

**PLANNING COMMITTEE – 26 NOVEMBER 2015**

**PART 3**

Report of the Head of Planning

**PART 3**

Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 15/506323/FULL</b>			
<b>APPLICATION PROPOSAL</b> Proposed groundhouse			
<b>ADDRESS</b> Flynns Bee Farm Elmley Road Minster-on-sea Kent ME12 3SS			
<b>RECOMMENDATION - REFUSE</b>			
<b>SUMMARY OF REASONS FOR REFUSAL</b> The site is located in the designated countryside and is not considered to represent an exception to Local and National policies of rural restraint. The proposal is therefore considered to be unsustainable and harmful to the character, appearance and wider amenity value of the countryside.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Application called in by Councillor Tina Booth and Councillor June Garrad			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster	<b>COUNCIL</b>	<b>APPLICANT</b> Mrs Heidi Pavlou
<b>DECISION DUE DATE</b> 16/10/15	<b>PUBLICITY EXPIRY DATE</b> 17/11/15		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
SW/80/1004 (Double J Farm)	Erection of agricultural dwelling	Refused	10.12.1980
SW/81/0195 (Land at Elmley Road)	Outline application for erection of a dwelling	Refused (and dismissed at Appeal)	05.05.1981
SW/90/0012 (Double J Farm)	Erection of bungalow	Approved	27.02.1990
SW/94/1011 (Site of Elm House)	Erection of one bungalow	Approved	05.01.1995

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site is an undeveloped open field located to the south of Flynns Bee Farm. The land is rectangular in shape and measures 40m x 210m and is largely flat with little difference in levels across the site.
- 1.02 There is an entrance gate located to the west of the site to provide access from Elmley Road.
- 1.03 A line of saplings have been planted long the northern boundary of the site and a vegetable patch has also been planted in the western part of the site.
- 1.04 There is development along Elmley Road which is largely concentrated towards the northern end. The road has a rural character and the site itself and its surroundings, especially to the south, east and west is characterised by open countryside.

### 2.0 PROPOSAL

- 2.01 This application seeks planning permission for a single storey dwelling to be located towards the centre of the site.
- 2.02 The dwelling would measure 23.53m in width and 6.74m in depth. A soil bund 2m in height would surround the property on three sides and would include two water tanks. A tyre wall would be constructed between the soil bund and the internal wall of the property. The front of the property would feature a large amount of glazing with timber framed folding doors. The property would have a shallow pitched roof, measuring 2.8m to the eaves at the highest point and 2.4m to the eaves at the lowest point. At the highest point the dwelling will measure 3.3m and 2.9m at its lowest point. Solar panels will be located on the roof of the property with solar thermal tiles. Due to the design of the property, which is based upon a similarly designed dwelling in Brittany, France, the applicant refers to the proposal as a 'Groundhouse'.
- 2.03 There is no dedicated parking spaces indicated on the plans but the application form states that *'there is enough space for many vehicles of most sizes'*.
- 2.04 Internally the property will provide 5 bedrooms, a lounge, kitchen and guest hub area, bathroom, shower room, study, pantry, utility room and shower room.
- 2.05 The supporting statement from the applicant states that the front third of the land will have a community clay oven and a vegetable plot (which is already in situ) with the aim of supporting open days and community events. I have also had further correspondence during the course of this application where the applicant has confirmed that they wish to establish a separate small holding for bee colonies.
- 2.06 The supporting statement also refers to the Bee Breeding Programme which the nearby Flynns Bee Farm is part of. The statement refers to the necessity to be on the site to provide assistance as the business has grown and that bee colonies can not be extended in built up areas.

### 3.0 PLANNING CONSTRAINTS

3.01 None Relevant

### 4.0 POLICY AND OTHER CONSIDERATIONS

#### National Planning Policy Framework

4.01 The NPPF states at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Further to this, paragraph 17 states that we need to take account of the different roles and characters of different areas, and recognise the intrinsic character and beauty of the countryside. It also states that planning should *“contribute to conserving and enhancing the natural environment and reducing pollution,”* and *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.”*

4.02 Also of key importance is paragraph 55 which is reproduced in whole as follows:

*“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*

*For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling.*

*Such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area.”*

#### Planning Policy Statement (PPS) 7, Annexe A

4.03 PPS7, Annexe A deals with agricultural, forestry and other occupational dwellings and goes into further detail than that set out above in the NPPF. Although PPS7 was superseded by the NPPF, the NPPF is silent on matters relating to agricultural dwellings in the countryside. It is an accepted approach that the annex to PPS7 is the best means of assessing such applications.

