

PLANNING COMMITTEE – 3 SETPEMBER 2015

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 14/504450/FULL			
APPLICATION PROPOSAL Erection of 8 No. 2 bedroom flats with associated under-croft parking and vehicular access.			
ADDRESS Victoria Working Men’s Club And Institute, Broadway, Sheerness, Kent, ME12 1TP.			
RECOMMENDATION Delegate to refuse subject to the comments of the Council’s Tree Consultant and further comments of Kent Highway Services, and any subsequent requirements they may have.			
SUMMARY OF REASON FOR REFUSAL The proposal does not constitute sustainable development, by virtue of its inappropriate scale and massing and design, which fails to preserve or enhance the character or appearance of the Sheerness Mile Town Conservation Area, contrary to the statutory test set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the provisions of the NPPF in relation to heritage, and Policy E15 of the Swale Borough Local Plan 2008.			
REASON FOR REFERRAL TO COMMITTEE Councillor Ellen requests that the planning application is reported to the Planning Committee.			
WARD Sheppey East	PARISH/TOWN COUNCIL	APPLICANT Mr C Boorman AGENT EP Architects	
DECISION DUE DATE 10/9/15	PUBLICITY EXPIRY DATE 25/5/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/501140/FULL	Creation of Vehicular Access and Driveway	Refused	19/9/14
SW/14/0581	Creation of a gated vehicular access to facilitate future redevelopment. Subsequently allowed on appeal under reference APP/V2255/A/14/2221808 on 9/10/14	Refused	12/6/14

SW/13/1280	Demolition of single-storey, corrugated roof former social club building	Approved	2/12/13
SW/00/0806	Pedestrian access and repositioning of existing gates.	Approved	
Relevant planning history for the adjacent Victoria Working Men's Club			
SW/06/0763	Part demolition of existing buildings. Conversion of retained building into flats. Redevelopment of remainder of site for additional residential units and parking. Total of 25 units and 19 parking spaces.	Approved	6/3/07

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located between Broadway to the south, and Beach Street with the car park of Sheerness Leisure Centre to the north. To the east is the historic Sheerness Working Men's Club which is currently being developed under partially implemented planning permission SW/06/0763 which will provide a residential block directly to the east of the proposal. To the west and fronting Beach Street to the north is a four storey residential block known as Beachfield Lodge. To the west and fronting Broadway is a hot food take away known as Bongo's Fish Bar.
- 1.02 A historic wall that formed part of the original Victoria Working Men's Club fronts Broadway. This was partially demolished and a vehicular access granted on appeal under SW/14/0581. There are a number of mature trees behind this wall and a large grassed area that create a verdant frontage to this urban area. The site is flat and contains no buildings following the demolition of the former social club under SW/13/1280

2.0 PROPOSAL

- 2.01 Planning permission is sought to erect a five storey building containing 8 two bedroom flats with undercroft parking. The ground floor would feature four undercroft car parking spaces, six storage areas, two bin stores, and a communal entrance with lift and stairs. A single storey side projection to the east would provide two further storage areas with two open car parking spaces to the front. Four open car parking spaces would be provided to the south of the building. There would be four floors of residential accommodation above the undercroft, with each floor containing two mirrored flats. Each flat would have a Juliet balcony facing Broadway and a regular balcony facing Beach Street.

2.02 The design features a staggered floor plan with a mono-pitch roof to each side of the building and a flat roof to the central connecting section of the building. External finishing materials include a white render finish with cedar cladding to the walls.

