

REPORT SUMMARY

REFERENCE NO - 15/507804/FULL			
APPLICATION PROPOSAL Removal of existing builders yard and construction of 11 new dwellings including access road, garaging and car ports, and as amended by drawings received 2 nd December 2015.			
ADDRESS Land At Woodgate Lane Maidstone Road Borden Kent ME9 7QB			
RECOMMENDATION – Approve subject to delegation to Officers to enter into Section 106 Agreement			
SUMMARY OF REASONS FOR RECOMMENDATION: Application considered to be in accordance with policy, noting the Council’s lack of a five year housing land supply, and the location being considered to be sustainable as required by the NPPF.			
REASON FOR REFERRAL TO COMMITTEE Members’ authority is sought to enter into Section 106 Agreement for the provision of appropriate contributions towards library book stock, play equipment, waste and household bins, SPA mitigation fee and monitoring fee.			
WARD Borden & Grove Ward	PARISH/TOWN COUNCIL Borden	APPLICANT Mr Matthew Stevens AGENT Country House Developments Ltd	
DECISION DUE DATE 12/01/16	PUBLICITY EXPIRY DATE 20/11/15	OFFICER SITE VISIT DATE Three separate site visits	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/501370/FULL	Re-development of existing builders yard and open storage area with a mixed use scheme providing 1 Convenience store, 7 Affordable homes and 14 open market homes	Refused	11 th June 2016
<i>Summarise Reasons:</i> Parking and design issues			

MAIN REPORT

1.0 INTRODUCTION

1.01 Firstly, and very importantly, it should be noted that this report only seeks approval of the Section 106 agreement attached to any permission granted for this proposal: as there is only a single local objection (and that only raising concern) with regard to the scheme (summarised below), and as the proposal is in accordance with all relevant planning policy, the planning application can be approved under delegated powers. It is the approval of the details of the Section 106 Agreement and for authority to enter into the Agreement that is sought. However, as I anticipate that Members would be interested in knowing a little of this scheme, I therefore include details of the application proposal within this report.

2.0 DESCRIPTION OF SITE

2.01 The site is a vacant plot of land which is attached to the adjacent builders’ merchant yard. It is at present somewhat overgrown and does not present a pleasing visual

aspect. It is situated on the corner of Maidstone Road and Woodgate Lane. Maidstone Road is a single carriageway highway, now a fairly quiet road due to the construction of the dual carriageway route approximately two hundred metres to the west. Woodgate Lane is an unmade and unadopted road. The site slopes up gradually from Maidstone Road.

2.02 The site is situated outside the built-up area boundaries, as set out in the Local Plan, and is therefore in the countryside in planning terms. However, similar residential development has been approved along Maidstone Road in the vicinity of the site. There are no other planning constraints on this site.

2.03 A previous application for one convenience store, seven affordable homes and fourteen market houses was refused last year under reference 15/501370/FULL. The reasons for refusal read as follows:

‘The proposal does not represent sustainable development. By virtue of its isolated location outside any well-defined urban boundary, the lack of the prospect of residents being able to integrate with the existing communities, the lack of almost any community infrastructure or open space, and the limited public transport to service the site which will result in a car dependent population. Furthermore the development will appear at odds with its surroundings, introducing an essentially urban form of development into this isolated location in a way which will detract from the intrinsic character of the countryside. Yet it still appears unlikely to provide car parking sufficient or suitable for the needs of future residents. This harm both significantly and demonstrably outweighs any benefits from the proposal (including its contribution to the overall supply of housing in the Borough and to the provision of affordable dwellings). Development is therefore contrary to relevant parts of policies SP1, TG1, E1, E6, E9, E19, C2 and C3 of the Swale Borough Local Plan 2008; and to policies ST5, CP4 and DM14 of Bearing Fruits 2031, the Swale Borough Local Plan - Publication version. Development would be contrary to paragraphs 7, 12, 14, 17, 49, 55, 64 and 110 of the National Planning Policy Framework.’