- 4.04 Paragraph 1 states that *“One of the few circumstances in which isolated residential development may be justified [in the countryside] is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work.”* Further to this, paragraph 3 goes on to state that *“New permanent dwellings should only be allowed to support existing agricultural activities on well established units.”*
- 4.05 Paragraph 8 clearly states that a financial test is required show that the farming enterprise is economically viable which would justify the need for new permanent accommodation. A financial test is also required to provide evidence of the size of the dwelling which can be sustained.
- 4.06 In this case I note that the application refers to a new smallholding, and in these circumstances paragraph 12 states that *“If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:*
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);*
  - (ii) functional need (see paragraph 4 of this Annex);*
  - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;*
  - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and*
  - (v) other normal planning requirements, e.g. on siting and access, are satisfied.*
- 4.07 Further to the above Paragraph 13 states that *“If permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraph 3 above are met.”* Paragraph 3 relates to the requirement for an existing functional need, that the need relates to a full time agricultural worker, the activity is financially sound and has the prospect of remaining so, that there is no existing accommodation in the area and the proposal would satisfy all other requirements, such as impact upon the countryside.

#### Swale Borough Local Plan 2008

- 4.08 Policy SH1 of the Local Plan states that development proposals will be supported in accordance with the defined settlement hierarchy of the Borough. Settlements within the countryside fall within the sixth group of six which is the area of least importance in the hierarchy. In regard to this sixth group the preamble to SH1, at paragraph 2.111, states that *“all remaining settlements, for which built-up area boundaries have not been defined, are not regarded as suitable for any development, except in the exceptional circumstances indicated by policy E6.”*
- 4.09 Further to this, policies H2 and RC3 state that permission for new residential development will be granted for sites allocated as such on the Proposals Map, or lying within the defined built up area boundaries – this site falls into neither category. They continue on to state that, outside of these areas, residential development will only be permitted where it is wholly intended to meet an identified local need or agricultural dwellings, in accordance with the Council’s other established policies.

- 4.10 Further to the above, policy H2 states that *“in designing new residential development the objective should be to create more sustainable forms of development.”*
- 4.11 E6 of the Local Plan aims to protect the quality, character and amenity value of the wider countryside, and stipulates that development proposals should not be permitted unless (amongst others) they are shown to be necessary for the purposes of agriculture; residential development to meet an identified local need or the extension of an existing dwelling.

The Emerging Local Plan – “Bearing Fruits 2031” – The Swale Borough Local Plan Part 1

- 4.12 The emerging Local Plan has not yet been formally adopted. However – it has been submitted to the Secretary of State for consideration and the Examination in Public will have commenced by the time of this Meeting. It can therefore be afforded weight in the decision making process.
- 4.13 Policy CP3 requires, amongst other things, development to be of a high quality design.
- 4.14 Policy ST3 takes a similar line to SH1 of the adopted Local Plan in directing new development to the identified towns and service centres and away from locations outside the built up area boundary, which is where this proposal would fall.
- 4.15 Policy DM12 of the emerging plan relates to the provision of dwellings for rural workers. It amounts to a restating of the requirements of annex A to PPS7, as set out above, and states that proposals for new, permanent rural worker dwellings in the countryside will be granted, subject to::
1. There being a clearly established, existing, essential need for the proper functioning of the enterprise for a full-time worker to be readily available at most times;
  2. There being no suitable existing dwelling available nearby or in a nearby settlement;
  3. The location, scale and design of the dwelling maintaining or enhancing landscape and countryside character; and
  4. The siting of the dwelling should, firstly, explore whether there are suitable buildings available for conversion at the enterprise, or secondly, in the case of a demonstrated need for a new building, that it is located as close as possible to existing buildings on previously developed land at the enterprise, or if this is not possible, within the immediate locality on an acceptable site.
- 4.16 In addition, the supporting text to Policy DM12 sets out that *“In cases where a dwelling is considered by the Council to be essential to support an enterprise, it will normally be appropriate for permission to be initially granted for a caravan or temporary structure for a limited time period, usually for a minimum period of three years, whether on a newly created rural business or on an established one thus enabling the situation to be reviewed over time.”*
- 4.17 Policy DM19 requires development proposals to include measures to address and adapt to climate change, and requires, amongst other things, the use of sustainable construction techniques, waste recycling.

## 5.0 LOCAL REPRESENTATIONS

5.01 The application has been advertised through the display of a site notice, and notification letters have been sent to the occupiers and owners of neighbouring properties.

5.02 I have received 7 letters of objection from local residents who raise the following summarised points;

- The Council failed to advertise the application correctly;
- Elmley Road is a single access road, unmade and a no through road, another residence will add to the overcrowding of the road;
- The road is maintained at the cost of the residents;
- If the road was improved then it would ruin the existing feel and aspect of the road;
- Access to the site is via a gate which does not have planning permission and is inadequate for larger vehicles;
- The road has experienced considerable flooding;
- The proposal would be visible from all directions;
- Insufficient details have been provided regarding foul sewerage, surface water, drainage and electricity supply;
- The plans submitted are inadequate;
- Car parking will be a problem when the site is flooded;
- The business element is a 'smoke screen' devised to make the Council view this application seriously;
- *'The residents of Elmley Road do not need somewhere to get together'*;
- Other residential proposals have been refused in this area in the past and this one should be no different;
- The public bridle path already gives access to walkers;
- There are Long Eared Owls along the hedgerow of Elmley Road in the vicinity of the plot;
- If additional residential accommodation is required for Flynns Bee Farm it should be contained within that site;
- Further development would be excessive to a small hamlet;
- The Bee Farm has been run very successfully by a husband and wife team;
- Would there be a risk to neighbours from bee stings if the bee breeding programme goes ahead?
- Trees or hedges have already been removed and access created;
- Is the hamlet of Brambledown to become an estate for these homes?
- The site is not suited to a change of use to residential;
- Existing groundhouse projects in Brittany and Brighton attracts thousands of visitors a year which would be detrimental to the residents and wildlife in Brambledown

