

<b>2.5 REFERENCE NO - 22/504907/FULL</b>		
<b>APPLICATION PROPOSAL</b> Conversion of first floor and loft to 2no. two bedroom flats, including erection of a two storey rear extension, creation of a roof terrace, and internal alteration to existing pub/restaurant.		
<b>ADDRESS</b> Napier Hotel 1 Alma Road Sheerness Kent ME12 2NZ		
<b>RECOMMENDATION</b> that planning permission is Granted subject to conditions and receipt of SAMMS payment		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development is not considered to result in undue harm to the visual amenity of the area. The noise impact assessment provided by the applicant demonstrates that noise levels associated with the public house below the proposed flats will not result in unreasonable harm to amenity of future occupiers. The proposal is therefore considered to meet the requirements of the Swale Local Plan 2017.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Town Council objection		
<b>WARD</b> Sheerness	<b>PARISH/TOWN COUNCIL</b> Sheerness Town Council	<b>APPLICANT</b> Newton Developments <b>AGENT</b> Richard Baker Partnership
<b>DECISION DUE DATE</b> 19/01/23	<b>PUBLICITY EXPIRY DATE</b> 09/05/23	<b>CASE OFFICER</b> Megan Harris

### **Planning History**

20/505466/FULL

Conversion of first floor and loft into 3no. one bedroom apartments, together with erection of three storey external staircase enclosure, three dormer windows, section of flat roof to south west elevation, changes to fenestration, creation of roof terraces and creation of external access and amenity area. Internal alterations to existing Pub and Restaurant.

Refused Decision Date: 05.03.2021

#### **1. DESCRIPTION OF SITE**

- 1.1 The application site is comprised of a large detached two storey building located on a corner plot between Alma Road and Marine Parade, with a longstanding pub/restaurant use on the ground floor, and a three bedroom flat on the first floor. The flat and pub are currently both vacant.
- 1.2 The site lies within the defined built-up area boundary of Sheerness and within Flood Zone 3, as defined by the Environment Agency Flood Map as having a high probability of flooding. The surrounding area is characterised by mainly terraced properties, and immediately south of the site is a pair of semi-detached dwellings.

#### **2. PROPOSAL**

- 2.1 This application seeks planning permission for the conversion of the first floor and roof space into two no. two-bedroom flats. The ground floor will remain in pub/restaurant use,

with some minor alterations including the removal of the existing staircase from the kitchen, and the blocking up of two small windows on the southern side of the building.

2.2 Access to the flats will be provided by a proposed two storey external staircase enclosure, which will be located on the rear elevation of the building. The first floor will contain the kitchen, living/dining room, bedroom and bathroom for each flat, whilst two bedrooms (one for each flat) will be located within the converted loft space. Six rooflights are proposed to serve the bedrooms in the loft. The existing single storey extension at the rear of the building will be used to create two first floor roof terraces. The plans show a privacy screen will be located along the southern elevation of the terraces. At the rear of the building a cycle and bin store will be located.

2.3 A similar application was submitted at the site under 20/505466/FULL and was refused for the following reasons:

(1) *The proposed external changes to the building, namely the external stair tower, additional flat roof at the third storey and dormer windows would constitute poor design, amounting to unacceptable features on the building in a manner harmful to its character and appearance, and the appearance of the area. The proposal is therefore contrary to policies CP4, DM14 and DM16 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017'.*

(2) *The proposal would introduce additional residential accommodation at the site which lies in Flood Zone 3 and in the absence of evidence to the contrary, could give rise to significant and unacceptable risk to human life in the event of flooding. The proposal would therefore be contrary to policies DM14 and DM21 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and to the advice of paragraphs 155 and 156 of the National Planning Policy Framework.*

(3) *The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14, and DM28 of 'Bearing Fruits 2031: The Swale Borough Local Plan 2017' and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.*

2.4 This application seeks to overcome these reasons for refusal by removing the dormer windows, reducing the scale of the external stair tower and removing the proposed section of flat roof at the third storey. A Flood Risk Assessment has also been provided to address the second reason for refusal.

### **3. PLANNING CONSTRAINTS**

3.1 Environment Agency Flood Zone 3

### **4. POLICY AND CONSIDERATIONS**

#### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

**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** Requiring good design

**DM6** Managing Transport Demand and Parking

- DM7** Vehicle Parking
- DM14** General development criteria
- DM16** Alterations and extensions
- DM19** Sustainable design and construction
- DM21** Flooding, water and drainage
- DM28** Biodiversity and geological conservation

### **Supplementary Planning Guidance (SPGs)**

'The Conversion of Buildings into Flats & Houses in Multiple Occupation'

Parking Standards 2020 (which has been adopted since the Local Plan was published and supersede the County standards referred to in policy DM14).

