

PLANNING COMMITTEE – 2 JULY 2015

DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

Def Item No. 1 REFERENCE NO - 15/501604/FULL			
APPLICATION PROPOSAL Erection of 1 four bedroom house (detached) and garage/storage building with access and amenity on land formerly used as stables			
ADDRESS R/o 95 Borden Lane Sittingbourne Kent ME10 1BX			
RECOMMENDATION Grant with conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The erection of a single dwelling on this parcel of land is acceptable as a matter of principle under local and national policy, and has previously been accepted by the Planning Inspector. The proposed development is of an acceptable scale and design and would not give rise to any serious amenity concerns.			
REASON FOR REFERRAL TO COMMITTEE Amendments requested by planning committee on 21 May 2015. Application originally called in by Cllr. Truelove.			
WARD Chalkwell	PARISH/TOWN COUNCIL Sittingbourne	APPLICANT Mr Guy Mills AGENT A N Ghosh Architects	
DECISION DUE DATE 07/05/15	PUBLICITY EXPIRY DATE 07/05/15	OFFICER SITE VISIT DATE Various.	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/07/0278, SW/07/421 and SW/07/1220.	Erection of 7 dwellings.	Refused.	2007
All three of applications were refused for reasons relating to access; the principle of backland development; lack of parking for the proposed dwellings; and the impact on the residential amenity of the existing residents.			
SW/08/0429	Erection of 9 dwellings.	Refused and appeal dismissed.	2008

<p>The Inspector commented that the proposal would “<i>result in an intensive, urban feel which would be in stark contrast to the verdant garden setting of the site and would also be out of keeping with the general character of Borden Lane.</i>” Issues of visibility and highway safety were also noted in the appeal decision.</p>			
SW/08/1148	Erection of 6 dwellings.	Refused, and appeal withdrawn.	2008
<p>The application was refused by the Council on grounds similar to those above, and the subsequent appeal was withdrawn by the applicant prior to determination.</p>			
SW/09/0111	Erection of 6 dwellings.	Refused, but allowed on appeal.	2009
<p>The Inspector’s decision was clear and unambiguous in stating that, as the site lies within the built up area of Sittingbourne, best use of the land should be made in terms of providing new housing.</p>			
SW/11/0409	Erection of two dwellings (on land adjacent to the approved site).	Refused, and appeal dismissed.	2011
<p>Refused on the grounds that the scale and design of the dwellings would represent over-development of the site, and that their siting and relationship with 95 and 97 Borden Lane would give rise to unacceptable overlooking of the existing properties. The Inspector agreed with the Council in respect of the proposed dwelling closest to the rear of 95 and 97 Borden lane, but held the proposed unit at the foot of the site to be acceptable in principle.</p>			

MAIN REPORT

1.0 BACKGROUND

- 1.01 Members will recall this application from the meeting held on 21 May 2015, when they resolved to defer the item to allow officers to discuss a revised garage design with the applicant. The original committee report is attached as an appendix to this item.
- 1.02 A revised drawing has been received showing the height and width of the garage reduced from the previous proposals.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a single detached dwelling and detached garage on a plot of land to the rear of 95 Borden Lane, Sittingbourne.

2.02 The scheme is fully detailed at section 2.0 of the original report, which is attached as an appendix to this tem.

2.03 The revised drawings, further to Member’s comments during discussion of the item at the May committee, show the height and width of the garage reduced. The original proposals showed it as standing approximately 4m high x 9m wide, and the amended drawings now show it as being approximately 3.5m high x 8m wide, with space for two vehicles and a separate storage area.

3.0 SUMMARY INFORMATION

	Proposed
Site Area	0.07ha
Approximate Ridge Height	3.5m
Approximate Eaves Height	2m
Approximate Depth	6m
Approximate Width	8m
Parking Spaces	2 (+ driveway)
No. of Residential Units	1

4.0 PLANNING CONSTRAINTS

4.01 The site lies within Environment Agency Flood Zone 3 due to the low land levels, which may give rise to groundwater flooding in exceptional situations.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The policy background and context to the application is fully explored within the appended original report.