5.03 In response to the points made above the applicant has raised the following points:

- *"After reading all of the residents concerns about making the unadopted road suffer from ware and tare [sic] , and the lack of support for any rural business that is likely to bring excess traffic that may disturb their peace - I state yet again that, I will improve the road between Flynns and Groundhouse Site at the beginning of development, and pay my share to the section that we all cross. The main source of business as a new development will be the trading of hive products, which will not increase the flow of traffic to the site any more than what*

*it will be if we do not reside here, in fact it will mean less as I wont have to return to another address after farming in the evenings.*

- *“With regards to the Groundhouse open days I am willing to agree that I will only open my house a couple of times a year to the general public, and it will be pre book only to make sure that numbers can be managed. Any of the customers or educational visits to Flynns Bee Farms existing set up will be welcome as agreed with the Directors from time to time through the farm on tours, NOT to drive down.*
- *As an individual who feels blessed, I also want to be able to encourage small local groups who have not been as fortunate, for health reasons, poverty, or those without access to outdoor space to love nature and make sustainable choices, by sharing the front part of my land for gardening and wildlife activities.*
- *The Earthship Brighton is NOT a home, it is in the middle of a public park, its sole aim is to educate, inspire, host group meetings tours and events. The Groundhouse uses a lot of the same principals in the way that it is built, nothing more. Although it would be very good for Sheppey I do not intend bringing 30,000 visitors here! Mr Kalviac was just demonstrating that more and more people are interested in the work of the Carbon trust and sustainability, and the Groundhouse is a positive environmental step forward.*
- *My Late Grandfather dedicated his life to Bees and was responsible for reviving Propolis in Britain and the many natural health benefits that people who take it as a supplement say it brings, the British Bee is in decline, more needs doing, and I am willing to change my life, my families life and invest a lot of money to try and help to do this, it all rides on my being able to reside here.”*

5.04 I have also received 9 letters of support in relation to the application but note that 4 of these are from family members and of these 4, 2 are from the same person. I summarise the comments as follows:

- The owners have dramatically added to what used to be just a muddy field, adding vegetable patches, solar heated water and large tree stumps that are to be transferred into a seating area;
- The applicant is passionate about the environment and has already spent thousands of pounds planting trees and shrubs, she has also dug a drainage ditch;
- The applicant has replaced the temporary fence with a brand new gate;
- Any traffic created would be minimal in comparison to the kennels which operated at Poors Farm;
- The applicants intentions to breed more bees and grow suitable shrubs would be an asset for us all;
- The groundhouse will benefit the area provide educational opportunities and raise awareness;
- The design is inspirational because it shows how we can live in fully modern buildings with an extremely low impact on the environment and teach us how to live in closer harmony with nature;
- The proposal will be – *“a boon to your local economy, a wonderful educational hotspot for schools in the area, an example of safe upcycling of waste, an example of self-sufficient modern architecture and an inspiration to all who visit and learn of it.”*
- It is important that sustainable low impact design like this happen in the UK;

- The applicants are making a genuine attempt to build an exceptionally low impact and sustainable home that will benefit not just their family but many others.
- The dwelling would have a positive impact upon all aspects of wildlife and conservation.
- *“This is no speculative Planning Application but a considered approach to maintaining a sustainable and environmentally sound business.”*
- The house itself coupled with bee keeping demonstrations and activities could inspire visitors and local people including schools to investigate and develop other sustainable and eco-friendly ways of existing alongside nature.

## 6.0 CONSULTATIONS

6.01 Minster Parish Council *“supports the design of the building in principle, it must object due to its primary concerns that (i) the consultation is flawed with neighbouring residents alleging that not all the interested parties have been consulted (if proved to be accurate, this goes against the democratic process), (ii) the location which among other issues extends the building line which could set a precedent in the rural area and (iii) the impact on residential amenities particularly related to access on and off Elmley Road where the single unadopted road which is prone to flooding would see additional traffic movement.”*

6.02 Natural England responded as follows:

*“Natural England’s understanding is that some of the NKEPG local authorities consider it may be inefficient to seek contributions for strategic mitigation from applications for 10 or fewer dwellings. Whilst it must be recognised that all new dwellings within the zone act in-combination with one another to contribute to the impact, we consider it is a matter for a local authority to consider how the mitigation should be funded by the development tariff, provided that the overall sum required is collected, i.e. the mitigation can be fully funded. Our advice is that the overall mitigation required, and thus the tariff income, should be assessed in terms of the overall quantum of housing being delivered within the plan period. From this calculation, it can be judged what level of tariff should be set for housing developments. Excluding 10 or fewer dwelling applications would however mean that developments above this size threshold would need to cover the cost of the excluded dwellings. Natural England’s understanding is that some of the NKEPG local authorities consider it may be inefficient to seek contributions for strategic mitigation from applications for 10 or fewer dwellings.*