2.03 The vehicle access granted on appeal would lead to a widened vehicle access road that leads to an area of hardstanding to the south of the building to provide manoeuvring space. A new staircase would provide access to Beach Street. The greenspace to the south of the proposed building would be used to create two barbeque areas with associated paths.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.13	0.13	0
Approximate Ridge Height (m)	0	17	+17
Approximate Eaves Height (m)	0	14.5	+14.5
Approximate Depth (m)	0	14.5	+14.5
Approximate Width (m)	0	19	+19
No. of Storeys	0	5	+5
Parking Spaces	Approx. 5	8	+3
No. of Residential Units	0	8	+8
No. of Affordable Units	0	0	0

4.0 PLANNING CONSTRAINTS

4.01 The application site is located within the built up area boundary of Sheerness, the Sheerness Mile Town Conservation Area, Area Action Plan 4 Sheerness Town Centre and the Broadway frontage of the site is classified as a secondary shopping area as shown on the Proposals Map of the Swale Borough Local Plan 2008. The entire site is within flood zone 3 of the Environment Agency’s flood maps.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The statutory test for development set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 is as follows;

“General duty as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

- 5.02 The NPPF relates in terms of achieving sustainable development, building a strong competitive economy, ensuring the vitality of town centres, promoting sustainable transport, delivering a wide choice of quality homes, requiring good design, meeting the challenge of climate change, flooding and coastal change, and conserving and enhancing the natural and historic environment.
- 5.03 There are three dimensions to sustainable development: economic, social and environmental. Gains in each should be sought simultaneously. There is a presumption in favour of sustainable development which is considered to be a golden thread running through plan making and decision taking. Amongst the 12 core planning principles are requirements to; seek high quality design and amenity for existing and future occupants; support a low carbon future taking full account of flood risk; reuse brownfield land; conserve heritage assets in a manner appropriate to their significance; and manage growth to make use of public transport, walking and cycling.
- 5.04 The NPPF attaches significant weight to economic growth to create jobs and prosperity. Paragraph 23 requires Local Plans to “recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.” Paragraphs 29 and 30 encourage sustainable transport and reductions in greenhouse gas emissions. Paragraph 32 requires that decisions take account of whether proposals take opportunities for sustainable transport, and safe and suitable access to the site has been achieved for all. Paragraph 35 promotes pedestrian and cyclist priority, and promotes access to public transport.
- 5.05 Regarding housing provision the NPPF requires a significant boost in housing supply and states Council’s should “identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%”. Paragraph 49 states that housing supply policies should be considered out of date if the Council cannot demonstrate a five year supply of deliverable housing sites.
- 5.06 Paragraph 56 attaches great importance to design which should contribute positively to making places better for people.
- 5.07 Paragraph 58 states; “Planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
 - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and

- other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
 - are visually attractive as a result of good architecture and appropriate landscaping.”
- 5.08 Paragraph 60 states; “Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.” Paragraph 64 states “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.” Paragraph 65 states “Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal’s economic, social and environmental benefits).”
- 5.09 Paragraph 100 states “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.” Paragraph 103 states “When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
 - development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.”
- 5.10 Paragraph 109 requires the planning system to; contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing gains where possible. Paragraph 111 encourages the use of brownfield land. Paragraph 118 requires Council’s to aim to conserve and enhance biodiversity and apply numerous principles including; incorporating biodiversity in developments; affording substantial protection to Special Protection Areas and affording Ramsar sites the same protection as European sites.

- 5.11 In relation to conserving and enhancing the historic environment, paragraph 129 states “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”
- 5.12 Paragraph 131 states “In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.”
- 5.13 Paragraph 132 states “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”
- 5.14 Paragraph 133 states “Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- the nature of the heritage asset prevents all reasonable uses of the site; and
 - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
 - the harm or loss is outweighed by the benefit of bringing the site back into use.”
- 5.15 Paragraph 134 states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”
- 5.16 Paragraph 138 states “Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be

treated either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.”

The Swale Borough Local Plan 2008.