6.0 LOCAL REPRESENTATIONS

6.01 A site notice was posted at the site and letters sent to neighbouring residents to which three letters have been received in response, raising the following summarised concerns:

- Proposed garage is too tall and would be highly visible from properties fronting Borden Lane [NB: amended drawings have been received showing a much-reduced garage];
- Is the garage for business use?;
- Will conditions of previous planning permissions be enforced [NB: such conditions do not relate to this site];
- Outbuildings should not be approved here;
- The proposed garage will be “an eyesore;”
- The proposed house has a larger living area than those previously approved;
- Overlooking of existing properties; and
- Impact on property values.

- 6.02 The application has been called in by Councillor Truelove on the grounds that the application represents “over-intensive development.”

7.0 CONSULTATIONS

- 7.01 The Environment Agency and the Environmental Health Manager have no objections subject to the conditions below.
- 7.02 As the application is for a single dwelling it falls outside of the remit of Kent Highway Services. The application proposes parking in accordance with adopted guidance, however, which the conditions below secure.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The history of the site is long and detailed, and discussed in depth at section 8 of the original report.

9.0 APPRAISAL

- 9.01 As noted within the original report the principle of erecting a single residential dwelling on this site has been firmly established through the appeal decision on SW/11/0409, and the proposed house is similar in scale and design to those erected on the neighbouring plots under previous appeal decisions, and therefore it is considered that there is no reasonable justification for refusal of planning permission on grounds of either principle or design.
- 9.02 The erection of a detached garage in the proposed location is also acceptable in principle – garages being common additions on larger residential plots. The amended drawing shows that the proposed garage has been amended substantially and it now stands a maximum of 3.5m high and 8m wide. This is not an unreasonable scale in my opinion, and I do not believe that it would give rise to any serious harm to the amenity of neighbouring residents or the character and appearance of the area.
- 9.03 Sloping land levels would largely obscure it in views from the rear of the existing properties fronting Borden Lane, and a robust planting scheme (as required under condition 6 below) would soften views from within the new estate. The use of materials to match the main house (which falls within the remit of condition 5, below) will ensure that it sits comfortably within the context of the site.
- 9.04 It should be noted that the revised garage falls well within the permitted development allowances for outbuildings. The garage design considered at the previous committee could have been (and, indeed, could still be) built without the need for planning permission. I therefore consider that the applicant has been more than reasonable in reducing the scale of the building to that now proposed.

10.0 CONCLUSION

- 10.01 The erection of a single dwelling on this parcel of land is acceptable as a matter of principle under local and national policy, and has previously been accepted by the Planning Inspector. The proposed development is of an acceptable scale and design and would not give rise to any serious amenity concerns.
- 10.02 The submitted amended drawing shows the proposed garage reduced in scale, and it would not give rise to any serious amenity impacts.
- 10.02 I therefore recommend that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following 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 approved shall not commence 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 as approved.

Reason: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

- (3) No development shall take place until pedestrian visibility splays measuring 2m x 2m, and with no obstruction over 0.6m above the access level have been provided at the vehicle entrance to the plot. The visibility splays shall subsequently be maintained in perpetuity.

Reason: In the interest of highway safety and amenity, and to ensure that such matters are agreed before work is commenced.

- (4) The development hereby approved shall not commence until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies, and to ensure that such matters are agreed before work is commenced.

- (5) Prior to the commencement of the development hereby approved, details in the form of samples of external finishing materials to be used shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity, and to ensure that such matters are agreed before work is commenced.

- (6) No development shall take place until full details of both hard and soft landscape works, which shall include the provision of an appropriate native-species tree within the front garden between the approved house and the parking area (as shown on the approved block plan), 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, where possible), 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, and to ensure that such matters are agreed before work is commenced.

- (7) The development hereby approved shall not commence until a programme for the suppression of dust during construction has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

- (8) The development hereby approved shall not commence until a scheme of ecological mitigation measures has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and permanently retained as such thereafter.

Reason: In the interest of preserving and enhancing the biodiversity interest of the area, and to ensure that such matters are agreed before work is commenced.

- (9) Notwithstanding the submitted details, the finished floor level shall be a minimum of 22.25maODN; all flood resilience measures as outlined in Section 4.4 of the submitted Flood Risk Assessment are to be agreed in writing with the Local Planning Authority and subsequently incorporated into the finished dwellings; and a detailed surface water drainage scheme shall be submitted in writing to the Local Planning Authority for approval prior to the commencement of development and thereafter carried out in accordance with the approved details.

Reason: To reduce the risk of flooding to the proposed development and its future occupants, and to reduce the risk of surface water flooding within the vicinity of the development.