*However, a difficulty arises if there is no clear link between a development and the mitigation required to avoid a likely significant effect. This would be the case if no contribution is made for a dwelling which would, without mitigation, have an effect on the north Kent European sites, and there is no specific local authority policy which sets out how the overall required mitigation income will be collected. An absence of such an approach would not provide the certainty required by the Habitats Regulations, and our advice would therefore be that the local authority could not conclude that the proposed development would not have a likely significant effect. Given this, Natural England advises that until such a policy is in place, it will be necessary for the tariff contribution to be collected from all new housing applications by a suitable mechanism.”*

6.03 Rural Planning Consultant – advises that *“with no evidence of a separate, established viable agricultural business at the application site, and with no clear*



*submitted Business Plan or Planning Statement, I do not consider any demonstrable case has been made out that the proposed dwelling would be meeting an essential, proven need for an additional rural worker's dwelling in this location, or that the occupation of the proposed dwelling would comply with the usual form of occupancy condition that would be applied in such cases."*

Further to the above comments I received additional information from the applicant regarding the requirement for the dwelling. I have sent this onto the Council's Rural Planning Consultant and have received the following response:

*"The applicant only included a few basic figures on page 3 of her submissions such as the costs of a hive and a bee colony, and the value of honey that a hive can produce. There is no proper Business Plan indicating exactly what the new (separate) business would comprise in terms of its scale and nature, how it would be operated, what unsatisfied market it would be supplying, what total investment in buildings/equipment would be needed, or what annual costs and returns would be involved. There is nothing to indicate that a new independent rural business would be established with sufficient net income to support a full-time worker and warrant that person being resident on site at most times, day or night. Indeed, as previously mentioned, the applicant operates another non-agricultural business at Sheerness so it questionable whether she could fulfil any agricultural occupancy condition.*

*But in any event, as I indicated before, even if there were a cogent Business Plan that suggested a possible future case for a full-time resident worker, invariably a Council will require the venture to be well-established as a demonstrably viable unit before any permanent new dwelling were to be considered. I cannot think of any other case where a permanent new rural worker's dwelling has been allowed on a small bare-land site such as this before any viable business has been established, the most that might be considered being some form of temporary accommodation until the business could be established, and only if it were accepted that the business essentially needed a full-time worker resident on site.*

*In summary, with regard to the usual Planning Policy approach to permanent new rural worker's dwellings (including the principles outlined in policy DM12 of the emerging Local Plan regarding rural workers' dwellings) I cannot see that the current application has any reasonable prospect of success, at least on agricultural grounds, and consequently in my view it would be putting the applicant to unnecessary trouble and work to ask for further financial estimates (as she suggests she might offer), or indeed a full Business Plan."*

## **7.0 APPLICANTS SUPPORTING COMMENTS**

7.01 A Supporting Statement has been submitted with the application in which the applicant sets out the following summarised details:

- *"We will be the first people in this part of the UK to live in such a building, although I hasten to add planning permission has been granted for a whole village of them to be built in Brighton"*
- *"The front third of the land will have a community clay oven and a veg plot (already in situ) with the aim of supporting plot to plate open days. And many other community events."*
- *[The land] "was given to me in the hope that I could be on hand to help as the business [Flynn's Bee Farm Ltd.] has grown and more help is now needed with the ever important bees";*

- *“The dwelling that we have chosen is also very sympathetic to the location and will actually benefit this part of land with habitats for several species gained not lost.”;*
- The design of the property will be based upon Groundhouse Brittany which has featured on Channel 4’s Grand Designs;
- *“There is an overriding need, for our presence here as, if we tried to extend bee colonies on brownfield sites or in a built up area it would ever so likely cause a pest to [the] public in these built up places and there has been several cases where people have been sued for stings and it has cost the British Bee keepers association thousands in legal battles, so it is best that swarms are dealt with, within the hour to keep bees on the farm where they belong.”*
- *“Both my sister and her husband have physical conditions at the moment and my help is needed, evening, mornings, weekends and anytime I am not at the other business or caring for my family so site location especially for nights is imperative.”*

## **8.0 BACKGROUND PAPERS AND PLANS**

- 8.01 Application papers and correspondence relating to planning reference 15/506323/FULL.

## **9.0 APPRAISAL**

In my view the key considerations in the determination of this application are as follows:

- Principle of Development;
- Impact upon the character of the countryside and visual amenities;
- Impact upon residential amenities;
- Impact upon SPA and Ramsar sites.