- 5.17 Policies SP1, SP2, SP3, SP4, SP6, SP7 and TG1 are strategic level policies setting out the Council’s approach to sustainable development, environment, economy, housing, transport and utilities, community services and facilities, and the Thames Gateway Planning Area. Development management policies E1 and E19 are general development criteria and design policies that seeks positive, well designed proposals that protect natural and building environments whilst causing no demonstrable harm to residential amenity or other sensitive uses. E10 requires the preservation of trees where appropriate. E11 seeks to maintain and enhance the Boroughs biodiversity. E12 provides a hierarchy of protection for sites designated for their importance to biodiversity including, firstly European Sites and Ramsar Sites, and secondly Sites of Special Scientific Interest.
- 5.18 Policy E15 sets out that development within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the areas special character or appearance. The Council expects proposals to; respond positively to conservation area appraisals; retain the layout, form of streets, spaces, means of enclosure and buildings, and pay special attention to the use of detail and materials, surfaces, landform, vegetation and land use.
- 5.19 B3 sets out the Councils policy for secondary shopping areas, noting it will permit non-retail uses including residential provided they would not lead to a significant concentration of non-retail floorspace or housing. Policy H2 notes permission will be granted for residential development on allocated sites or within built up areas.
- 5.20 T3 requires appropriate vehicle parking to be provided in accordance with adopted Kent County Council standards. T4 requires cyclist and pedestrian safety to be considered along with cycle parking. T5 requires proposals to be well located in relation to public transport.
- 5.21 AAP4 states that permission will be granted for proposals that, inter alia, introduce new housing into the town centre provided that the flood risk can be addressed.

Bearing Fruits 2031: The Swale Borough Local Plan Part 1

- 5.22 The emerging Local Plan has been submitted for examination and so carries some weight. The site is not allocated for development in this emerging Plan. Policy ST1 sets out the Council’s strategic approach to securing sustainable development. ST2 sets a housing target for the plan period between 2011-2031 of 10800 houses (540 per annum). ST3 provides a settlement strategy

that emphasises development on brownfield land within built up areas and on sites allocated by the Local Plan. A series of core policies use the headings within the NPPF and explore the local implications of these topics. CP3 sets the Council's policy for delivering a wide choice of high quality homes which, inter alia, requires densities determined by context, a mix of housing types with emphasis on smaller and larger dwellings, and achieve sustainable and high quality design. CP8 sets out that proposals must preserve or enhance designated heritage assets.

- 5.23 Policy DM1 reflects policy B3 of the adopted Local Plan. Policy DM6 requires proposals to utilise sustainable transport and consider cyclists and pedestrians. DM7 required vehicle parking in accordance with KCC standards. DM14 provides general development criteria requiring positive well designed developments that comply with policies and cause no harm to amenity. DM17 requires the provision of open space in accordance with the table at 7.5.1. DM19 requires all housing to achieve code level 3 of the code for sustainable homes but the code has since been cancelled by central government and so should not be afforded any weight. Policy DM21 requires proposals to avoid inappropriate development in areas at risk of flooding, provide a flood risk assessment to the satisfaction of the Environment Agency.
- 5.24 DM28 sets out that internationally designated wildlife sites such Ramsar and Special Protection Area are afforded the highest level of protection. DM33 relates to development in conservation areas and reflects adopted policy E15.
- 5.25 Supplementary Planning Guidance; entitled 'Conservation Areas' and 'The Conversion of Buildings into Flats and Houses in Multiple Occupation'.

6.0 LOCAL REPRESENTATIONS

- 6.01 The Ward Member, Councillor Mark Ellen, "called in" the application to be reported to the Planning Committee.

7.0 CONSULTATIONS

- 7.01 The latest set of formal comments from Kent Highway Services considers the access arrangements acceptable. The undercroft parking is considered too narrow and should be 2.7m wide when adjacent to a wall. The cycle parking spaces to the rear of the car parking spaces would not be accessible when vehicles are parked to the front. It will be difficult to access the uncovered spaces at the side of the building as they will need to reverse into this area to park as they will not have the turning room to reverse out of the spaces or drive into the furthest space in a forward gear. It may be sensible to rotate these spaces through 90 degrees and locate them where the turning area in front of them is currently shown. Further amended drawings have been received since the above comments were submitted. I am awaiting the further comments of Kent Highway Services and will report these to Members at the Meeting.

