

**REPORT SUMMARY**

<b>REFERENCE NO - 16/501159/OUT</b>			
<b>APPLICATION PROPOSAL</b>			
Outline (All matters reserved) - Single dwelling and associated residential curtilage			
<b>ADDRESS</b> Land Adjacent To Eastchurch Village Hall Warden Road Eastchurch Kent ME12 4EJ			
<b>RECOMMENDATION</b> Approve			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The Council does not currently have a five year supply of housing land and therefore the policies in the Local Plan related to housing are considered to be out of date. The site adjoins the built up area boundary, is considered to be in a sustainable location when assessed against the NPPF and the benefits of one dwelling in this location outweigh any harm caused to the countryside.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Recommendation contrary to Parish Council view			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr Simon Tomlin <b>AGENT</b> Green Planning Studio Ltd	
<b>DECISION DUE DATE</b> 18/04/16	<b>PUBLICITY EXPIRY DATE</b> 18/04/16		
<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/93/0810	Outline Application For Lofted Bungalow	Refused	7/12/1993
SW/90/0051	Erection Of Lofted Bungalow	Refused	9/3/1990
SW/78/0926	Erection Of A Dwelling (outline)	Refused	18/10/1978
SW/76/0666	Erection Of Detached Bungalow	Refused	22/9/1976

**MAIN REPORT****1.0 DESCRIPTION OF SITE**

- 1.01 The application site is an open parcel of land adjacent to Eastchurch Village Hall and measures approximately 34m in depth and 26m in width. When viewed from Warden Road the site is heavily screened by existing planting along the boundary.
- 1.02 To the rear and to the north is open countryside whilst to the south, along with the Village Hall lies residential properties. To the south east of the application site, approximately 85m away is Eastchurch Church of England Primary School.
- 1.03 Eastchurch village centre which includes local amenities lies approximately 160m to the south and there is a well maintained footpath which runs from the front of the application site directly into the village centre.

## 2.0 PROPOSAL

- 2.01 This application seeks outline planning permission for one dwelling and associated residential curtilage. All matters (access, appearance, landscaping, layout and scale) have been reserved, however, an indicative access point is shown on the site location plan which is to be taken from Warden Road.

## 3.0 PLANNING CONSTRAINTS

- 3.01 None relevant

## 4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The NPPF at paragraph 14 states that central to the NPPF is *“a presumption in favour of sustainable development.”*

*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.”*

- 4.02 At paragraph 49 the NPPF 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.”*

- 4.03 Development Plan: Policies SP1 (Sustainable Development), SP2 (Environment), SP3 (Economy), SP4 (Housing), SP5 (Rural Communities), TG1 (Thames Gateway Planning Area), SH1 (Settlement Hierarchy), E1 (General Development Criteria), E6 (The Countryside), RC3 (Helping to Meet Rural Housing Needs) and H2 (Providing for New Housing) of the Swale Borough Local Plan 2008.

- 4.04 The Swale Borough Local Plan Proposed Main modifications 2016 policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2011-2031 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); CP3 (Delivering a wide choice of high quality homes); DM14 (General development criteria).

## 5.0 LOCAL REPRESENTATIONS

- 5.01 Surrounding properties were sent a consultation letter and a site notice was displayed close to the site. One letter of support was received raising the following points:

- The plot has been an eyesore for a number of years;
- Would be an ideal development opportunity for the village;

- Contribute in a positive way towards the future of the village and would support local amenities;
- The development would allow for safe access.

## 6.0 CONSULTATIONS

6.01 **Eastchurch Parish Council** objects to this application on the following grounds:

- Previous planning applications have been refused on this site;
- The site is outside of the village envelope;
- A new access would be required onto Warden Road and the existing access gate to the side of the village hall is for emergency use only as Kent Highways and Transportation deemed it unsafe for regular access onto Warden Road.

6.02 **Kent County Council Highways & Transportation** raise no objection subject to a number of conditions being imposed as follows: provision of construction vehicle loading/unloading and turning facilities; provision of parking for site personnel; provision of measures to prevent discharge of surface water onto the highway; provision of wheel washing facilities; provision and permanent retention of parking spaces; use of a bound surface for first 5m from the edge of the highway; any gates to open away from the carriageway, provision and retention of cycle parking facilities and provision and maintenance of visibility splays.