### **Principle of Development**

- 9.01 The application site is outside of any defined built up area boundary, and therefore is considered to lie within the countryside.
- 9.02 The Council's established (and emerging, as above) policies of rural restraint seek to restrict new residential development within the countryside unless it is for certain specific purposes, such as meeting an identified local affordable housing need, or providing dwellings for agricultural workers or gypsies / travellers.
- 9.03 The applicant makes the case that planning permission should be granted on a number of grounds – firstly that the development is necessary to support the existing business at Flynns Bee Farm, secondly that the development is necessary for the running of a separate smallholding, and thirdly that the development would be so environmentally friendly and of such an innovative design that it should be acceptable in and of itself. I address these below, together with other matters.

Necessary for the running of a separate smallholding

- 9.04 As set out above, the Council's Policy in respect of agricultural dwellings and the contents of annex A to PPS7 are clear. Planning permission should only be granted for new permanent dwellings to support *existing* smallholdings. Permission should not be granted unless it can be demonstrated that there is an *existing* functional need for an agricultural worker, that such a worker would be employed full time, or primarily employed in agriculture, that the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.
- 9.05 The proposed smallholding does not yet exist and the information provided is, in the opinion of the Council's Agricultural Consultant, insufficient to demonstrate that the proposal is planned on a sound financial basis. The applicant advises that she runs a (non-agricultural) business elsewhere on the Isle of Sheppey, and as such would not be employed full time, or primarily employed in agriculture.
- 9.06 Annex A to PPS7 specifically states that *"it is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings."* In my view, this is a speculative proposal. Insufficient information has been provided to demonstrate a sound financial basis for the suggested smallholding.
- 9.07 In addition, both the supporting text to Policy DM12 and Annex A to PPS7 are clear that evidence relating to the size of the dwelling that the smallholding can sustain. In other words, dwellings should be commensurate with both the size and financial viability of the smallholding.
- 9.08 In this instance, the proposed dwelling would have five bedrooms, two bathrooms, a walk-in pantry, study and a "guest hub". The dwelling would have a footprint in excess of 150 square metres. The total area of land to support the new smallholding would be two acres, and according to the Agricultural Consultant, *"there is no proper Business Plan indicating exactly what the new (separate) business would comprise of in terms of its scale and nature, how it would be operated, what unsatisfied market it would be supplying, what total investment in buildings and equipment would be needed, or what annual costs and returns would be involved. There is nothing to indicate that a new independent rural business would be established with sufficient net income to support a full-time worker and warrant that person being resident on site at most times, day or night."* Thus, there is no evidence suggesting that the smallholding would be capable of supporting a dwelling of this size, or indeed amount to a going concern.
- 9.09 The applicant looks to make the case that there is an overriding need for her and her family to live on the site on the basis that bee colonies on brownfield sites and in built up areas amount to a pest to the public, and that there have been several cases where beekeepers have been sued, so it is best that swarms are dealt with swiftly. Notwithstanding that no evidence of such legal action has been provided, that (the applicant says) beekeeping is not suited to urban or suburban areas or brownfield sites is not justification for the grant of permission for a dwelling – this is not the key issue. The key issue is whether a dwelling to support a smallholding, on the basis proposed by the applicant, is acceptable in planning terms. That bees may not be best suited to other areas is not at all relevant when considering whether it is appropriate to grant permanent planning permission for a new dwelling here.

- 9.10 Given the above, it is clear that there is no policy support for this proposal on the basis that it would be necessary for the running of a separate smallholding. The development is wholly unacceptable on this basis, and it does not amount to justification for the grant of planning permission.

Necessary to support Flynn's Bee Farm

- 9.11 Reference is made in the supporting information to the proposal supporting the existing holding at Flynn's Bee Farm. This is required, according to the applicant, to help with the growth of the neighbouring business at Flynn's Bee Farm, which is part of the National Bee Breeding programme. The applicant states that the site subject to this planning application has been handed over so that she can be on hand to help as the existing business at Flynn's Bee Farm has grown and additional help is needed to care for the bees. Further to this there is a short comment stating that the applicant's sister and husband have physical conditions and therefore the applicant's assistance is required. However, no further details have been provided in regards to this.
- 9.12 Some limited financial information has been provided. The applicant has submitted financial details which appear to relate to additional shop sales at Flynn's Bee Farm and tours in conjunction with the proposed dwelling. It has been estimated that an additional £2,000 would be gained over the course of a year which is attributed to the presence of the proposed dwelling. This is not sufficient to amount to financial justification for the proposal, nor is it compelling justification relating to the need for an additional dwelling to serve that holding. In addition, it does not amount to sufficient income to warrant either the approval of a new, permanent dwelling (see my consideration of this above) or the approval of a temporary permission for a caravan.
- 9.13 It is also insufficient to demonstrate a *need* for a further dwelling. It is notable that the Directors of Flynn's Bee Farm, together with the occupier of Flynn's Bee Farm (all relatives of the applicant) have written in support of the application, but none of them have made the case that a further dwelling here is required in order to support that holding.
- 9.14 The Agricultural Consultant has considered the necessity of an additional dwelling to support Flynn's Bee Farm, and notes that it is its own enterprise with its own dwelling, thus the need for a permanent presence on site is already addressed.
- 9.15 No information has been submitted to demonstrate that an *additional* dwelling is required in order to support that holding, and on the basis that no evidence has been submitted setting out that there is a functional need for a further agricultural worker/s to reside at the site, then no case has been made on this basis either.
- 9.16 In any case, even if such a case had been made, it is unlikely that a dwelling of the scale proposed would be considered reasonable or appropriate, having regard to the considerations set out in paragraph 9.08 above.