- 7.02 The Environment Agency raises no objection to the proposal. The submitted flood risk assessment is satisfactory and confirms the ground level will be used for less vulnerable uses (storage and car parking) with all residential accommodation at first floor level or above. It recommends a flood evacuation plan is provided to the Council. Guidance on the content of flood evacuation plans is provided. Eventual occupants should sign up to its flood warning service.
- 7.03 Southern Water requests an informative regarding connection to the public sewerage system.
- 7.04 The latest amendments entail development a lot closer to the established trees on the site and therefore I have sought the comments of the Council's Tree Consultant. I will update Members at the Meeting.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application includes a flood risk assessment and heritage impact assessment.

9.0 APPRAISAL

Principle of Development

- 9.01 The site is located within the built up area boundary of Sheerness where the principle of residential development is normally accepted. Area action plan 4 encourages residential development that appropriately addresses flood risk. The site is located in a very sustainable area with numerous services, facilities, amenities, shops and public transport links within a short distance. The principle of development is acceptable for these reasons in my opinion.

Heritage and Design

- 9.02 The statutory test with regard to conservation areas noted above is of critical importance. In conducting extensive negotiations on this proposal, the Council has had regard to this statutory test as well as the policies and guidance set out in the NPPF, PPG and adopted Local Plan. The officers concluded that whilst there are some interesting and quite innovative features in the proposals design, the overall appearance is disappointing and not of a high quality and certainly not sufficiently well related to the buildings adjacent to it on either side of the application site. The scale and massing of the proposal are therefore considered to be visually overbearing when viewed from Broadway and from Beach Street to the north. The proposed building would be considerably taller than its neighbours creating a dominating effect which relates poorly to its immediate context. The building roof profile, including its silhouette, lacks variation and fails to make use of the opportunity presented by the articulated plan form. The design of the building facing Beach Street is unacceptable and fails to relate in a visually harmonious way with the existing block of flats to the west and the existing historic working men's club building to the east, nor the approved building to the east approved under application

SW/06/0763 which is yet to be built but forms part of an implemented planning permission and therefore must be considered.

- 9.03 The applicants were asked to present their proposals to the Swale Design Review Panel but declined. The Panel is in place to encourage and help developers achieve good standards of design in sensitive locations such as this. Given that design has consistently been problematic through the course of the application it is particularly disappointing that this opportunity has not been taken up. It has been suggested that the top unit of the proposal should be removed to lessen the height of the proposal but the applicant has chosen not to follow this advice. It is considered that the uppermost section of the external wall under the roof overhang is poorly designed. The south east and south west corners of the rear sections need further attention to create a more varied and interesting appearance to the elevation, strengthening the corners to provide greater architectural articulation and avoid unnecessary visual and functional tensions with adjacent properties.
- 9.04 It is considered that the proposal would fail to preserve or enhance the character or appearance of the conservation area and its setting and is therefore contrary to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In accordance with paragraph 132 of the NPPF, the Council has given great weight to the conservation of this designated heritage asset noting that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification which has not been provided. In accordance with paragraph 134 of the NPPF, the Council considers the proposal to lead to less than substantial harm to the significance of the conservation area, a designated heritage asset, and this harm has been weighed against the public benefits of the proposal which are considered to be the provision of additional dwellings in a sustainable location and the employment arising from the construction phase. Whilst it is clear to me that residential use would be an appropriate use for the site, this is not to say that other forms of development such as commercial development would not be equally appropriate. It is considered that the public benefits of the proposal do not outweigh the harm identified to the conservation area. The proposal is contrary to Policy E15 of the adopted Local Plan. The application should be refused for this reason in my opinion.

Residential Amenity

- 9.05 The proposal does not project to the north of Beachfield Lodge but it does project to the south. The position of the proposal has been designed to take account of the 45 degree rule when measured from the nearest south facing habitable room window of Beachfield Lodge and would prevent any harm to the residential amenities of its occupiers in my opinion. The proposal would use screens to the nearest side windows to prevent overlooking. Beachfield House has a number of high level side windows which would not be harmfully affected by the proposal in my opinion. The impact on Beachfield House is acceptable.

