PLANNING COMMITTEE - 9 NOVEMBER 2023

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 23/502301/FULL

PROPOSAL

Demolition of existing dwelling and double garage. Erection of 2no. detached dwellings with garages and parking spaces.

SITE LOCATION

172 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LR

RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.

APPLICATION TYPE Minor

REASON FOR REFERRAL TO COMMITTEE

Minster Parish Council object

CASE OFFICER Megan Harris

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea		APPLICANT Mr N Shaw AGENT IMAC Designs
DATE DECISTEDED		TARCET D	A T C

DATE REGISTERED TARGET DATE

02/06/23 23/08/23

BACKGROUND PAPERS AND INFORMATION:

https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&key Val=RUP70WTY0XI00

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site is located off Scarborough Drive in Minster Cliffs. It is sandwiched between Westcliff Drive and Kings Road and bounded to the south, east and west by residential dwellings. The whole area gently slopes down toward the north and west along the coastline.
- 1.2 The site is accessed from a gated entrance along Scarborough Drive and was previously a very large single plot containing a detached bungalow located on the northern end of the site. Application 21/501367/FULL granted permission for a first floor extension to the bungalow, which would effectively turn it into a two storey property. This permission has not been implemented but remains extant.

1.3 Application 18/502932/FULL granted permission for the erection of four two storey dwellings to the south of the existing bungalow, and construction of this development has begun, and two properties (plots 2 and 3) are complete.

2. PLANNING HISTORY

- 2.1 23/502615/FULL Application granted on 26.07.2023 for 'Section 73 Application for minor material amendment to approved plans condition 1 (changes to layout, appearance, site levels to plot 4 with replacement drawings) pursuant to 22/502859/FULL for Section 73 Application for minor material amendment to approved plans condition 2 (to allow additional room in roof of plot 3 including five rooflights, reduction in ridge height on main roof, garage roof and rear extension roof, and alterations to fenestration) pursuant to 18/502932/FULL for Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway (Resubmission of 17/504037/FULL).'
- 2.2 22/502859/FULL Application granted on 20.03.2023 for 'Section 73 Application for minor material amendment to approved plans condition 2 (to allow additional room in roof of plot 3 including five rooflights, reduction in ridge height on main roof, garage roof and rear extension roof, and alterations to fenestration) pursuant to 18/502932/FULL for Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway (Resubmission of 17/504037/FULL).'
- 2.3 **21/501367/FULL** Planning permission granted on 19.05.2021 for the 'Erection of a first floor extension to existing bungalow'. Not implemented but remains extant.
- 2.4 **18/502932/FULL** Planning permission granted on 11.03.2020 for 'Proposed residential development of garden land to provide 4 no. detached 4 bedroom dwellings with associated garaging, parking and shared private driveway. (Resubmission of 17/504037/FULL).'
- 2.5 **17/504037/FULL** Planning permission refused on 19.03.2018 for 'Proposed residential development of garden land to provide 4 no. detached 4 and 5 bedroom dwellings with associated garaging, parking and shared private driveway.'
- 2.6 **SW/98/0632** Outline permission granted on 11.09.1998 for 'Outline Application for four dwellings.'
- 2.7 **SW/87/1256** Planning permission granted on 26.10.1987 for 'Erection of detached dwelling.'

3. PROPOSED DEVELOPMENT

3.1 This application seeks planning permission for the demolition of the existing bungalow at the site and the erection of two dwellings with associated landscaping and parking.

- 3.2 The dwellings will be detached, two storey properties which face southwards, towards Scarborough Drive. They will be evenly spaced on the site, with similar gaps to the side boundaries. The properties will be of the same design and scale, comprised of two storey dwellings with further accommodation within the roof space. The dwellings will have an eaves height of approximately 6.5m and a ridge height of 8.8m and will have a footprint of approx. 1,123sqm.
- 3.3 The scheme was amended during the course of the application to remove dormer windows to the roof slope, in order to reduce the bulk of the development. Each property will benefit from a detached double garage/parking barn which will be set to the front of the properties, whilst to the rear will be a large area of private amenity space. Access to the properties will be taken from the internal access road which runs through the centre of the site.