Innovative design and environmental credentials

9.17 As set out above, the NPPF provides firm advice that isolated new dwellings in the countryside should not be approved, unless in exceptional circumstances. One example given of an exceptional circumstance is *“the exceptional quality or innovative nature of the design of the dwelling”*. This exception to the normal policy of rural restraint stems from similar clauses within the predecessors to the NPPF (in respect of the countryside) – PPG7 and PPS7. Known in planning circles as “Gummer’s Law”, after the Secretary of State for the Environment who had it included in PPG7, it sought to allow the continuation of the “country house” tradition which was perceived to have been stifled by successive planning legislation since 1947. Between 1997 and the present day, very few dwellings have been approved nationally as a result of this policy, with those that have reflecting the highest standards of architecture and innovation in design.

9.18 A number of criteria are given in the NPPF in relation to this matter and it is in my view sensible to consider the proposal against them. Members should be very clear that I am assessing the architectural merits of the scheme and not its environmental credentials.

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*

The proposed dwelling cannot in my view be considered to be “truly outstanding” in terms of its design. It would feature a slack, mono-pitch roof, and have one large glazed elevation with timber folding doors. It would be enclosed on three sides by a bund and wall of tyres. This proposal cannot in my opinion be said to raise the standards of design in rural areas. The design of the dwelling is almost wholly functional, in that it is based on minimising the environmental impact of the dwelling. This is of course laudable, and is considered in depth below, but in terms of the visual qualities of the proposal, it is not in my view an exemplar of truly outstanding or innovative design. In terms of innovation, the applicant advises that the design of the proposed dwelling is based upon a similar dwelling constructed in Brittany, France, and reference is made to a number of similar dwellings having been approved in Brighton (I consider this below). As such, I do not consider the design to be particularly innovative, given that it is based very closely on designs from elsewhere.

- *reflect the highest standards in architecture*

As per my comments above, the proposed dwelling does not reflect the highest standards of architecture.

- *significantly enhance its immediate setting;*

The erection of a largely flat roofed dwelling, surrounded by a bund, would not in my view enhance the setting of the site. For the reasons set out above, it would not amount to good design in visual terms, and would appear obtrusive.

- *be sensitive to the defining characteristics of the local area.*

It is difficult to define the characteristics of the local area. Brambledown comprises a number of dwellings of different styles and designs, although they are almost uniformly traditional in form. The proposed dwelling does not seek to reflect this, nor is it arguably sensitive to it. On the other hand, one could argue

that, given the comparatively flat landscape, predominantly to the south of the site, a single storey flat roofed dwelling would be sensibly designed, minimising its impact on the landscape.

- 9.19 This is not to say though that the design would ordinarily be unacceptable. It is simply that, for isolated new dwellings in the countryside, the bar is set extremely high. Given the above, I am firmly of the view that the proposed dwelling is not of a sufficiently high standard of architecture nor sufficiently innovative to justify approval on these terms.
- 9.20 The site lies in an inherently unsustainable location – isolated from shops and services, with poor public transport links, all trips to and from the site are likely to be made by the private car. Pedestrian links from the site to the larger settlement of Minster are precarious, with no pedestrian footway along the Lower Road to the west, and a pedestrian footway only starting some distance to the east of the site. Members may recall that the gypsy/traveller sites in nearby Greyhound Road were considered unsuitable for permanent permissions in light of this unsustainable location.
- 9.21 The applicant advises that the design and specification for the proposed dwelling is based on the “groundhouse” – an environmentally friendly dwelling design, apparently pioneered in Brittany, France, and subsequently approved and built elsewhere in the UK, including the approval of 16 units on a site in Brighton. Information has been provided setting out in broad terms what is proposed and how it would enable a reduction in consumption of energy etc, which I summarise as follows:
- Use of as many recycled and eco friendly materials as possible;
  - The bund will act as an insulator as will the tyre wall, to maximise the efficiency of its own heat storing and cooling capacity;
  - Tri-fold patio doors from front elevation to ground to absorb sunlight that helps aid the heating and cooling of the dwelling;
  - Skylight hubs in back section of the house;
  - The plans show water tanks embedded in the proposed bund. It is unclear whether this amounts to greywater recycling or other reuse of water (surface water harvesting for example).
  - Two banks of solar panels are proposed to sit on the roof of the dwelling, together with solar thermal tiles;
  - The section through the proposed building states that there will be underfloor piping, but is not clear what precisely this is for.
- 9.22 No further details have been submitted. In particular, no details as to whether the dwelling would be carbon neutral, nor any other detailed information relating to its thermal performance, the likely consumption of energy, any CO2 offsetting (it is notable that the applicant has carried out some planting at the site) have been provided.
- 9.23 The design of the dwelling is seemingly predicated on the basis of making it as environmentally friendly as possible. This is, in my view, to be commended and encouraged, and the means of doing so, including the use of recycled materials, old tyres etc is inventive. The proposal on the face of it is seeking to comply with Policy DM19 of the emerging Local Plan. However - in my view, the case for approving the proposed dwelling on the basis of its environmental credentials has not been made. Whilst I accept, and it is evident from the information provided, that the dwelling is