- (10) Notwithstanding the submitted details, no infiltration or surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To prevent pollution of groundwater, as the site lies within a highly sensitive area with regards to groundwater and is located within the Source Protection Zone 1 area for potable water abstractions in Sittingbourne.

- (11) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of groundwater, as the site lies within a highly sensitive area with regards to groundwater and is located within the Source Protection Zone 1 area for potable water abstractions in Sittingbourne.

- (12) 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.

- (13) 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.

- (14) The parking/ turning area and garages shown on the approved drawings shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- (15) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site without the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (16) 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 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (17) 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 District Planning Authority.

Reason: In the interests of residential amenity.

- (18) No additional windows, rooflights, voids or other openings shall be inserted in the south-western flank elevation or roof slopes of the dwelling hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the privacy and amenity of the neighbouring residents.

- (19) The development shall proceed in accordance with the following plans: GW/P.01A received on 21 April 2015,02,03,04,05 and 06 Rev A received on 21 April 2015.

Reason: For the sake of clarity

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed, and 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.

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2.2 REFERENCE NO - 15/501604/FULL			
APPLICATION PROPOSAL Erection of 1 four bedroom house (detached) and garage/storage building with access and amenity on land formerly used as stables			
ADDRESS R/o 95 Borden Lane Sittingbourne Kent ME10 1BX			
RECOMMENDATION Grant with conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The erection of a single dwelling on this parcel of land is acceptable as a matter of principle under local and national policy, and has previously been accepted by the Planning Inspector. The proposed development is of an acceptable scale and design and would not give rise to any serious amenity concerns.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr. Truelove.			
WARD Chalkwell	PARISH/TOWN COUNCIL Sittingbourne	APPLICANT Mr Guy Mills AGENT A N Ghosh Architects	
DECISION DUE DATE 07/05/15	PUBLICITY EXPIRY DATE 07/05/15	OFFICER SITE VISIT DATE Various.	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
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All three of applications were refused for reasons relating to access; the principle of backland development; lack of parking for the proposed dwellings; and the impact on the residential amenity of the existing residents.			
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The Inspector commented that the proposal would <i>“result in an intensive, urban feel which would be in stark contrast to the verdant garden setting of the site and would also be out of keeping with the general character of Borden Lane.”</i> Issues of visibility and highway safety were also noted in the appeal decision.			
SW/08/1148	Erection of 6 dwellings.	Refused, and appeal withdrawn.	2008
The application was refused by the Council on grounds similar to those above, and the subsequent appeal was withdrawn by the applicant prior to determination.			

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SW/09/0111	Erection of 6 dwellings.	Refused, but allowed on appeal.	2009
The Inspector's decision was clear and unambiguous in stating that, as the site lies within the built up area of Sittingbourne, best use of the land should be made in terms of providing new housing.			
SW/11/0409	Erection of two dwellings (on land adjacent to the approved site).	Refused, and appeal dismissed.	2011
Refused on the grounds that the scale and design of the dwellings would represent over-development of the site, and that their siting and relationship with 95 and 97 Borden Lane would give rise to unacceptable overlooking of the existing properties. The Inspector agreed with the Council in respect of the proposed dwelling closest to the rear of 95 and 97 Borden lane, but held the proposed unit at the foot of the site to be acceptable in principle.			

MAIN REPORT

2.0 DESCRIPTION OF SITE

- 1.01 The application site is a parcel of land to the rear of 95 Borden Lane, formerly serving as part of its rear garden. It is roughly rectangular in shape and lies NW-SE, measuring approximately 52m by 11m. Land levels slope downwards to the south-east so that the bottom end of the plot is significantly lower than the existing houses fronting Borden Lane. The land is currently overgrown.
- 1.02 The site runs adjacent to the access road and plot 6 of the Orchard Gate development, with which members will be familiar. This comprises 6 new dwellings in a roughly L-shaped layout. The proposed dwelling would be approximately in line with plots 4 to 6 which sit to the rear of 83 and 93 Borden Lane.
- 1.03 Vehicle access to the site is via the existing access off Borden Lane.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a single detached dwelling and detached garage on the plot.
- 2.02 The proposed house would sit at the bottom (south-eastern) end of the plot and would measure approximately 11m wide x a maximum of 12m deep x 8.7m high (5m to eaves). The dwelling will provide kitchen / diner, living

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room, study and utility room at ground floor; 3 bedrooms (all with ensuite), store and WC at first floor; and a fourth bedroom with ensuite within the loft space, served by a dormer window on the rear roof slope. The design is largely similar to the houses recently constructed on the adjacent plots.

