proposed dwellings would have a level of internal accommodation that would meet the national space standards. The proposal would also provide sufficient private amenity space for the dwellings and includes secure cycle storage. In light of this it is considered that the proposal complies with policies CP4 and DM14 of the Swale Local Plan and the NPPF.

Highways

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

7.14 The submitted plans show two parking spaces per dwelling along with one visitor parking space, which meets the parking standards set out in the Council's Car Parking Standards SPD. I note that KCC Highways raise no objection to the proposal subject to the inclusion of conditions relating to visibility splays, retention of parking, turning and cycle storage and a construction management plan. These have been included below and as such I consider that the impacts on highways safety and convenience have been acceptably addressed.

Ecology

7.15 The application includes a preliminary ecology appraisal, which sets out that the development would not give rise to unacceptable impacts on biodiversity. KCC Ecology raise no objection to the development subject to precautionary conditions to protect hedgehogs and secure ecological enhancements. On this basis I consider the development would not cause any unacceptable harm to biodiversity and would accord with Policy DM28 of the Local Plan.

Impact on the Special Protection Area (SPA)

7.16 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 applicant has agreed to pay this fee.

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

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

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

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to

take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

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

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

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *"it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

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

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

Due to the scale of development, there is no scope to provide onsite 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 offsite mitigation is required.

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

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

8. CONCLUSION

- 8.1 In summary, the site is suitably located for additional residential development and is capable of accommodating three new dwellings and one replacement, along with adequate parking and outdoor amenity space. For the reasons set out above the proposal is considered to have an acceptable impact upon the character and appearance of the street and the living conditions of adjoining dwellings. The proposal is considered to accord with policies ST3, CP4, DM7 and DM14 of the Swale Local Plan 2017 and the NPPF. It is therefore recommended that planning permission for the proposal be granted subject to suitable safeguarding conditions.

9. RECOMMENDATION

That planning permission is GRANTED subject to securing the SAMMS mitigation payment and the following conditions:

CONDITIONS to include

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 shall be carried out in accordance with the following approved plans numbered 2486/3/C Proposed Block Plan; 2486/4/A Plot 1, 2 and 3 Floor Plans and Elevations; 2486/6 A Plot 4 Proposed Floor Plan and Elevations.

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

3. The dwelling 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); Construction of the dwelling hereby approved shall not take place until details of the measures to be undertaken to secure compliance with this condition have been submitted to and approved 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. Before the commencement of any development on the site a Construction

Management Plan shall be submitted which includes 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 highways safety and convenience.

5. No development shall take place, including any works of demolition, until a dust management plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

Reason: In the interest of residential amenity.

6. Within 3 months of planning permission being granted, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with hedgehog highways and provision of native planting. The approved details shall be implemented prior to first occupation of the development and thereafter retained.

Reason: In the interests of ecology and biodiversity enhancement.

7. 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

8. 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.

9. The development shall be carried out in accordance with the recommendations

for the protection and mitigation of wildlife as set out in chapter 4 of the Preliminary Ecological Appraisal by KB Ecology.

Reason: In the interests of biodiversity.

10. 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.

11. 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.

12. The visibility splays as shown on the submitted plan (1332-SK07) shall be provided prior to the first occupation of any dwelling with no obstructions over 0.6 meters above carriageway level within the splays, and shall be maintained as such thereafter.

Reason: In the interests of highways safety and convenience.

13. The area shown on the submitted plan as car parking 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 (other than the erection of a private garage or garages) 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 dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

14. The cycle parking facilities as shown on the submitted plan (2486/3/C) shall be provided prior to first occupation of any dwelling hereby permitted and retained for such purposes thereafter.

Reason: In the interests of highway safety and convenience.

15. The Electric Vehicle chargers shown on the submitted block plan must be provided to Mode 3 standard (providing up to 7kw) and installed prior to the occupation of any dwelling. Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved charge point 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.

16. Before the development hereby permitted is first used, the ground floor side windows on Plots 1, 2 and 3 serving bathroom shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows 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.

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

17. 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.

18. 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.

19. Upon completion, no further development, whether permitted by Classes B or C of 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) or not, shall be carried out on Plots 1, 2 and 3.

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

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 and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and buildings are 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) In the event of a recommendation for approval adequate and suitable measures shall be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

(3) Informative: 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

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 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.