intended to be insulated to an above average degree, and to rely on solar energy to an extent, together with other such details, this has not been properly set out in the application particulars. In any case, there is nothing inherent in the design of the dwelling which essentially demands a countryside location. A dwelling of this design is quite capable of being constructed in the built up area, in a sustainable location. Regardless of the sustainability credentials of the proposed dwelling (noting that these have not been made explicit, but have simply been alluded to in the application particulars) the erection of a new dwelling in this location is in itself inherently unsustainable. In my view, Members should give very limited weight to the sustainability of the design of the dwelling.

#### Other matters relating to the principle of the development

- 9.24 As Members will be aware, the Council is unable to demonstrate a five year supply of housing land. As such, the NPPF sets out that locational policies for new residential development in the adopted Local Plan are to be considered out of date. However – the NPPF also advises that, in the absence of a five year supply, sites must be assessed on a case by case basis as to whether they are acceptable, having regard to, amongst other things, their sustainability. As I have set out above, this site lies in an unsustainable location. Given this, I do not consider that, leaving aside the issues in relation to need for an agricultural dwelling, the design of the dwelling and its sustainability in terms of energy/water consumption, the erection of a dwelling here is acceptable as a matter of principle.
- 9.25 In any instance current policy still retains the aim of protecting the character and amenity of the countryside, a point which is expanded upon below. However I consider the area in general to have a very rural character. As such, in overall terms I do not believe that the proposal would provide a development which would meet any of the exception criteria as contained within policies E6, H2 or RC3, as stated within the NPPF, within Annexe A of PPS7 or within Policy D12 of the emerging plan.
- 9.26 Reference is made in the supporting information to the approval of 16 such dwellings in Brighton. I have assessed the details of that application, and it is evident that that site lies within the built up area, and at the time of the approval of the application was allocated for residential development in the relevant Local Plan. As such, that scheme is materially different to this proposal – the development of that site was acceptable as a matter of principle.

#### Conclusion regarding the principle of the proposed development

- 9.27 I have considered in detail whether a new dwelling here is acceptable as a matter of principle. I conclude that an acceptable case for the approval of a dwelling to support a new agricultural enterprise has not been made. In any case, in accordance with the emerging Local Plan and Annex A to PPS7, temporary permission for a temporary dwelling is the starting point (assuming that a case can be made that a presence on site is necessary and that it is demonstrated that the enterprise is capable of providing sufficient income to sustain a dwelling, neither of which have been satisfactorily addressed under this application.)
- 9.28 Equally, insufficient evidence has been provided to demonstrate that a further agricultural dwelling is required to service the existing holding at Flynn's Bee Farm. The occupiers of that site have not referred to such a need, and the financial information provided does not demonstrate that the holding can support two dwellings. Finally, the scale and design of the dwelling is such that it is unlikely to be

commensurate with the needs of the enterprise. However – again, no details in relation to this have been provided.

- 9.29 The site lies in an unsustainable location, where new dwellings would not normally be approved, even taking into account that the Council cannot demonstrate a five year supply of housing land.
- 9.30 The proposed dwelling does not meet the tests relating to the approval of new dwellings in the countryside, in terms of exceptional or innovative design quality.
- 9.31 The case is made by the applicants that the proposed dwelling would be of significant environmental credentials such that it should be treated as an exception. However – substantive information in this regard is lacking from the application particulars. Broad details have been provided, but these do not in my opinion amount to compelling justification to grant permission for this dwelling, contrary to established planning policy. If such information *had* been submitted, I still consider it unlikely that I would recommend approval for the proposal, bearing in mind that it would be contrary, as a matter of principle, to Policies SH1, E1, E6, H2 and RC3 of the adopted Local Plan, to the provisions of the NPPF in relation to sustainable development and residential development in the countryside, to annex A of PPS7 and to emerging Local Plan Policies ST3 and DM12. Simply because a dwelling may be environmentally friendly is not sufficient reason to grant planning permission for an otherwise unacceptable scheme. Such dwellings can be constructed within the built up area (in Brighton for example, where permission was granted for 16 such dwellings). There is nothing inherent in the design or specific requirements of the dwelling which essentially demands a countryside location.
- 9.32 I am firmly of the view that the proposed dwelling is unacceptable as a matter of principle.

#### **Character of the countryside and visual amenities**

- 9.33 The existing site and the land to the south, east and west, is predominately undeveloped and continues in this fashion for almost 4km until the land meets the Swale. I am of the firm opinion that the character of the site and the surrounding land is distinctly rural . The introduction of a further dwelling in this location would in my view cause harm to the existing character of the countryside. Therefore, although I believe that the design of the property has been carefully considered I am of the view that the introduction of built form into this landscape would have an unacceptable impact upon the character of the countryside and on visual amenity.