- 9.06 Regard must also be had to the unbuilt but implemented planning permission SW/06/0763 immediately to the east of the site. The proposed east side elevation would be 7m away from three west facing bedroom windows serving three flats (not including the single storey side projection to the east). The inclusion of side window screens is sufficient to prevent overlooking between these windows and the separation distance is sufficient to prevent harm to residential amenity in my opinion. The same neighbouring development has three north facing living room/kitchen windows serving three flats that would be 6m away from the proposal. The angle of outlook from the proposed south facing Juliet balconies to the neighbouring development would be less than 45 degrees which would not create an overlooking issue in my opinion nor would it cause harm to residential amenity by virtue of being overbearing. The remaining side windows of the neighbouring development would not be harmed by the development by virtue of the angled relationship between them and the proposal. The flats are generously proportioned and comply with the room size requirements set out in the Council's flats SPG. The rooms are stacked above each other which will help to prevent noise and disturbance between flats and there is ample outdoor space for residents to use. For these reasons, the impact on residential amenity is acceptable in my opinion.

Highways

- 9.07 The proposed vehicle access already has planning permission granted at appeal. The access road allows for safe passage of vehicles. The proposal offers car parking facilities in excess of adopted Kent Highway Services Interim Guidance Note 3 which would allow zero parking provision in such a central location. The size of parking spaces accords with standards and provides 2.7m wide spaces where adjacent to a wall. The internal vehicle circulation space is sufficient. I am waiting for the further comments of Kent Highway Services as to whether the latest amendments overcome its previous concerns and seek delegation to deal with any subsequent requirements it may have such as an additional reason for refusal or further amendments to reduce the number of reasons for refusal.

Other Matters

- 9.08 The submitted flood risk assessment demonstrates that the development is compatible with its location in flood zones 2 and 3 because the ground floor is used for less vulnerable uses and all habitable rooms are at first floor or above. The flood risk implications are acceptable in my opinion.
- 9.09 The site frontage with Broadway is classed as a secondary shopping area and the proposal would not prejudice this policy's intentions. The Council has received further general guidance from Natural England for dealing with residential proposals within the zone of influence of Special Protection Areas and Ramsar sites. It recommends that for such proposals, it is a matter for the Council to consider how mitigation should be funded by a development tariff, provided the overall sum required is collected. Excluding minor developments from the tariff would mean increasing the tariff for major developments. The

attached Habitat Regulations Assessment screens out the proposal from the need for an appropriate assessment.

- 9.10 I am waiting for the comments of the Council's Tree Consultant and will report these to Members at the meeting. I seek delegation to resolve any related matters such as additional information requirements or further reasons for refusal relating to impact on the protected trees.

Habitat Regulations Assessment

- 9.11 This HRA has been undertaken without information provided by the applicant. The application site is located approximately 3km north of the Medway Estuary and Marshes Special Protection Area and Ramsar site and 4.5km to the north of the Swale Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).
- 9.12 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.
- 9.13 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 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made 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); the strategic mitigation will need to be in place before the dwellings are occupied.
- 9.14 In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:
- The proposal contains a fairly significant amenity area on site which will provide a small amount of on site mitigation 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. It appears more likely that residents of the proposed development would use the seafront at Sheerness for recreation.
 - Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers;

and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.

- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

9.15 Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

9.16 For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

10.0 CONCLUSION

10.01 The proposal does not constitute sustainable development because of the harm it would cause to the Sheerness Mile Town Conservation Area and it is recommended that delegation is given to refuse planning permission subject to the outstanding matters noted above being resolved.

11.0 RECOMMENDATION –REFUSE for the following reason:

The proposal does not constitute sustainable development, by virtue of its substandard design and its inappropriate scale and massing, which fails to preserve or enhance the character or appearance of the Sheerness Mile

Town Conservation Area, contrary to the statutory test set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the provisions of the NPPF in relation to heritage, and Policy E15 of the Swale Borough Local Plan 2008.

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:

There have been extensive negotiations between officers and the applicant, and a number of revisions to the proposal in order to try and secure a development that is acceptable. Unfortunately, this has not been achieved and the proposal is unacceptable.

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.