3.0 PROPOSAL

3.01 The proposal is for eleven new houses, with associated amenity space and parking. The layout has been designed so that four houses front onto Maidstone Road, whilst the remaining seven would be grouped around a courtyard style access. Similarly, the four houses to the front are of a semi-rural house design, whilst the other seven are loosely based on an agricultural building genre of design.

3.02 Parking provision would include open spaces and garaging. Each house would also have an associated private amenity space, and all public areas would be landscaped.

SUMMARY INFORMATION

	Existing <i>[Delete if not a replacement]</i>	Proposed	Change (+/-) <i>[Delete if not a replacement]</i>
Site Area	0.047h	0.047h	-
Car parking spaces (inc. disabled)	N/A	25	+25
No. of storeys	N/A	2	+2
Max height	N/A	Varies	-
Max eaves height	N/A	Varies	-
No. of residential units	None	11	+11

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 National Planning Policy Framework (NPPF)

Paragraph 7 states that sustainable development should have:

- ***an economic role*** – *contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- ***a social role*** – *supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- ***an environmental role*** – *contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

Paragraph 14 states the presumption in favour of sustainable development, and reads as follows: At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;
 - or
 - specific policies in this Framework indicate development should be restricted.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;
 - or
 - specific policies in this Framework indicate development should be restricted.

Paragraph 17 states that development should incorporate the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value

Paragraphs 47 & 50 deal with the need to deliver a wide choice of high quality homes

Paragraph 49 states that *'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'*

Paragraph 55 promotes sustainable housing within the countryside, if that housing is of exceptional quality and of innovative design

4.02 Swale Borough Local Plan 2008

Policy B1 supports the retention of existing employment land and businesses. Proposals involving a change of use are required to show by reference to this policy that a mixed use approach to the site involving a viable level of replacement or alternative employment provision is not appropriate. Policy B1(c) states that the use of existing employment land may be changed if it is tested by market testing to ascertain that there is insufficient demand to justify its retention for employment use.

Policy E6 sets a policy of rural restraint designed to protect the countryside for its own sake and discourages residential development in the countryside, although *'those developments necessary for maintaining and enhancing the landscape character, biodiversity, community, social and economic needs of the countryside will be considered appropriate.'*

Policy E9 protects the character of the landscape in the Borough, and states that development proposals within the countryside should be *'informed by and sympathetic to local landscape character and quality'* and *'remove features which detract from the character of the landscape'*

Policy E19 requires good design of development.

Policy H2 (Providing for new housing) states that *'in designing new residential development, the objective should be to create more sustainable forms of development'*.

Policies T1 and T3 require safe access to new development and adequate levels of parking provision.

4.03 Bearing Fruits 2031: The Swale Borough Local Plan Part 1; Publication Version December 2014

Policy CP3 deals with delivering a wide choice of high quality homes and requires that development achieves *'sustainable and high quality design.'*

Policy CP4 further emphasises this by stating that all development proposals *'will be of a high quality design that is appropriate to its surroundings.'*

Policy DM7 requires adequate parking facilities for all new development

Policy DM9 refers to occasions when housing within the countryside should be allowed, including where *'the site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community.'*

Policy DM14 refers to general development criteria

Policies DM19 and 20 refer to the need for sustainable design and construction and the use of renewable and low carbon energy

5.0 LOCAL REPRESENTATIONS

- 5.01 Borden Parish Council has declined to comment on the application.
- 5.02 One email of concern has been received from a local resident. The points raised therein can be summarised as follows:
- Concern over status of private road (Woodgate Lane) which is privately maintained. Worried that future access from Woodgate Lane to rear of plots 4, 5, 6 and 7 could be implemented.
 - Concern that this development will compromise access along Woodgate Lane; suggestion that a passing place should be created adjacent to Plot 7.

6.0 CONSULTATION RESPONSES

- 6.01 KCC Highways and Transportation originally raised objection to the proposal on grounds of highway safety and amenity. Following a meeting between Officers, KCC Highways Officers and the architect, amended drawings were submitted taking into account all of the concerns expressed by our KCC Highways colleagues. As such, KCC Highways now raises no objection, subject to conditions included below.
- 6.02 The Environment Agency raises no objection, subject to conditions included below.
- 6.03 The Lower Medway Internal Drainage Board raises no objection.
- 6.04 The Environmental Services Manager raises no objection, subject to conditions included below.
- 6.05 UK Power Networks and Southern Gas Networks raise no objection.
- 6.06 The KCC Footpaths Officer raises no objection to the proposal, subject to no changes being made to the public footpath adjacent to the site.
- 6.07 The Swale Footpaths Group also raises no objection.