## **5. LOCAL REPRESENTATIONS**

- 5.1 **Sheerness Town Council:** Object to the application due to lack of input from the heritage officer and concern that the building is of interest to the local area.
- 5.2 Letters were sent to neighbouring occupiers and a site notice was displayed near the site. No representations were received in response to this

## **6. CONSULTATIONS**

- 6.1 **Environment Agency:** No objections as residential development has been located at first and second floor level. This is considered suitable mitigation for flood risk at the site.
- 6.2 **Environmental Health:** Initially raised concern regarding the relationship between the ground floor public house use and the first floor flats. Following the submission of an acoustic assessment, EH are satisfied that suitable insulation and internal noise levels can be achieved at the site, subject to conditions requiring such details.
- 6.3 **KCC Minerals and Waste:** No objections.
- 6.4 **KCC Highways:** Advise that the proposal doesn't meet the criteria to warrant involvement from the Highways Authority.
- 6.5 **Natural England:** No objection subject to securing appropriate mitigation for recreational pressure impacts on habitat sites.
- 6.6 **SBC Design and Conservation Manager:** Raises no objection to the application.

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

- 7.1 All documents associated with application 22/504907/FULL.

## **8. APPRAISAL**

### **Principle of Development**

- 8.1 The site is located within the built confines of Sheerness and is close to the town centre. The use of the upper floors for residential purposes is acceptable and supported in principle under policy ST3 of the Local Plan

### **Character and appearance**

- 8.2 Policies CP4 and DM14 of the Swale Local Plan 2017 require 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.

- 8.3 The building is an attractive Victorian structure, occupying a prominent corner position. The changes to the building will mainly be contained to the rear and whilst some views of this elevation are possible from Marine Parade, the development will not be prominent in the surrounding area. Following on from the refused scheme, the external stair tower has been re-designed and reduced in height to sit below the eaves on the main roof of the building. A pitched roof has also been added to the structure, which ensures it assimilates better with the existing building. The proposed dormer windows have been removed and replaced with rooflights, which limit the changes to the roof slope.
- 8.4 The building, due to its age and form would be considered as a non-designated heritage asset. The Council's Conservation and Design Manager raises no objections to the development, noting the external changes proposed as part of the application are minor and will not harm the character and appearance of the building or wider area, and that the number of rooflights are required in order to provide adequate light to rooms. Following some amendments to the position of rooflights, this element of the scheme is considered to be acceptable and would not cause harm to the character or appearance of the building or wider area.
- 8.5 Overall, it is considered that the external works would be limited and maintain the attractive form and character of the building. The previous reason for refusal has been overcome through the reduction in the enclosed staircase building and removal of dormer windows, and it is considered that the scheme would comply with policies DM16 and CP4 of the Local Plan.

### **Living Conditions**

- 8.6 Policy DM14 of the Local Plan states 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.
- 8.7 Firstly considering the living conditions for future occupiers of the development, it is noted that the floorspace for each flat would comply with the Council's SPG entitled 'The Conversion of Buildings into Flats & Houses in Multiple Occupation'. The floorspace (at approximately 65m<sup>2</sup>), does fall slightly below the 70m<sup>2</sup> requirement as defined in the Nationally Described Space Standards. However these standards have not been adopted by the Council. The layout is considered to be usable and would not undermine the living conditions of future occupants.
- 8.8 All habitable rooms within the flats on the first floor are served by adequately positioned windows. The two bedrooms in the loft space will be served by rooflights. Section drawings were provided during the course of the application to show the positioning of the rooflights within these rooms, and it is considered that suitable light and outlook would be provided sufficient for these secondary bedrooms.
- 8.9 The proposed flats benefit from a small area of outdoor amenity space as well as two roof terraces.
- 8.10 There is potential for noise disturbance to occupiers of the flats arising from the pub below. Whilst there currently is a flat on the first floor, this is only accessed through the pub and as such, is very likely to be occupied in conjunction with the pub.. This proposal will provide independent access to the two flats proposed on the upper floors, and as such these units are capable of and likely to be occupied independently of the pub.

- 8.11 An acoustic assessment was provided during the course of the application, and concluded that through the use of acoustic glazing and sound insulation, it would be possible to mitigate any unacceptable noise impact from the operation of the pub on the ground floor. This is acceptable to the Council's Environmental Health team. Relevant conditions are recommended below and subject to this, it is considered that adequate levels of amenity would be afforded to future occupiers of the development.
- 8.12 The additional built form proposed would be unlikely to cause any significantly harmful impacts to neighbouring dwellings. The staircase at the rear is set a sufficient distance from the new dwellings to the south of the site, and would not project rearwards of 1 Napier Terrace to the east, and would face onto the flank wall of this property. The proposed rooflights will not cause any unacceptable overlooking impacts.
- 8.13 There are potential overlooking impacts from the use of the existing flat roof at the rear as roof terraces. Any overlooking of 1 Napier Terrace would be limited due to the two storey wing extension at this neighbouring property which will limit views from the terrace. However the roof terraces could overlook the gardens of the properties to the south of the site, causing detrimental harm to future occupiers of this development. A privacy screen is shown on the plans along the south western side of the terraces to mitigate this impact. A condition is included below to ensure the screen is installed prior to the first use of the flats and is maintained in perpetuity.

