

2.5 REFERENCE NO - 15/501087/FULL		
APPLICATION PROPOSAL Detached dwelling within sub-divided plot.		
ADDRESS 1 Chiddingfold Close Minster-on-sea Kent ME12 3SL		
RECOMMENDATION APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed dwelling would in my opinion be acceptable in visual terms. It would not give rise to harm to residential amenity nor to the character and appearance of the streetscene. No significant harm to highway safety or convenience is envisaged. I therefore recommend approval.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection		
WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr And Mrs Butler AGENT Oakwell Design
DECISION DUE DATE 15/04/15	PUBLICITY EXPIRY DATE 17/03/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal & Decision	Date
SW/82/0644	Outline application for two dwellings – <i>refused - harm to residential amenity, harm to appearance of streetscene</i>	20 th September 1982
SW/82/0837	Outline application for one dwelling – <i>refused - harm to residential amenity, harm to appearance of streetscene. Dismissed on appeal</i>	15 th November 1982
SW/83/0566	Outline application for two dwellings – <i>refused – harm to residential amenity, harm to appearance of streetscene</i>	11 th July 1983
SW/84/1174	Full application for bungalow – <i>refused – harm to residential amenity, harm to appearance of streetscene. Allowed on appeal</i>	8 th February 1985

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site consists of part of the front garden for a large, modern detached low rise house and detached triple garage and log store. The ground level of the plot is at a substantially lower level than the adjacent properties in Abbey Close to the north of the site.
- 1.02 The site is reasonably well screened from the adjoining properties by extensive tree planting on the site boundaries.

2.0 PROPOSAL

- 2.01 It is proposed to construct a two storey house on the site, which has a row of three front dormer windows to enable accommodation to be provided at first floor level within the roofspace at the front half of the dwelling. The ridge height for the new dwelling will be 7.7 metres from ground level. The dwelling will have a footprint of 11.8 metres in width and 11.1 metres in depth. The front eaves height will be 2.3 metres above ground level. There will be ample space on site for any additional landscaping and screening for the dwelling from the surrounding properties.
- 2.02 The application also proposes erection of a detached garage to the front of the dwelling, adjacent to the existing detached garage for no.1 Chiddingfold Close. It will measure approximately 6m wide x 6m deep x 4.9m high with a fully hipped roof.
- 2.03 Access would be taken from Chiddingfold Close. A rear garden with a maximum depth of up to 11.6 metres would be provided.
- 2.04 The dwelling would be located 7.6 metres from no.5 Abbey Close to the east, and 22 metres from 1 Chiddingfold Close to the south. One flank window at ground floor level, serving a utility room, would face 5 Abbey Close.

3.0 PLANNING CONSTRAINTS

None

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.
- 4.02 Paragraph 53 of the NPPF, in particular, advises that *“Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”* In this regard the policies below are considered to be relevant.
- 4.03 Development Plan: Policies E1, E19, E24, H2, T3 and T4 of the Swale Borough Local Plan 2008
- 4.04 The Council’s adopted SPG entitled “Designing an Extension” is also relevant in as far as it provides design and layout advice / parameters, and remains a material consideration, having been through a formal review and adoption process.

5.0 LOCAL REPRESENTATIONS

- 5.01 One letter of objection has been received, summarised as follows:
- The access drive is too narrow for the dwelling;
 - It is sited too close to the adjoining highway boundaries;

- The boundary trees will need pruning and some may need removing;
- Overlooking from rooms within roof space

6.0 CONSULTATIONS

6.01 Minster Parish Council originally supported the application. However – the description of the application has been amended, to correctly reflect the fact that the proposal amounts to a two storey dwelling rather than a chalet bungalow. The plans were not amended. Re-consultation was carried out, and Minster Parish Council now raises objection, commenting as follows:

This is over-intensive development of the site. The proposal crosses the building line at Scocles Road. In addition, due to their close proximity to the proposed property, this will inevitably lead to the felling of trees which MPC does not support.

6.02 The Environmental Health Manager does not raise objection, subject to conditions relating to hours of construction and dust suppression.

6.03 The Council's Tree Consultant raises no objection, subject to conditions relating to the retention of the existing trees.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence for 15/501087/FULL, and applications as listed above.

8.0 APPRAISAL

Principle of Development

8.01 The site lies within the built up area of Minster, where new residential development is acceptable as a matter of principle.

Visual Impact

8.02 The proposed dwelling would be well screened by the existing trees surrounding the site, minimising its visual impact. It would have a similar relationship with the highway as no.1 Abbey Close to the north, and in my view would appear comparatively comfortable in the streetscene. It would also be visible in the context of the existing dwellings in CHiddingfold Close, and would appear as a continuation of these. I do not consider that the siting of the dwelling would harm the amenities of the streetscene.