- 2.03 It will be positioned approximately 47m from the rear elevation of the existing dwellings fronting onto Borden Lane, and have a rear garden measuring 6m to 8m deep x 11m wide. The front garden of the property measures approximately 26m deep and extends towards the parking / turning area and detached garage.
- 2.04 The proposed garage block will sit at the north-western end of the site, a minimum of 2m from all boundaries, with a paved parking / turning area to the front. It will measure approximately 9m wide x 6m deep x 4m high with a pitched roof, and will provide two garage bays and a store room.
- 2.05 Vehicular access to the properties will be gained from the road leading into the adjacent new development to the rear of 83-93 Borden Lane, of which Members will be aware and which is further discussed below. The driveway for the proposed house will be capable of accommodating two vehicles, with a further parking space provided within the integral garage.
- 2.06 The planning history for the site is discussed in depth at section 8, below

3.0 SUMMARY INFORMATION

	Proposed
Site Area	0.07ha
Approximate Ridge Height	8.7m
Approximate Eaves Height	5m
Approximate Depth	12m
Approximate Width	11m
Parking Spaces	4+
No. of Residential Units	1

4.0 PLANNING CONSTRAINTS

- 4.01 The site lies within Environment Agency Flood Zone 3 due to the low land levels, which may give rise to groundwater flooding in exceptional situations.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are relevant in terms of encouraging sustainable housing development within existing urban areas. They also encourage good design standards and minimising the potential impacts of any development upon the amenity of neighbouring residents.

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- 5.02 The adopted Swale Borough Local Plan 2008 echoes a similar sentiment, and policies E1, E19, H2 and T3 in particular encourage the provision of high-quality housing development within sustainable locations, with adequate parking provision, and minimising potential amenity impacts for local residents.
- 5.03 The publication draft of the emerging Local Plan, entitled Bearing Fruits 2031, was agreed by Members at Full Council late last year and, as such, carries some weight in the determination of planning applications. Policies DM14, DM16, DM19 are relevant in this instance.
- 5.04 The Council's adopted Supplementary Planning Guidance entitled "Designing an Extension" is relevant in that it stipulates that there should be a minimum rear-to-rear separation between dwellings of 21m in order to minimise the opportunities for mutual overlooking.

6.0 LOCAL REPRESENTATIONS

- 6.01 Three letters of objection have been submitted by neighbouring residents, raising the following summarised concerns:
- Proposed garage is too tall and would be highly visible from properties fronting Borden Lane [NB: amended drawings have been received showing a much-reduced garage];
 - Is the garage for business use?;
 - Will conditions of previous planning permissions be enforced [NB: such conditions do not relate to this site];
 - Outbuildings should not be approved here;
 - The proposed garage will be "an eyesore;"
 - The proposed house has a larger living area than those previously approved;
 - Overlooking of existing properties; and
 - Impact on property values.
- 6.02 The application has been called in by Councillor Truelove on the grounds that the application represents "overintensive development."

7.0 CONSULTATIONS

- 7.01 No representations have been received at time of writing, and I will update Members at the meeting. I would note, however, that no objections have been raised by Kent Highway Services, the Environment Agency, or Southern Water further to the imposition of conditions as noted below.
- 7.02 I would also note that the erection of a single dwelling now falls outside the remit of Kent Highway Services, and they will not be providing formal comments on the proposal.