4. **CONSULTATION**

- 4.1 Two rounds of consultation with neighbours have been undertaken. A site notice was also displayed at the site. Full details of representations are available online.
- 4.2 Two letters of objection were received in relation to the consultation. Concerns were raised in relation to the following matters: -
 - Two additional large detached two storey houses are an overdevelopment of the site.
 - Construction of the four properties on the southern side of the site has caused excessive noise, dust and damage to the surrounding properties, including damage to patios, fences, walls and trees due to groundworks close to the side boundaries.
 - · Loss of privacy and light.
 - Construction vehicles having to access the site via unmade roads is not suitable.
 - Whether the drainage system is suitable for additional large properties.
- 4.3 Minster Parish Council object to the application, setting out that the height, mass and bulk of the development causes a detrimental visual impact to the area. They also consider the proposal to represent an over-intensive development of the site. Finally, they also note the current management of the site is very poor. During the second round of consultation, the Parish Council confirmed the amended plans do not feel they address their previous objection.

5. **REPRESENTATIONS**

- 5.1 **Environmental Health:** Recommend condition relating to contamination in the eventuality that any contamination is found during construction works.
- 5.2 **Natural England:** No objection subject to securing recreational pressure impacts on habitat sites.

6. **DEVELOPMENT PLAN POLICIES**

6.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017

- ST 1 (Delivering sustainable development)
- **ST 3** (The Swale settlement strategy)
- **ST 6** (The Isle of Sheppey area strategy)
- **CP 3** (Delivering a wide choice of high quality homes)
- CP 4 (Good design)
- **DM 6** (Managing transport demand and impact)
- **DM 7** (Vehicle parking)
- **DM 14** (General development criteria)
- **DM 19** (Sustainable design and construction)
- **DM 28** (Biodiversity and geological conservation)

6.2 Supplementary Planning Guidance (SPG)

Supplementary Planning Guidance Designing an Extension – A guide for Householders Supplementary Planning Document - Swale Parking Standards

7. **ASSESSMENT**

- 7.1 This application is reported to the Committee because a Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following main points:
 - The Principle of Development
 - Character and Appearance
 - Living Conditions
 - Transport and Highways

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework (NPPF) provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 Policy ST 3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the borough.
- 7.5 The application site is located within the built-up area boundary of Minster, and the development proposes the replacement of the existing dwelling on the site with two dwellings, resulting in an uplift in one dwelling. The development would be consistent with

- policies ST 1, ST 3, CP 3 of the Local Plan (2017) due to its location within the built-up area boundary, subject to the considerations set out in further detail below.
- 7.6 The Council cannot current demonstrate a 5-year housing supply, and as such Paragraph 11 of the NPPF applies. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole.

Character and Appearance

- 7.7 The NPPF attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.8 The positioning of the two new dwellings within the site would be in a very similar location to the existing dwelling to be demolished, with roughly even gaps between the new properties and side boundaries, and space for driveways and soft landscaping to the front of the properties. A condition is imposed below to secure the specific landscaping details. The properties would benefit from large plots, and maintain a good degree of space to the site boundaries and to the new houses approved elsewhere on the site.
- 7.9 The development will result in an uplift of one dwelling at the site. Whilst the existing bungalow to be replaced as part of this application has a large footprint, it is only single storey and as such the dwellings proposed would be of greater height and bulk when compared to the existing bungalow. However, it is noted that an application was granted in 2021 (ref. 21/501367/FULL) to add a first floor to the bungalow at the site, and whilst this has not been implemented, it remains extant and as such forms a material fallback position.
- 7.10 When comparing the proposed development to this fallback position, the eaves and ridge height of the proposal are marginally taller than the approved first floor extension to the bungalow. Likewise, the scale and bulk of the two dwellings would not be dissimilar to the scale and bulk of the extended bungalow, if built as permitted.
- 7.11 Taking into account the four new dwellings approved to the south of the site, which are also large detached properties, the proposed development will not appear out of place and does align with the pattern of development across the site. The design of the development is different from the approved four dwellings on the site; however it is acknowledged that these dwellings feature two different styles of dwellings, and as such a mixture of designs is already present at the site. The design of the dwellings is therefore considered to be acceptable and a condition is imposed below to secure external finishing materials.
- 7.12 Views of the new dwellings from Scarborough Drive will be limited due to the considerable set back of the plots from this road, some views of the properties may be possible from the footpaths that run along Minster cliffs to the north of the site. However due to the distance between the new dwellings and the cliff edge (approx. 42m), it is not envisaged that any views of the development will be prominent from the footpaths below when taking into account the set back of the dwellings within the site.

7.13 Overall, whilst the concern raised by the Parish Council with regards to the bulk of the development is acknowledged, it is not considered the development will cause any harm to the character and appearance of the site or wider area, and as such the development would accord with policies CP 4 and DM 14.