## 7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 16/501159/OUT.

## 8.0 APPLICANT'S SUPPORTING COMMENTS

8.01 To support the application the agent has submitted an Assessment of the Council's five year housing supply which concludes that *"Swale Borough Council are unable to demonstrate a robust housing land supply."*

## 9.0 APPRAISAL

9.01 As set out above, this is an outline application with all matters reserved, therefore the only issue being considered here is the principle of development.

9.02 Although the site adjoins the built up area boundary, in planning policy terms it lies outside of the built up area boundary and is therefore in the countryside. In regards to this the Council cannot currently demonstrate a five year supply of housing land and because of this the Council's policies in relation to the supply of housing are to be considered out of date, as set out in paragraph 49 of the NPPF. This means that policies E6 (Countryside) as far as it relates to housing, H2 (Providing for New Housing) and RC3 (Helping to Meet Rural Housing Needs) of the adopted Swale Borough Local Plan 2008 (SBLP) are out of date because they seek to restrict housing development in the countryside as defined by the Proposals Map of the SBLP. Therefore these policies can only be afforded limited weight. In addition, although some weight should be given to the policies contained within the emerging local plan it is important to note that this has not yet been adopted. As such, the application should be determined in accordance with the NPPF as follows.

- 9.03 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. It dictates that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the whole framework, or where specific policies in the framework indicate development should be restricted.
- 9.04 The NPPF identifies three dimensions to sustainable development; economic, social and environmental, and states that planning needs to perform roles in all three dimensions. I consider each in turn below.
- 9.05 As set out above, the southern boundary of the application site abuts the boundary of the built up area. As such, the site is only 160m from the village centre and safe access for pedestrians is provided via a footpath. I also note that the nearest bus stop is 110m away from the site and a primary school is located 85m away. Therefore I consider that the site has extremely good accessibility to goods, services and public transport links and because of this a dwelling in this location would support the well being of the village and help to perform the social role in sustainable development.
- 9.06 In terms of the proposals contribution to the economic role of sustainable development there is some potential for future residents of the proposal to find employment at the prison cluster which is located approximately 1.2km from the application site or at one of the services which are provided within the village centre. In addition, the construction phase of the development would generate some short term employment. Therefore I consider that this dimension to sustainable development has been satisfied, albeit in a limited way.
- 9.07 When travelling north along Warden Road away from the application site, on the eastern side of the highway is existing residential development. Further to this, immediately to the south of the application site the environment becomes built up in nature. Therefore, although to the north and west of the application site the setting is largely rural this does not solely define the characteristics of the surrounding area in my view. As such, I do not consider that the development would cause unacceptable harm to the character and appearance of the countryside.
- 9.08 Paragraph 55 of the NPPF advises that isolated new homes in the countryside should be avoided. However, as the site abuts the built up area boundary and due to its extremely close proximity to the village centre and other built form I do not at all consider that the site can be defined as isolated. As such I believe that there would be very limited harm arising from the development which would be considerably outweighed by the benefits that an additional dwelling would bring when considered against the NPPF as a whole. Overall there are no specific policies in the NPPF which indicate that the development should be restricted in this case.
- 9.09 I also pay regard to the relatively recent appeal decision (dated 28<sup>th</sup> January 2016) for 2 dwellings at 11 Range Road (reference APP/V2255/W/15/3135783) in which the Inspector concluded that a site 1.6km from the built up area boundary of Eastchurch and 1.2km from the village centre constituted sustainable development. Therefore, as the application site now being considered is considerably closer to both the built up area boundary and the village centre I am of the opinion that this gives further weight to the sustainable location of the development now proposed.
- 9.10 As set out above, the site measures some 34m in depth and 26m in width. I consider that a site of this size would be able to comfortably accommodate one dwelling without appearing As a cramped form of development. Although the layout and

design are reserved matters I am of the view that due to the generous size of the site that a dwelling would not unacceptably impact upon visual amenities.