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8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Members will be aware of the new housing development to the rear of 83-93 Borden Lane, which sits adjacent to the application site. That development has a long and detailed history which I believe is of relevance to this proposal.
- 8.02 In 2007, planning permission was refused for the erection of 7 dwellings on land to the rear of 83 and 93 Borden Lane under application references SW/07/278, SW/07/421 and SW/07/1220. Those applications proposed identical access arrangements and dwellings of a similar design. All three of those applications were refused for reasons relating to access; the principle of backland development; lack of parking for the proposed dwellings; and the impact on the residential amenity of the existing residents.
- 8.03 Subsequently, in 2008, application reference SW/08/0429 sought consent for the erection of 9 houses on the same site, and was the subject of an appeal against non-determination. The appeal was dismissed, with the Inspector commenting that the proposal would *“result in an intensive, urban feel which would be in stark contrast to the verdant garden setting of the site and would also be out of keeping with the general character of Borden Lane.”* Issues of visibility and highway safety were also noted in the appeal decision.
- 8.04 Also in 2008, application SW/08/1148 sought permission for erection of 6 dwellings on the land to the rear of nos. 83-93. The application was refused on the grounds of harm to the character of the area, local amenity and highway safety. An appeal was submitted against that refusal, but was withdrawn by the appellant prior to determination by the Inspectorate.
- 8.05 However, planning permission was granted on appeal in 2009, under reference SW/09/01111, for the erection of 6 three and four bedroom houses and associated landscaping on the rear gardens of 83-93 Borden Lane, directly adjacent to the current application site.
- 8.06 Whilst the Council had consistently resisted development upon the rear gardens of these properties due to the potential impact upon the character and amenity of the area, the Inspector’s decision was clear and unambiguous in stating that, as the site lies within the built up area of Sittingbourne, best use of the land should be made in terms of providing new housing. He commented:

“Planning Policy Statement 3 Housing (PPS3) stresses the importance of using land efficiently and states that the density of existing development should not dictate that of new housing by stifling change or requiring replication of existing form...Subject to details of landscaping and materials, the scheme would not be harmful to the character and appearance of the area and would accord with Local Plan policy E1.”

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- 8.07 The design and layout of the dwellings approved by the Inspector was then amended slightly under application SW/09/0730, which was approved by the Council after the Inspector's clear directions that the scheme was acceptable.
- 8.08 Application SW/11/0409 sought planning permission in 2011 for the erection of two dwellings on the current application site – one in the position of the current proposed house and one closer to the rear of no.95, in the approximate position of the proposed garage. That application was refused on the grounds that the scale and design of the dwellings would represent over-development of the site, and that their siting and relationship with 95 and 97 Borden Lane would give rise to unacceptable overlooking of the existing properties.
- 8.09 The subsequent appeal was dismissed by the Inspector, who agreed that the site was not suited to the erection of two properties. However Members should very clearly note that the Inspector did not raise any concerns in regards to the unit in the same position as that currently proposed. Paragraph 7 of the appeal decision (copy attached as an appendix to this report) states:
- “Plot 2 at the eastern extremity of the appeal site would continue the line of houses under construction on a plot similarly oriented and configured. Like them it would be well away from the existing houses in Borden Lane.”*
- 8.10 The starting position for this application is therefore, as discussed below, that the erection of a single dwelling is acceptable in principle. Members should not seek to refuse permission for this development on grounds relating to the principle of development as this has clearly been accepted by the Inspector, and to challenge that position would leave the Council open to heavy criticism at appeal.
- 8.11 Applications SW/10/0747 and SW/10/0750 granted retrospective planning permission for alterations to the approved dwellings, including a realignment of the roof, insertion of false dormer windows to gain head height above the stairwell, and internal alterations to use a storage area above the garage as additional living accommodation. Local residents have historically opposed the use of storage areas as additional accommodation but, as made clear in the respective committee reports, such a change did not require planning permission.
- 8.12 In terms of planning history for no. 95 itself, this amounts to a single approval of planning permission in 1998, under reference SW/98/0593, for the erection of a single-storey rear extension; loft conversion; and detached single garage. The property is now in different ownership to the application site (which formerly served as part of the rear garden) and a 1.8m high close-boarded fence plus a retaining wall has been erected between the two plots.

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9.0 APPRAISAL**Principle of Development**

9.01 The application site lies within the built up area boundary, where local and national policy encourages the provision of new housing, and the principle of development is therefore acceptable. Furthermore the Inspector's decision in refusing an application for two houses on the site (under SW/11/0409) makes it clear that the erection of a single dwelling in the proposed location is acceptable.

9.02 The erection of a detached garage in the proposed location is also acceptable in principle, and Members should note that the building (in its reduced scale as shown on the amended drawings) could be erected under permitted development rights – without the need for planning permission – once the proposed new dwelling is completed and occupied.

Visual Impact

9.03 The proposed dwelling will be of a very similar appearance to those approved and constructed on the adjacent plots under permission SW/09/011 and SW/09/0730. I therefore believe that it would sit comfortably within the character and appearance of the area (subject to use of appropriate materials, as conditioned below) .

9.04 The proposed garage, as shown on the amended drawings, would be a relatively small-scale structure with low impact upon the character and appearance of the area. I have no serious concerns in regards to its visual impact.

