

2.5 REFERENCE NO - 15/506115/FULL			
APPLICATION PROPOSAL One new 4 bedroom detached dwelling to replace existing 3 bedroom dwelling			
ADDRESS The Chimes Beach Approach Warden Kent ME12 4NJ			
RECOMMENDATION - Approve			
SUMMARY OF REASONS FOR RECOMMENDATION The site is within the built up area boundary where the principle of residential development is accepted and would in my view not give rise to serious concerns regarding visual or residential amenities or cause unacceptable harm to the streetscene.			
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Nissanga			
WARD Warden	Leysdown &	PARISH/TOWN Warden	COUNCIL APPLICANT Mr N Armstrong AGENT Oakwell Design Ltd
DECISION DUE DATE 02/10/2015	PUBLICITY EXPIRY DATE 04/09/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None Relevant			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site, known as The Chimes, is located on the southern side of Beach Approach, a residential street within the built up area of Warden Bay. The site currently contains a chalet bungalow in a poor state of repair, measuring 6m in width by 9.5m in depth. The building is located some 4m away from the front boundary of the site. There is an existing close boarded fence along the site’s side and rear boundaries.
- 1.02 The streetscene is mixed with a variety of dwelling types including bungalows, chalet bungalows and two storey dwellings. The Beeches, located adjacent to the application site contains a single storey dwelling with a garage. The property at number 23 Beach Approach, on the opposite side to the west, contains a two-storey semi-detached dwelling with an attached garage.

2.0 PROPOSAL

- 2.01 The application seeks planning permission to demolish the existing chalet bungalow and replace it with a two storey 4-bedroom house. The new building will be set back into the site from the existing building’s footprint which will create a more consistent building line with the adjacent properties.
- 2.02 The footprint of the proposed dwelling is 9.3m in width and 11.5m in depth. The property has been designed with a mixture of pitched roofs and a catslide roof. The eaves height will be limited to 2.7m in the catslide element of the property and 5.4m

elsewhere. The ridge height will be 7.8m, an increase of 2.2m above the existing ridgeline. The property will have a projecting element on the front elevation and a pitched roof dormer window on the catslide roof.

- 2.03 The proposed property will be set 1.35m in from the common boundary with The Beeches, although the boundary is set on a slight angle and as such at the rear the property will be 1m away from the common boundary with this neighbouring property. The proposal will be 1.12m from the common boundary with No.23.
- 2.04 The new proposal includes a garage and a driveway in front of the property, a landscaped front garden is indicated on the proposed plans as forming the remainder of the frontage. To the rear is private amenity space measuring 11m in width and 20m in depth.
- 2.05 The external materials of the proposed dwelling will be yellow / pale brown facing bricks, hung tiles, painted render and a slate roof.

3.0 PLANNING CONSTRAINTS

N/A

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF and the National Planning Policy 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.

Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.04 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.05 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

5.0 LOCAL REPRESENTATIONS

5.01 Surrounding properties were sent a consultation letter. Four responses were received to the proposal, raising the following summarised objections:

- Proposed design and materials are not in keeping with the surrounding area;
- Proposed building is too large for the plot;
- Overlooking, loss of privacy and overshadowing of neighbouring properties;
- Have had assurances from the planning department in the past that the site would be redeveloped as a bungalow;
- Too near to side boundary meaning that scaffolding can not be erected;
- The proposal will create a wind funnel;
- Asbestos in existing building.

6.0 CONSULTATIONS

6.01 **Natural England (NE)** raises no objection.

6.02 The Council's **Environmental Protection Manager** recommends an hours of construction condition and a condition relating to a programme for a suppression of dust. A condition relating to asbestos removal is also suggested but as this is dealt with under separate Legislation I have not included it.

6.03 As four objections to the scheme have been received, I contacted the Ward Members, summarising the reasons why I believed the application to be acceptable and also giving them opportunity to call the application into Planning Committee if they wished, their responses were as follows:

- Cllr Ingham: *"Although I don't like the idea of this house and think its to [sic] big, I cant find any planning reason to go against it ,but I am worried about the asbestos, can we put a condition in that an asbestos safety [sic] certificate is produced when it has been removed."*
- Cllr Nissanga: *"I have visited the place and disagreed with your comments and would like to call it into Planning Committee."*

Mr & Mrs Barry Cox, both are Disabled.

