

<b>REFERENCE NO - 16/505956/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of the existing commercial buildings, erection of 3, four bed terraced dwellings and 2, four bed semi-detached dwellings, creation of 11 car parking spaces and area for cycle spaces to rear of dwellings as amended by drawings received 3 November 2016		
<b>ADDRESS</b> 42-44 The Street Bapchild ME9 9AH		
<b>RECOMMENDATION</b> Grant SUBJECT TO: outstanding representations (closing date 15 December 2016)		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal, as amended, is broadly in line with national and local planning policy		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Local representations		
<b>WARD</b> West Downs	<b>PARISH/TOWN COUNCIL</b> Bapchild	<b>APPLICANT</b> Mr Herbert Gray <b>AGENT</b> Cook Associates Design Studio LLP
<b>DECISION DUE DATE</b> 27/09/16	<b>PUBLICITY EXPIRY DATE</b> 09/09/16	

**1.0 DESCRIPTION OF SITE**

- 1.01 The site is at present used for the display and sale of caravans and motor homes. It is mainly laid to hardstanding, with two large utilitarian buildings on site; one virtually in the centre of the site and the other immediately on the rear boundary to the site, backing on to the rear gardens of modern dwellings situated in Doubleday Drive. It has been suggested that the building at the rear of the site may contain asbestos within its construction.
- 1.02 The site is situated within the built-up area boundary of Bapchild, fronting the A2. The immediate area is predominantly residential in character, although there is a large Vauxhall garage quite nearby. Detached houses stand on either side of the site.
- 1.03 The history of the site is somewhat chequered in recent years. Before the present occupiers of the site, it was used unlawfully as a hand car wash business, which caused great disruption and hardship to the local residents. I understand that the present tenants have reversed this unfortunate episode.
- 1.04 There is an existing public right of way near to the site which links The Street with Doubleday Drive. It would be unaffected by the proposal. The streetscene on either side comprises a mix of domestic styles and building lines with no clear uniformity.

**2.0 PROPOSAL**

- 2.01 The proposal is to remove the present structures from the site and to construct five houses, one terrace of three houses and a pair of semi-detached houses, all to the same design. Each house would be served by its own garden, and the submitted drawings show each house having two off-road parking spaces and an additional visitor parking space all arranged across the front of the site.

- 2.02 The design of the proposed houses is quite contemporary, featuring a combination of facing materials (brick, render and cladding), and most obviously, a zinc roof. The roof would be in a wave shape, rising from the front elevation giving the building two storeys to the front and a three storey flat roofed appearance to the rear.
- 2.03 The original drawings submitted showed full length glazed doors and glazed balconies to the rear upstairs storeys potentially giving rise to privacy issues, but amended drawings have removed the balconies and substituted more traditional rear windows instead.
- 2.04 The proposal utilises the existing access to the site, with the above-mentioned parking areas leading directly therefrom.
- 2.05 The distance from rear windows to rear window at the nearest point between the rear windows of the proposal and the rear walls to the existing properties was originally just less than the 21m distance normally required, but in the amended drawings the pair of houses has been moved forward on the site and there would now be at least 21 metres from the centre of the nearest proposed bedroom window, and at a slight angle, to the closest house behind. Moving these houses further forward still would begin to affect an existing side window in the adjoining house to the west. The terraced houses proposed are further from the rear boundary and exceed normal minimum privacy distances.
- 2.06 The application is accompanied by a Design and Access Statement and a Heritage Statement, and a letter from a local property consultant discussing the loss of employment use of the land. This letter explains the chequered history of commercial uses at the site with a turn-over of vehicle related businesses as the property is not to a standard suitable to support a viable business. Other commercial uses are considered unsuitable given the wholly residential surroundings of the site, such that the site is no longer fit for commercial uses, and is more suitable for residential development.

**3.0 SUMMARY INFORMATION**

	<b>Proposed</b>
Site Area (ha)	0.13h
Approximate Ridge Height (m)	8.5m
Approximate Eaves Height (m)	5m (front), 8.3m (rear)
Approximate Depth (m)	12.5m
Approximate Width (m)	4.3m (each house)
No. of Storeys	2 ½
Parking Spaces	11
No. of Residential Units	5
No. of Affordable Units	0

**4.0 PLANNING CONSTRAINTS**

None.

**5.0 POLICY AND OTHER CONSIDERATIONS**

- 5.01 Swale Borough Local Plan 2008 saved policies E1 (General Development Criteria), E19 (Design Criteria), B1 (Employment Land) and H2 (New Housing).

- 5.02 Bearing Fruits 2031: The Swale Borough Local Plan Main Modifications June 2016: Policies ST1 (Sustainable Development), CP4 (Requiring Good Design), DM14 (Development Criteria).
- 5.03 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development), 9 (Quality of built environment), 14 (presumption in favour of sustainable development), 49 (presumption in favour of sustainable housing development), 51 (Housing need).