9.05 The proposed dwelling sits slightly forward of the building line set by plots 4, 5 and 6 of the adjacent development. I do not have any serious concerns in this regard, however, as the difference is not so significant as to be incongruous.

9.06 The use of suitable soft landscaping (as required by condition, below) would help to screen the development in views from surrounding areas and thus reduce its visual impact and prominence.

Residential Amenity

9.07 As noted above the proposed house would sit slightly forward of the existing properties within the wider development. However there would be a minimum of 33m between the front of the new dwelling and the rear boundary of no.95 Borden Lane, and I estimate (from aerial photos / mapping) the rear garden of no.95 to be approximately 13m.

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- 9.08 This is a significant distance, and it should also be noted that the houses fronting Borden Lane are at a considerably higher level than the proposed house. I am therefore firmly of the opinion that there will not be any serious mutual overlooking between existing and proposed. Members should also note that the minimum rear-to-rear distance set by the Council's adopted SPG is 21m – this scheme is front-to-rear (for which there is no minimum adopted distance) and greatly in excess of that minimum requirement, and I am therefore firmly of the opinion that there is no justification for refusal on this ground.
- 9.09 Any overlooking of rear gardens of the existing properties would also be at a significant distance from the private amenity areas immediately to the rear of the properties. Planning law largely affords protection to the "patio" area immediately outside the rear doors, and overlooking of the end of rear gardens is considered to be less harmful. Nevertheless, any overlooking would be from bedrooms only and at a slightly oblique angle. I therefore consider that no serious loss of privacy would occur for existing residents.
- 9.10 The proposed garage (in its reduced form as shown on the amended drawings) would not be a significant or imposing structure in views from existing dwellings, and I have no serious concerns in this regard. I would also reiterate that a structure of such dimensions could be erected without the need for planning permission upon completion of the new dwelling.

Highways

- 9.11 The application proposes parking in excess of that required under the current adopted Kent Vehicle Parking Standards. That document stipulates that 4-bed houses require 2 parking spaces – this development will provide 2 garage spaces, and space for at least 2 vehicles on the driveway / turning area to the front. I therefore have no objections in this regard.
- 9.12 The provision of a single dwelling is unlikely to give rise to substantial additional vehicle movements on the surrounding highway network, and I therefore have no serious concerns in respect of highway safety and amenity.

Landscaping

- 9.13 The proposed layout allows significant space for soft landscaping and planting, which can be secured by the conditions noted below. I have also altered the Council's standard condition to require the planting of a tree within the proposed front garden area, which will help to minimise the potential for views of existing properties from the front windows of the proposed dwelling.

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10.0 CONCLUSION

10.01 The erection of a single dwelling on this parcel of land is acceptable as a matter of principle under local and national policy, and has previously been accepted by the Planning Inspector. The proposed development is of an acceptable scale and design and would not give rise to any serious amenity concerns.

10.02 I therefore recommend that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following 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 approved shall not commence 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 as approved.

Reason: In the interest of promoting energy efficiency and sustainable development, and to ensure that such matters are agreed before work is commenced.

- (3) No development shall take place until pedestrian visibility splays measuring 2m x 2m, and with no obstruction over 0.6m above the access level have been provided at the vehicle entrance to the plot. The visibility splays shall subsequently be maintained in perpetuity.

Reason: In the interest of highway safety and amenity, and to ensure that such matters are agreed before work is commenced.

- (4) The development hereby approved shall not commence until full details of the method of disposal of foul and surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies, and to ensure that such matters are agreed before work is commenced.

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- (5) Prior to the commencement of the development hereby approved, details in the form of samples of external finishing materials to be used shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity, and to ensure that such matters are agreed before work is commenced.

- (6) No development shall take place until full details of both hard and soft landscape works, which shall include the provision of an appropriate native-species tree within the front garden between the approved house and the parking area (as shown on the approved block plan), 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, where possible), 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, and to ensure that such matters are agreed before work is commenced.

- (7) The development hereby approved shall not commence until a programme for the suppression of dust during construction has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, and to ensure that such matters are agreed before work is commenced.

- (8) The development hereby approved shall not commence until a scheme of ecological mitigation measures has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and permanently retained as such thereafter.

Reason: In the interest of preserving and enhancing the biodiversity interest of the area, and to ensure that such matters are agreed before work is commenced.