Listed below is the material planning considerations that I have come across. Loss of privacy and over looking - Over shadowing/loss of light. Overlooking of neighbouring properties and avoid invasion of privacy of neighbours.

Design and Access Statement to reassure the council that the extent of the proposed physical spacing between the new development and existing buildings would ensure that there are significant overshadowing issues to be considered. This is something you should double check yourself against the site measurements.

Concerns about specific windows in the proposed development.

Points of objections the responsibilities of the council under the Human Rights Act, in particular Protocol 1, Article 1. A person has the right to peaceful enjoyment of all their possessions, which includes the home and other land. Additionally, Article 8 of the Human Rights Act states that a person has the

substantive right to respect for their private and family life. Therefore encompasses not only the home but also the surroundings.”

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence relating to planning reference 15/506115/FULL.

8.0 APPRAISAL

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

- Principle of development;
- Impact upon residential amenities;
- Impact upon visual amenities and the streetscene;

Principle of Development

- 8.01 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. This application proposes a replacement dwelling. As such I consider that the principle of residential development is firmly established upon this site.

Residential Amenity

- 8.02 Concerns regarding unacceptable impact upon residential amenities including overshadowing, loss of privacy and unacceptable overlooking have been expressed by neighbouring occupiers in their representations.
- 8.03 It is firstly taken into consideration that the rear elevation of the proposed dwelling is approximately 40m away from the dwelling to the rear, No.30 Seaview Gardens. This is almost double the minimum distance of 21m that the Council would usually expect and therefore I take the view that the proposal is acceptable in this regard. Although the property will be of a larger scale than what currently exists on the site, I take into consideration that the neighbouring bungalow, The Beeches, on the flank elevation facing towards the application site only has one high level window and an external door. As such, I do not consider that the proposal would cause unacceptable loss of light to this property. On the opposite side, No.23 has an attached garage between the main property and the application site. As such I do not consider that loss of light or overshadowing would be unacceptable in this case. Furthermore I note that the property will be built along a very similar building line to the adjacent properties and as such the impact upon the rear private amenity space of the adjacent dwelling in terms of overshadowing will be extremely limited.
- 8.04 One window is proposed in the side elevation facing towards No.23, however, this would serve an en-suite and as such would be expected to be obscure glazed. However, to ensure the privacy of neighbouring occupiers I have included a condition which requires this window to be obscured before occupation of the dwelling.
- 8.05 I also note objections received regarding the overlooking of the adjacent rear garden and the property on the opposite side of the highway. I firstly take into account that the existing bungalow on the site has a rear facing window at first floor level. As such, elevated rearward views from the property as it currently exists could be

obtained. Therefore, rear views, examples of which are common place in a residential context such as this would not in my opinion amount to a reason for refusal. Furthermore, the proposed property, at the closest distance would be 20m away from properties on the opposite side of the highway, which again represents a relationship that is common. As such, I consider that overlooking of properties on the north side of Beach Approach would not be unacceptable.

- 8.06 In overall terms, based upon the above assessment, I consider that the proposal would not have a significantly detrimental impact upon residential amenities of surrounding properties.