- 9.11 In terms of existing surrounding residential properties, the closest dwelling to the north east, known as 'Boxmoor', is located approximately 60m away. Vicarage Court to the south is approximately 40m away from the application site and the village hall is located between these dwellings and the application site. I also note that a static caravan is located to the rear of the application site, approximately 35m away at its closest point. This static caravan does not have the benefit of planning permission and an application for its retention is currently being considered by the Council (reference 16/505645/FULL). However, regardless of the outcome of that application, due to the distance between the application site and the caravan I do not consider that unacceptable levels of overlooking would occur. Overall due to the separation distances of all surrounding properties I do not consider that the proposal would have an unacceptable impact upon residential amenities.
- 9.12 I note the comments that have been received from the Parish Council and appreciate that there have been applications refused for residential development on this site in the past. However, the most recent of these applications was determined in 1993. The policy context, and especially the latest position in regards to the five year housing supply has shifted considerably in the intervening period and as such I do not believe that any significant weight can now be given to these previous decisions.
- 9.13 The Parish Council have also raised the issue of the access into the site and the relative safety of this. As Warden Road is a classified road I have consulted with KCC Highways & Transportation who have raised no objection subject to the inclusion of a number of conditions. One of these conditions requires visibility splays of 2.4m x 43m x 43m. Therefore I consider that the safe access to the site can be created and to ensure this I have included all the conditions that KCC Highways & Transportation recommend.
- 9.14 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.

## **10.0 CONCLUSION**

- 10.01 Overall I consider that due to the Council's housing policies being out of date as a result of the current five housing land supply position that the benefits that the development would bring in terms of a welcome, albeit limited contribution to the housing land supply in a sustainable location would outweigh the very limited harm that this proposal would cause. As a result I believe that the principle of development is accepted and for this reason recommend that outline planning permission is granted.

## **11.0 RECOMMENDATION – GRANT Subject to the following conditions:**

- (1) Details relating to the layout, scale and appearance of the proposed building(s), the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (3) The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (4) The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking or garaging of cars (in accordance with the currently adopted Kent County Council Vehicle Parking Standards) which land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or not shall be carried out on such land in 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 or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

- (5) No development shall take place until details of the operatives' and construction vehicles loading, off-loading or turning on the site and parking, has been submitted to and approved by the Local Planning Authority. The approved details shall be provided prior to the commencement of the development.

Reason: To ensure the construction of the development does not prejudice conditions of highway safety and convenience and to ensure details are agreed prior to commencement of development.

- (6) The dwelling hereby approved shall not be occupied until 2.4m x 43m x 43m visibility splays at the new access with no obstructions over 1.05m above carriageway level within the splays have been provided. The visibility splays shall be maintained in accordance with this specification thereafter.

Reason: In the interest of highway safety and convenience.

- (7) The details submitted pursuant to condition (1) above shall show secure, covered cycle parking facilities and the dwelling hereby approved shall not be occupied until this facility has been provided.

Reason: To promote sustainable transport methods.

- (8) 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 and to ensure that such matters are agreed prior to the commencement of development.

- (9) 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 and to ensure that such matters are agreed prior to the commencement of development.

- (10) The landscaping details submitted pursuant to condition (1) 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 prior to the commencement of development.

- (11) 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 and encouraging wildlife and biodiversity.

- (12) 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 and encouraging wildlife and biodiversity.

- (13) 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.

- (14) .As an initial operation on site ,adequate precautions shall be taken during the construction phase to prevent the discharge of mud and similar substances including surface water onto the public highway, in accordance with proposals to be submitted and agreed in writing by the Local Planning Authority.

Reason: To ensure the construction of the development does not prejudice conditions of highway safety and convenience.

- (15) The access details submitted pursuant to condition (1) above shall show the use of a bound surface to be installed for the first 5 metres from the edge of the highway.

Reason: In the interest of highway amenities.

- (16) Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 5.5m from the carriageway edge.

Reason: In the interests of highway safety and convenience.

### **Informative**

- (1) 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.

### **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 which is a European designated site 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 dwellings 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:

- 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.