- (9) Notwithstanding the submitted details, the finished floor level shall be a minimum of 22.25maODN; and all flood resilience measures as outlined in Section 4.4 of the submitted Flood Risk Assessment are to be agreed in writing with the Local Planning Authority and subsequently incorporated into the finished dwellings.

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Reason: To reduce the risk of flooding to the proposed development and its future occupants, and to reduce the risk of surface water flooding within the vicinity of the development.

- (10) Notwithstanding the submitted details, no infiltration or surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To prevent pollution of groundwater, as the site lies within a highly sensitive area with regards to groundwater and is located within the Source Protection Zone 1 area for potable water abstractions in Sittingbourne.

- (11) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of groundwater, as the site lies within a highly sensitive area with regards to groundwater and is located within the Source Protection Zone 1 area for potable water abstractions in Sittingbourne.

- (12) 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.

- (13) 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.

- (14) The parking/ turning area and garages shown on the approved drawings shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

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

- (15) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site without the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (16) 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 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

- (17) 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 District Planning Authority.

Reason: In the interests of residential amenity.

- (18) No additional windows, rooflights, voids or other openings shall be inserted in the south-western flank elevation or roof slopes of the dwelling hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the privacy and amenity of the neighbouring residents.

- (19) The development shall proceed in accordance with the following plans: GW/P.01A received on 21 April 2015,02,03,04,05 and 06 Rev A received on 21 April 2015.

Reason: For the sake of clarity

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

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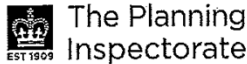
Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed, and 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.



The Planning Inspectorate

Appeal Decision

Site visit made on 12 December 2011

by **P W Clark MA MRTPI MCMJ**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 January 2012

Appeal Ref: APP/V2255/A/11/2161893

Land to the rear of 95 Borden Lane, Sittingbourne, Kent ME10 1BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Greenspan Properties (Borden Lane) Ltd against the decision of Swale Borough Council.
- The application Ref SW/11/0409, dated 31 March 2011, was refused by notice dated 1 September 2011.
- The development proposed is the erection of 2Nº 4-bedroom detached houses with integral garages, together with access and amenity on land formerly used as stables.

Decision

1. The appeal is dismissed.

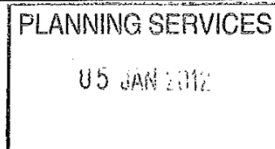
Main Issues

2. There are two. They are the effects of the proposal on the character of the area and on living conditions both of potential future occupants and of neighbouring residents in terms of mutual overlooking.

Reasons

Character

3. Borden Lane climbs in a south-westerly direction from its junction with London Road. At its north-east end it is tightly enclosed by a wall retaining higher ground on one side and by long terraces of small cottages sited close to the road on its south-east side. They have plot depths varying between 20 and 40m.
4. The lane winds as it climbs the hill. At the top, its character changes. On its north-west side are closely spaced semi-detached and terraced properties, slightly elevated above the road but quite close to it. On the opposite side, instead of small terraced cottages, there is a run of 17 larger detached and semi-detached houses, set back from the road, on exceptionally deep plots, typically 90m or so, sloping down the hillside. The appeal site is one of these. Further on again, towards Homewood Avenue, there is a further change to shallower plots, of about 40m or so. The character of the road is therefore quite varied.
5. In the middle of the run of 17 houses with deep plots a small cul-de-sac of six houses is nearing completion. Its site is formed from parts of the rear gardens of numbers 83 and 93 Borden Lane (there are no houses numbered 85-91