Living Conditions

Existing residents

- 7.14 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.15 The development will be surrounded by residential properties to the south, east and west. Considering the closest dwelling within the site first, at plot 2, this dwelling is at 90 degrees to the proposed development and at a distance of approximately 19.5m from the new dwellings at the closest point. Due to the orientation and significant separation distance between the development and this neighbouring property, it is not considered that the proposal will cause any harmful overshadowing, overlooking or overbearing impacts noting that this distance would significantly exceed minimum distances of 11m normally applied by the Council between front and flank elevations of developments. The proposed double garage will be sited close to the boundary with this neighbour, but taking into account the limited height of this outbuilding and its positioning parallel with the end of the garden at plot 2, it is not envisaged the garage will cause any harm to amenity at plot 2.
- 7.16 Due to the even greater separation distances between plots 1, 3 and 4 to the south of the site and the proposed dwellings, it is not envisaged there will be any harmful impacts to the living conditions of occupiers of these plots.
- 7.17 The new dwellings will be sited approximately 17m from Tetherend to the west of the site and 18m from No. 56 Kings Road to the east. This distance is again significantly in excess of the 11m distance normally applied by the Council between front and flank elevations of neighbouring properties, and as such the development is not considered to cause any unacceptable harm to the occupiers of this property by virtue of overshadowing or overbearing impacts. The proposed garage and carport will be sited along the boundary with these neighbouring properties, however given the limited height of these structures and the fact they will abut the end of the rear gardens of these neighbours, they will not result in harm to living conditions.
- 7.18 There are windows in the side elevations of the properties which could result in some overlooking of the properties to the east and west and also mutual overlooking between the two properties. Overlooking from the windows on the ground floor side elevations will be limited by the boundary treatments along the western and eastern boundaries of the site, and also the fence line that will run between both new dwellings, so it is not envisaged that this would be harmful. The first floor side windows which all serve bathrooms could provide views into neighbouring properties due to their elevated height, and as such a condition is imposed below to ensure these windows are obscure glazed and non-opening below 1.7m internally. This will ensure neighbours privacy is protected.

Future residents

- 7.19 New development is expected to offer future occupiers a sufficient standard of accommodation and to have regard to the Government's minimum internal space standards for new dwellings. The dwellings would meet the national space standards and all habitable rooms are served by windows which will provide adequate outlook, light and ventilation. The rear gardens are large in depth and will provide a good standard of outdoor amenity space. On this basis, the development will provide a good standard of amenity for future occupiers.
- 7.20 Taking the above into account, the scheme is considered to be acceptable, and would accord with Policy DM 14 of the Local Plan.

Transport and Highways

7.21 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

"Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable."

7.22 The NPPF also states that:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

- 7.23 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.
- 7.24 The development will result in one additional dwelling at the site, and the development will utilise the existing access to the site. Given only one additional unit is proposed, it is not envisaged the development will have any harmful impacts on highway safety or convenience.
- 7.25 The new dwellings will have six bedrooms. In line with the Councils Parking Standards SPD, a six bedroom property in this location should provide three spaces. These spaces can be accommodated on the proposed driveways at the properties, and as such the development accords with the parking standards and it is considered that the proposed parking provision is acceptable.
- 7.26 A double garage and double car port are also proposed as part of the development. The internal dimensions of these structures are undersized when compared to the minimum size standards set out in the SPD, however given there is adequate space on the driveways of the two properties to provide the required parking provision, the scale of these structures is not of concern.

SPA Payment

7.27 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.

8. **CONCLUSION**

8.1 On the basis of the above, the scheme is considered to be in compliance with policies CP 4, DM 7, DM 14 and DM 16 of the Local Plan and the SPG. It is therefore recommended that planning permission be granted.

9. **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 drawings: IMAC-23-06-SK02A, IMAC-23-06-SK03, IMAC-23-06-SK04A, IMAC-23-06-SK05A, IMAC-23-06-SK06A and IMAC-23-06-SK07.

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

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 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 the development shall be implemented in accordance with the approved details. Reason: In the interests of visual amenity.

5. 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. The development shall be carried out in accordance with the approved details.

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

6. The area shown on approved plan numbered IMAC-23-06-SK02A as vehicle parking shall be retained for the use of the occupiers of, and visitors to, the dwelling, 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.

7. Prior to the occupation of the dwellings hereby permitted, one electric vehicle charging point per dwelling shall be provided. All Electric Vehicle chargers 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.

8. 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.

9. 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.

10. 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.

11. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling 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.

12. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To ensure any contaminated land is adequately dealt with.

13. Before the development hereby permitted is first occupied, the window openings on the east and west facing first floor side elevations serving bathrooms shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 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.

14. Upon completion, no further development, whether permitted by Class B 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.

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

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), it is concluded 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), September 2023 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.