7.0 APPRAISAL

- 7.01 The key issues which Officers need to address are those of the principle of development and residential amenity.
- 7.02 Principle of Development: Paragraph 49 of the NPPF refers to a situation where a five year housing supply target has not been met and Members will note the quote in the Policy section above. At the time of submission of the application, the Council has not met the Government set figures for housing supply, which left the Council open to speculative proposals for development on non-designated sites which would, if supported, count toward to the five year supply, and address requirements for quality and choice. Whilst this is a development for only eleven houses, therefore only making a small contribution towards target, this would still be a positive outcome. The Planning Inspector considering the Emerging Local Plan has since lessened this impact to some extent with her Interim Report, but the factor still has to be considered.

As noted above, the site is situated outside the established built-up area boundaries; as such, the proposal is clearly contrary to Policy E6 of the Swale Borough Local Plan 2008, which precludes residential development within the countryside. However, in this case, I would contend that an exception can be made. The previous application was partly refused on the grounds of being unsustainable; however, the new design, incorporating open space, and being designed not to be a separate entity from other existing development, is more likely to be part of the existing community. I also note that there is a half hourly bus service, stopping on Maidstone Road, linking the site to Sittingbourne, Faversham and Maidstone. As such, I consider the site to be sustainable.

The employment use of the site would not be lost; the site has been vacant for several years and has not been used in conjunction the adjacent builders' yard, which would still continue as a business to the rear of the site. As such, I am of the opinion that residential development here could be acceptable, and would accord with the requirements of Policy B1. The proposals would also be compliant with Policy E19, Achieving High Design Quality and Distinctiveness.

The site is 'brownfield', in that it is previously developed land. Both National and Local policy state that brownfield sites should be considered for development before greenfield sites.

The site's present poor visual appearance clearly detracts from the visual amenity of the surrounding countryside. I would contend that the well-designed houses proposed, with their careful use of landscaping, would present a visually far more acceptable aspect. Policy DM20 of 'Bearing Fruits' states that, 'Priority will be given to development on previously developed land', as is the case here.

I would further note that the proposed properties are situated away from existing properties, therefore not reducing the residential amenity of their occupiers, and also presenting a more pleasant visual aspect for neighbours than is seen at present.

As such, I am of the opinion that the principle of development is acceptable in this case.

7.03 Residential and visual amenity

As noted above, the site is not in a visually conducive state at the present time, and I am of the opinion that the proposal would be a welcome addition to this part of the street scene. The proposed houses are well designed and would utilise traditional vernacular materials. The use of a courtyard setting would further enhance the design of the properties, producing a high quality development of visually pleasing properties.

I have noted the concerns raised by the local resident. The concerns raised are based upon conjecture with regard to future rear access points to the proposed rear gardens of the plots noted. No accesses are shown on the submitted drawings, and as such, I cannot take conjecture into consideration. Similarly, as the proposed development will not affect Woodgate Lane itself, I do not believe that the proposal will create any traffic problems in this steep, rutted unmade road.

As such, I do not believe that the proposal, if approved, would have a harmful effect on either the visual amenity of the area or the residential amenity of surrounding residents. As noted above, the proposed properties would have little if any physical

impact upon either residential or visual amenity, due to their careful design and position not immediately adjacent to the boundaries of neighbouring properties.