#### **Residential Amenity**

- 9.34 The nearest dwelling to the site is Elm House and Iris Cottage, located some 260m and 280m respectively away from the location of the proposed ground house. Due to this I do not consider that the proposal would have an unacceptable impact upon residential amenities.

#### **Impact upon SPA and Ramsar sites**

- 9.35 As stated above, Natural England have suggested that developer contributions are required for off site mitigation of the impacts of new residential developments on the nearby SPA and Ramsar sites. However, as set out in the Habitat Regulations Assessment below, that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10



dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

### **Other Matters**

- 9.36 This application has created some interest from neighbours and I have also received some correspondence from interested parties who have been involved with similar dwellings in this country and abroad, as discussed above. I respond to the comments received as follows.
- 9.37 A number of the objection letters raised the issue that the Council had not notified neighbours of the application. Although only one property was initially consulted I note that subsequent to this all surrounding properties received a consultation letter giving the owner / occupier of the properties the required 21 days in which to view the application and comment. I also posted a site notice near to the site advertising the application which also allowed for the full 21 day consultation period. As such I take the view that the Council has fulfilled its statutory duty to consult neighbours and has advertised the application accordingly.
- 9.38 I also note that a number of comments have been submitted regarding Elmley Road, the poor state of the surface and its inability to handle additional vehicle movements. A response has been received from the applicant regarding this and it has been stated that they will maintain the section of the road outside of the property. However, Elmley Road is unadopted and as such the maintenance of this road and matters regarding it would not be a material planning consideration. As such I am of the view that issues regarding this section of the road require no further comment.
- 9.39 A point also raised by the neighbouring objections related to the amount of visitors the proposal would bring and the business element of the application. The supporting documents and further comments from the applicant raise the issue regarding the tourist capabilities of the site. In addition to this I note that the applicant has stated that they will only open the house twice a year to the general public. The elements of the application that relate to business use appear to be split between the existing operation at Flynns Bee Farm, the attraction that the dwelling itself would create and the smallholding on the application site. I note that the applicant has stated that they would limit any open days. However – this would be extremely difficult to deal with via planning conditions. For example, a condition could state that the dwelling be open to the public, but this could not *require* it to be open to be the public. There would be nothing in such a condition which would compel the occupiers of the dwelling to make it so. In addition, access and parking arrangements at the dwelling would need to be able to accommodate visitors. No such details have been submitted, and it is not clear to me that the site would be capable of accommodating parking for visiting vehicles. Finally in this regard, the provision of such a parking area may harm the visual amenities of the area.
- 9.40 A number of other points, such as those relating to the potential for bee stings are not material planning considerations. I also note the reference made to existing wildlife but this would be dealt with under separate legislation, outside of the scope of planning matters in this case.
- 9.41 A number of letters of support have also been received from interested parties and the owners of Flynns Bee Farm. The letters relate in the main to the low impact and innovative design of the proposed dwelling and reiterate the points made in the

applicants supporting statement regarding the need for the applicant to live on the site. Issues regarding the design of the dwelling and its sustainability have been dealt with above.

## **10.0 CONCLUSION**

10.01 In overall terms, although I consider that the applicants have put forward a proposal which evidently incorporates sustainable construction techniques I do not believe that the location of the proposal, in the designated countryside and isolated from local services, shops and public transport is sustainable. In addition to this, I take the view, based upon the assessment carried out above that the application does not satisfy the requirements of either local and national planning policies in order to be considered as an exception for an isolated new dwelling in the countryside. Further to this, I have taken into account the distinctly rural nature of the site and its surroundings, the character of which would in my view be significantly harmed by the introduction of a dwelling into this location. I recommend that planning permission be refused.

## **11.0 RECOMMENDATION – REFUSE for the following reasons:**

- 1) The development site lies outside of the built up area of any settlement, as defined by the Swale Borough Local Plan adopted 2008, where policies of rural restraint state that development will not be permitted unless it is justifiably necessary for the purposes of agriculture, forestry or fishery; essentially demands a rural location; or is intended to wholly meet the identified needs of the local community, and within a location that is considered to be unsustainable due to its remoteness from any shops, services, or wider public transport links. The proposal would introduce an unsustainable, unjustified, and unnecessary residential development into the countryside in a manner harmful to its character, appearance and wider amenity value. The proposal is therefore contrary to policies E1, E6, RC3 and H2 of the Swale Borough Local Plan 2008; to the wider aim of achieving sustainable development as set out in the National Planning Policy Framework, to paragraph 55 of the National Planning Policy Framework in particular, and to Policies ST3 and DM12 of “Bearing Fruits 2031” – The Swale Borough Local Plan part 1 .

## **Habitats Regulations Assessment**

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 3.9km north of The Swale Special Protection Area (SPA) and Ramsar site and 3.8km east of Medway Estuary and Marshes 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).

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. 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.

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 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 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.

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.

**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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict.

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.