8.04 The proposed design of the dwelling would be acceptable. The two smaller dormer windows are of an acceptable design and the larger dormer window, whilst not in accordance with the SPG, would sit comfortably within the roof slope of the proposed dwelling and would not amount to poor design.

8.05 Whilst the dwelling would have an area of flat roof, this would not be readily visible from public vantage points. It would be visible from no.5 Abbey Close to the north, but in my view it would not cause such harm as to warrant the refusal of planning permission.

- 8.06 Given the above, I conclude that the impact of the proposal on visual amenity would be acceptable.

Residential Amenity

- 8.07 The application site is set at a much lower level than the dwellings to the north. Members will note that the proposed dwelling would lie 7.6 metres from no.5 Abbey Close. Given the change in levels, I do not consider that harm to residential amenity would occur by virtue of overshadowing or loss of outlook.
- 8.08 The proposed dwelling would be to the north of no.1 Chiddingfold Close. No overshadowing or loss of outlook to the occupiers of this dwelling would occur.
- 8.09 The objection from the occupiers of no.1 Abbey Close in respect of overlooking is noted. However – the proposed dwelling would sit in excess of 21 metres from this dwelling, and as such no significant overlooking would occur.
- 8.10 I do though recommend removing permitted development rights for extensions and alterations – due to the alignment of the dwelling much larger extensions than would ordinarily be “PD” may potentially be built without planning permission. These could harm visual and residential amenity, and removing permitted development rights would give the Council control over any later additions to the dwelling.

Highways

- 8.11 The proposed parking would comply with KCC standards. The existing access serving Chiddingfold Close can accommodate additional vehicle movements generated by the proposal without harm to highway safety and convenience.

Landscaping

- 8.12 The existing trees around the perimeter of the site form an attractive part of the streetscene, and should be retained. Amended plans have been submitted, showing root protection areas, and as set out above, the Tree Consultant is satisfied that no significant harm will occur. The conditions below seek the retention of these trees. In my view, the scheme is acceptable in this regard.

Other Matters

- 8.13 Members will note from the planning history listed above, that planning permission has been refused on four occasions, and allowed once on appeal, for residential development of this site. All of these decisions predate the current Local Plan by 20 years, and each was materially different to the scheme now proposed. In particular, each application proposed taking access from Abbey Close. Nonetheless, under application SW/841174, the Inspector comes to similar conclusions to those above – namely that the development of the site is acceptable, dependent on the retention of the existing planting fronting Scocles Road, and that the site can be developed without unacceptable harm to residential or visual amenity.
- 8.14 Members should note the Habitat Regulations Assessment below, as required by the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations) due to the sites proximity to the SPA and the potential for recreational disturbance as a cumulative impact with other small housing developments. This

concludes that whilst there would be an impact from the development, it will be mitigated by.

9.0 CONCLUSION

9.01 The proposed dwelling would in my opinion be acceptable in visual terms. It would not give rise to harm to residential amenity nor to the character and appearance of the streetscene. No significant harm to highway safety or convenience is envisaged. I therefore recommend approval.

10.0 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 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 be carried out in accordance with the following approved drawings which were received on the 5th. February 2015.

PL 01, PL 02, PL03, PL04A, PL05A, PL06A, PL07A, PL08A, PL09

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

(3) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

(4) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity

(5) The approved barriers and/or ground protection as shown on the submitted drawing no. PL 09 shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development

(6) In this condition "retained tree" means an existing tree, which is to be retained shown on drawing PL03 rev A. Paragraphs i) and ii) below shall have effect until the expiration of 5 years from the date of completion of the development for its permitted use.

- i) No retained tree shall be damaged, cut down, uprooted or destroyed, nor shall any retained tree be pruned without the written approval of the Local Planning Authority. Any pruning approval shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations or any revisions thereof.
- ii) If any retained tree dies, or is removed, uprooted or destroyed, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

Reason: To protect and enhance the appearance and character of the site and locality.

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

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

(8) Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted 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 as none have been submitted.

(9) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (plant species shall be native and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and as no such details have been provided.

(10) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reasons: In the interests of the visual amenities of the area..

- (11) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- (12) The garage hereby approved 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 2015 (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 in a manner detrimental to highway safety and amenity

- (13) The area shown as “proposed driveway and parking” shall be kept available for the parking and turning of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (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 in a manner detrimental to highway safety and amenity

- (14) Upon completion, no further development, whether permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) or not, shall be carried out without the prior permission in writing of the Local Planning Authority.

Reason: In the interests of residential and visual amenity

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 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.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 1.43km south of the Swale Special Protection Area (SPA) 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).

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.

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. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE 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) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, 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 would cost substantially 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 single dwellings upwards 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 what is acceptable to officers as a common route forward. Swale 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 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.

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.

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.