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- odd). Yet they retain sizeable plots, ranging in depth from about 36 to about 44m. In contrast, the appeal proposal, at the rear of number 95, would leave that property with a smaller plot, some 32-34m in depth.
6. The new development nearing completion has a density of about 20 dwellings per hectare, so it is quite different in intensity from the context of long rear gardens in which it sits. Four houses on its east side are separated by distance from the established dwellings in Borden Lane. The two houses at its centre are separated from the remaining long gardens to the south by the access road into the development and from the remaining long gardens to the north by their own gardens. Their relationship with number 93 is one which offers their flank to its rear. These characteristics mean that, although it represents a considerable intensification of development, the change in character in this new development under construction is considerate to and buffered from the older pattern of development.
 7. The access to the development nearing completion would be used to serve the current appeal proposal. Both proposed houses in the current appeal would be positioned close to the boundary with the garden of number 97. Plot 2 at the eastern extremity of the appeal site would continue the line of houses under construction on a plot similarly orientated and configured. Like them it would be well away from the existing houses in Borden Lane. It would make a transition from the new more intensive development to the remaining open garden land by having its single storey garage positioned against the boundary with the undeveloped land to the south.
 8. The house on plot 1 would be positioned much the same distance into the site from Borden Lane as the first two houses recently built fronting the new access road on the recently completed development but it would stand alone. It would be differently orientated, presenting its flank to the access road. It would have a back to back relationship with number 95. Once divided into two garden plots, this space would appear to be more cramped and crowded than the side to back relationship with 93 of the earlier development even though objective measurement would indicate otherwise.
 9. In contrast to the existing recent development, it would not be buffered from the remaining long gardens to the south by a roadway or by its own garden. Rather, its position and orientation would present an abrupt contrast between the intensity of the new development and the low intensity of the old, emphasised by its layout, with the single storey garage against the new access road and the two storey house hard up against the retained open gardens of Borden Lane.
 10. I conclude that the result would not produce a harmonious transition and so would be harmful to the character of the area. It would therefore be contrary to policies E1 and E19 of the Swale Borough Local Plan adopted February 2008. These require development proposals to reflect the positive characteristics of their site and locality, to be well sited in a way appropriate to their location and to promote and reinforce local distinctiveness and sense of place.

Living conditions

11. Not shown on the application drawings, number 95 has had an extension to its rear, containing an upper floor within its roofspace lit by a dormer window. The distance between the first floor window and that proposed on plot 1 would

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be 21m. Such a distance is normally considered sufficient to provide privacy between houses on the same level but in this case, there is a fall in the ground so that the new house would be about 1.5m below the existing. In such circumstances, greater separation between facing windows is normally required for privacy.

12. The distance between the rear façade of number 97 and that of the new house would be about 26m and at a slight angle. This distance and angle would normally be more than sufficient to provide privacy between facing windows of houses on a level but, when seen from the window of the nearer of the two rear bedrooms of number 97, the position of the house on plot 1 felt uncomfortably close. This feeling would be exacerbated by its handing which would result in its garage adjacent to the new access road and the two storey accommodation nearer the boundary with number 97. From the bedroom of number 97, further from the boundary of the new development, the view to plot 2 would be more sidelong and so less unacceptably intrusive.
13. I conclude that there would be mutual overlooking between the house on plot 2 and number 95 and, to a lesser extent, number 97, which would not provide acceptable living conditions in either the existing or the new properties. It would be contrary to Local Plan policy E1(8) which requires development proposals to avoid demonstrable harm to residential amenity.

Other matters

14. Both main parties accept that matters such as the risk of flooding from surface water run-off, details of foul and surface water drainage and the need for energy saving measures and ecological and land contamination investigations could be met by conditions similar to those applied to the development on the adjacent site. I have no reason to disagree.
15. Third parties have concerns about traffic generation, car parking and the safety of the junction of the access road with Borden Lane but these are largely reiterations of matters considered in the earlier appeal for the development now nearing completion on adjoining land (APP/V2255/A/09/2102044). They do not add to my reasons for dismissing the appeal.
16. Local residents also point out that government policy concerning the development of garden land has changed since the earlier appeal. Garden land is no longer defined as brownfield land and so there is no longer a presumption in favour of its development. It is now regarded as a greenfield site. Proposals for its development are considered, as would any other proposal on greenfield land, by reference to locally determined policies. Swale Borough Local Plan policy H2 and its supporting material makes it clear that the Council relies on windfall sites such as this to meet its housing requirements, so this argument does not add to the reasons for dismissing this appeal.
17. The appellant refers to ministerial statements and the draft National Planning Policy Framework (NPPF) in support of the appeal. The government's clear expectation is that the answer to development should wherever possible be "yes" except where this would compromise key principles set out in national planning policy. The government's Planning Policy Statement 3 (PPS3) *Housing* points out that achieving high quality housing is one of the objectives of the planning system. The draft NPPF reiterates the emphasis on housing quality. PPS3 advises that matters to consider when assessing design quality include

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the extent to which proposed development is well laid out so that the space is user-friendly and the extent to which it would be integrated with and complements neighbouring buildings and the local area more generally. Those are the two matters by which this appeal is judged to fail.

P. W. Clark

Inspector