7.05 Developer Contributions:

- KCC Contributions Team has requested contributions of £672.22 towards library funding, but do not seek contributions for education provision.
- SBC's Waste Team requests a contribution of £1,050.00 to allow two bins (recycling and waste) for each house
- The Greenspaces Manager has requested contributions of £12,065.20 (£861.80 per dwelling) towards play equipment to be provided in Borden to meet the need arising from this scheme.
- Developer Contribution to mitigate impact on the nearby Special Protection Area would be £3122.00 (£223.00 per dwelling)
- SBC monitoring fee (5% of £16, 906.42) - £845.32
- Total = £17,751.74

7.06 Summary

I therefore recommend that planning permission should be granted and that the Section 106 Agreement be delegated to Officers to enter into and agree. I also seek authority to agree triggers for the various payments and to amend the amounts of money as required.

RECOMMENDATION – Grant subject to the signing of a suitably worded Section 106 Agreement and to the following conditions:

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.

Reasons: 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 complete accordance with drawings: 501/CM/100; 501/CM/002; 501/CM/003 501/CM/004/A; 501/CM/005; 501/CM/006/A; 501/CM/007/A; 501/CM/008; 501/CM/009/A; 501/CM/010/A ; 501/CM/011/A; 501/CM/012; 501/CM/013; 501/CM/014/A; 501/CM/015; 501/CM/016; 501/CM/017; 501/CM/018; 501/CM/019; 501/CM/020; 501/CM/021; 501/CM/022; 501/CM/023, 501/CM/024; and 3706-DR-001.

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

3 Before the development hereby permitted is commenced, samples of all facing materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with these approved details.

Reasons: In the interests of visual amenity, and to ensure that the details are correct before any development takes place.

4 The dwellings hereby approved shall achieve at least a Level 3 rating under The Code for Sustainable Homes or equivalent, and no development shall take place until details have been submitted to, and approved in writing by the Local Planning Authority, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind power, or solar thermal or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development as approved.

Reasons: In the interest of promoting energy efficiency and sustainable development

5 No development approved by this permission shall be commenced prior to a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.

b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.

c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Reason: To ensure any contaminated land is adequately dealt with and to ensure that such matters are agreed before work is commenced.

6 Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Reason: To ensure any contaminated land is adequately dealt with.

7 Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure any contaminated land is adequately dealt with.

8 Before the development hereby permitted is commenced, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that both the rate and volume of run-off leaving the site post-development will be restricted to that of the existing site during any rainfall event (up to and including the climate change adjusted 100yr critical storm).

Reasons: In the interests of sustainable drainage on the site, and to ensure that the details are correct before any development takes place.

9 No dwelling hereby permitted shall be occupied before details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- a timetable for its implementation, and
- a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

10 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Reasons: To ensure that the principles of effective sewerage disposal are incorporated into this proposal and to ensure ongoing efficacy of the sewerage provisions.

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.

Reasons: In the interests of residential amenity.

12 No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times :-

Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reasons : In the interests of residential amenity.

13 The commencement of the development shall not 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 approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.

Reasons : In the interests of residential amenity and to ensure that the details are correct before any development takes place.

14 As an initial operation on site, adequate precautions shall be taken during the progress of the works to prevent the deposit of mud and similar substances on the public highway.

Reasons: In the interests of amenity and road safety.

15 During construction provision shall be made on the site to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.

Reason: To ensure that vehicles can be parked or manoeuvred off the highway in the interests of highway safety

16 No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include means of enclosure, hard surfacing materials, and an implementation programme.

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

17 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.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

18 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 and encouraging wildlife and biodiversity.

19 The areas marked on the approved drawing no.P1411-P-101 as parking spaces, car ports and garages shall be reserved for vehicle parking at all times, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land or in such a position as to preclude vehicular access to these areas.

Reasons: In the interest of highway safety and amenity.

20 Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- (A) Footways and/or footpaths shall be completed, with the exception of the wearing course;
- (B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:
 - (1) highway drainage, including off-site works,
 - (2) junction visibility splays,
 - (3) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

21 Underground ducts shall be installed before any of the buildings hereby permitted are occupied to enable telephone services and electrical services to be connected to the dwellings within the application site without recourse to the erection of distribution poles and overhead lines, and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, no distribution pole or overhead line shall be erected.

Reason: In the interests of visual amenity.

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the proposal was considered acceptable, following the submission of new drawings received on 2nd December 2015.

INFORMATIVES

INFORMATIVE 1: Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

INFORMATIVE 2:

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.