### **Flooding**

- 8.14 Policy DM21 of the Swale Local Plan 2017 relates to water, flooding and drainage. The policy states that when considering the water-related, flooding and drainage implications of development, development proposals should accord with national planning policy and planning practice guidance and avoid inappropriate development in areas at risk of flooding and in areas where development would increase flood risk elsewhere.
- 8.15 The site lies within Flood Zone 3, and is at high risk from tidal and fluvial flooding. It is pertinent to consider whether the proposal would be appropriately located in relation to this identified flood risk. A Flood Risk Assessment has been provided and the Environment Agency have reviewed this document and raise no objections to the application.
- 8.16 Both national and local policy sets out that new residential development will only be permitted if it can be demonstrated that it satisfies the requirements of the sequential test, and where required, the exception test. However the NPPF does set out at paragraph 168 that applications for some minor development and changes of use should not be subject to the sequential or exception tests. In this case, the development involves the conversion of the first floor and loft space, and whilst the proposed external stair case does constitute new development, it only represents a minor increase in the floorspace of the building, and as such a sequential test is not required in this case as the development is essentially conversion of the upper floors of the building.
- 8.17 The applicant has submitted a Flood Risk Assessment which has been reviewed and considered acceptable by the Environment Agency. On this basis, flood impacts are considered acceptable and the previous reason for refusal has been overcome.

### **Parking/Highways**

- 8.18 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.
- 8.19 As set out in the Swale Borough Council Parking Standards 2020, a two bedroom flat would generate a need for one parking space. The development provides no off-street

parking for the two flats, however due to the site's location close to the town centre boundary and close to local shops, services and public transport links it is considered to be a sustainable location for residential development. As such, although the proposal provides no parking, this is deemed acceptable.

- 8.20 The plans show an area for cycle storage at the rear of the building. No specific details of the form of cycle storage are provided, and a condition is recommended below requiring details of secure cycle storage to be submitted to the Council.

### **SPA Payment**

- 8.21 An Appropriate Assessment is set out 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 £314.05 per new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. This fee will be secured prior to the determination of the application.

## **9. CONCLUSION**

- 9.1 The proposal to convert the upper floors of the building to two flats is acceptable in principle given the location of the site within the built up area boundary of Sheerness and close to the town centre. It will not cause harm to visual or residential amenity and following the submission of a noise assessment and section drawings, the application has demonstrated that the development will provide an acceptable level of amenity for future occupiers. The application has overcome the previous reasons for refusal and as such it is recommended that planning permission is granted.

- 10. RECOMMENDATION** – GRANT planning permission subject to securing the required SAMMS contribution and 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 in accordance with the following approved plans: 2995/2 Rev C, 2995/3 Rev B and 2995/4.

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

- (3) Prior to the commencement of the development, details of acoustic glazing to be used on the windows within the approved residential units shall be submitted to and approved in writing by the Local Planning Authority. The glazing must accord with the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings and the recommendations set out in the Acoustic Assessment carried out by Able Acoustics. The glazing shall be installed in accordance with the approved details prior to occupation of the units.

Reason: To protect the amenity of future occupiers

- (4) Prior to the commencement of the development, details of a scheme of internal sound insulation measures to insulate the residential units from noise arising from the ground floor commercial premises shall be submitted to and approved in writing by the Local

Planning Authority. The scheme must accord with the recommendations set out in the Acoustic Assessment carried out by Able Acoustics. The approved scheme shall be implemented in full prior to the occupation of any residential unit.

Reason: To protect the amenity of future occupiers.

- (5) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any unit.

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

- (6) Prior to the occupation of the units hereby permitted, details of secure, covered cycle storage for each unit 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.

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

- (8) 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 local amenity.

- (9) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

- (10) The privacy screens shown on drawing no. 2995/2 Rev C and 2995/3 Rev B shall be installed prior to the first use of the roof terraces hereby permitted and shall be maintained in perpetuity.

Reason: In the interests of residential amenity.

**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.



Ordnance Survey - data derived from OS Premium

22/504907/FULL - Napier Hotel, 1 Alma Road, Sheerness, Kent. ME12 2NZ  
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