Visual Amenity and Streetscene

- 8.07 The streetscene is mixed with bungalows, chalet bungalows and two storey dwellings present. The application site is flanked by a bungalow and a two storey dwelling. As such, in my view, the introduction of a two storey dwelling into this plot would not be out of keeping with the surrounding streetscene and would sit comfortably in the context of the newer properties on Beach Approach (e.g. No.23), which are also two storey dwellings. Furthermore, I also note that the existing bungalow is set forward of the two adjacent properties. The proposed dwelling will be set back in the site to follow the approximate building line of the two properties flanking the application site which will in my view assist in integrating the property into the streetscene.
- 8.08 In terms of design, the proposed dwelling incorporates pitched roofs and also a catslide roof. There is no dominant style of property in the vicinity and as such the dwelling of the design proposed is in my view acceptable. The proposed materials, including facing brickwork, hung tiles, render and a slate roof will also in my opinion not look out of keeping in this varied streetscene.
- 8.09 Due to the mixed nature of the streetscene, properties within the vicinity are varying distances from side boundaries. In this case, the flank walls of the proposed property achieve a distance of 1.35m from the common boundary with 'The Beeches' and 1.12m from the common boundary with No.23. In this case I believe that the distances proposed are large enough to prevent a terracing effect from being created due to the loss of space between buildings. I also take into account that the neighbouring dwelling to the east (The Beeches) is a detached bungalow and as such it is difficult to envisage that a terracing effect could occur. Therefore I am of the opinion that the proposal would protect the character of the streetscene.

Parking Provision

- 8.10 The application proposes an integral garage and a driveway in front of this measuring 5m in width, 7.4m in depth at its deepest point and 5.4m in depth at its shortest point. As such the driveway would be of a sufficient size to park two vehicles. When this is considered together with the garage I consider that there would be adequate parking provision proposed for this development. Although the proposed driveway would be in front of the dwelling, there are numerous instances of frontage parking in the surrounding area. I also note that planting is proposed to the front and side boundaries which will help to partially screen the vehicles from public vantage points. To ensure the parking arrangement remains acceptable I have included a condition which retains the use of the garage for parking and requires details of soft landscaping to be submitted and agreed by the Council before development commences. On this basis I take the view that parking has been acceptably dealt with in this proposal.

Impact upon SPA and Ramsar Sites

- 8.11 Although Natural England provided their consultation response before developer contributions were a requirement, I have for completeness set out a Habitat Regulations Assessment below. This confirms 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

- 8.12 The issue of asbestos has been raised in regards to the existing property and during the course of this application the Council's Environmental Protection Manager has been consulted. A condition has been suggested regarding the removal of asbestos from the existing dwelling, however, this is not dealt with through the planning process and is covered by separate legislation.
- 8.13 An objection has also been raised on the grounds that there has been previous confirmation that the site would not be redeveloped as a two storey dwelling. I do not know of any such restriction and have been provided with no evidence of one. In any case, the proposal has to be considered on its own merits. An objection relating to access rights over the boundary during the construction phase has also been raised. In response to this, the proposal is entirely contained within the application site. If rights of access are required then this is a private matter between neighbouring occupiers. Finally, regarding the objection that the proposal will create a wind tunnel, the erection of a single two storey house further back on the site than the existing is unlikely to give rise to such an effect that it would amount to a material consideration to be afforded significant weight here.

9.0 CONCLUSION

- 9.01 The principle of residential development is firmly established by the existing dwelling on the site and its location within the built up area boundary. Although local concerns have been raised regarding the introduction of a two storey dwelling into this location, I am of the opinion that this will not be out of keeping, especially considering the two storey units in situ immediately to the west of the application site. I also consider that by constructing the property along a very similar building line to the two adjacent properties this would limit any overbearing impact or loss of privacy to neighbouring occupiers.
- 9.02 In overall terms I consider that the application site is large enough to support a dwelling of this size with adequate parking provision and a generous amount of private amenity space. I consider that on this basis and subject to the conditions below, the scheme is acceptable and recommend that planning permission be granted.

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 the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) No development shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

- (3) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following drawings: PL02; PL03; PL04 and PL05.

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

- (4) 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.

- (5) 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 (which shall be native species and of a type that will encourage wildlife and biodiversity,), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

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

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

- (7) 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

- (8) The area shown on the submitted plan as vehicle parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular

access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

- (9) 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) (England) 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

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

Reason: In the interests of residential amenity.

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

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) Before the development hereby permitted is first used, the proposed ensuite window in the first floor flank (south-west) elevation of the new dwelling shall be obscure glazed and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- (13) Adequate precautions shall be taken during the period of construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 4.5km north of The Swale Special Protection Area (SPA) and Ramsar site and 12.2km 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 as this is a replacement dwelling, 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 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.