## 6.0 LOCAL REPRESENTATIONS

- 6.01 Objections and concerns have been received from five local addresses. Their comments may be summarised as follows:

- This will remove our privacy and security
- Design of new buildings is not in keeping with the street scene, particularly the use of flat zinc roofs which are not in keeping with adjacent or local properties
- Visual impression of buildings being taller
- Overshadowing to neighbouring properties
- Balconies will erode neighbours' privacy; *'The only possible overlooking at present is from our neighbours' windows, but of course a balcony is by its nature designed for sitting and viewing so is quite a different prospect'*
- Concerns over maintenance of existing side boundary wall
- No objection to residential development per se
- The current tenants are far more respectful of the site's surroundings with minimal impact or disruption
- Unable to erect a rear fence at present, as the present building acts as a boundary
- Proposal could effect the value of my property
- Present building at the rear of the site has asbestos within its construction
- Underground fuel tanks and contamination on site
- Would erode the security to the rear of our home
- Noise pollution from the A2 due to the proposed gap in the building line
- Sound from proposed properties would be disturbing

## 7.0 CONSULTATIONS

- 7.01 Bapchild Parish Council neither support nor object to the proposal, but raise concerns with regard to the proposed roof height, the rear balconies (now deleted) and privacy issue, concerns over ground contamination, and concerns over the possible use of asbestos within the existing rear building.
- 7.02 Kent Highways and Transportation raises no objection, subject to conditions recommended below.
- 7.03 Natural England raises no objection.
- 7.04 The KCC Public Rights of Way Officer raises no objection.
- 7.05 The Council's Environmental Health Manager raises no objection, subject to the inclusion of conditions recommended below.
- 7.06 I await the comments of the Environment Agency, which I hope to be able to report to Members at the meeting (closing date 15 December 2016).

## 8.0 APPRAISAL

- 8.01 The main issues to consider in this case are those of principle, residential amenity and design.
- 8.02 In terms of the principle of development, the site is situated within the built-up area boundary and in a very sustainable location. As noted earlier in the report, the immediate area is predominantly residential in character and, as such, I consider the proposal to be acceptable in principle.
- 8.03 With regard to residential amenity, from the responses received from nearby local residents, it appears that this is the main issue of concern, particularly with regard to concerns of overshadowing, overlooking and erosion of privacy.
- 8.04 When assessing the original drawings submitted with the application, I noted the inclusion of balconies to the rear, these have subsequently been removed and consequently will substantially reduce any likelihood of overlooking, whilst the greater distance between the rears of the properties will further reduce such a likelihood. As such, I now believe that the effect on residential amenity is acceptable.
- 8.05 Any overshadowing from the proposal is likely to effect the northerly direction (The Street itself) and will have little effect on neighbouring properties.
- 8.06 With reference to design, I note that concern has been expressed with regard to the somewhat contemporary design. It is true that the design is somewhat modern, but I believe it to express a standard of design which I find both original and pleasing. The design is not run of the mill and represents a refreshing take on design whilst not compromising the character and appearance of the local area and the street scene which exhibits no consistency at present. The open nature of the site already represents a substantial break in form and I cannot see any objection to the design on style grounds as it is in itself well considered. As such, I am of the opinion that the contemporary design proposed would not have an adverse impact on the character and impact on the street scene, and is therefore acceptable.
- 8.07 I note the loss of existing employment land, but conclude that the current employment levels on the site would be fairly minimal, and that the use of the land for residential dwellings is far more in tune with the present needs of the immediate area.
- 8.08 As such, although I note the objections raised, I am of the opinion that the proposal is acceptable. I therefore recommend that the application be approved, subject to strict compliance with Conditions included below.

## 9.0 RECOMMENDATION – GRANT Subject 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.

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following approved drawings: 15024/003 Rev B, 15024/004 Rev B, 15024/005, 15024/006 Rev B, 15024/007 Rev A and 15024/008 Rev A.

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

- (3) 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 the details are correct before development commences.

- (4) Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure that the details are correct before development commences.

- (5) 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 in writing 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 and to ensure that the details are correct before development commences.

- (6) 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.

- (7) 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 any other day except between the following times:-

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

Reason: In the interests of residential amenity.

- (8) No burning of waste or refuse shall take place on site during construction works.

Reason: In the interests of residential amenity.

- (9) During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors' vehicles to park, load and off load and turn within the site.

Reason: In the interests of highway safety and convenience.

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

Reason: In the interests of highway safety and convenience.

- (11) 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 land contamination is adequately dealt with and to ensure that the details are correct before development commences.

- (12) 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 land contaminated is adequately dealt with.

- (13) 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.

- (14) No development shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies and to ensure that the details are correct before development commences.

- (15) 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 prior to the commencement of development.

- (16) 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.

- (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.

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

- (18) The areas shown on the submitted plan as car parking spaces 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 dwellings hereby permitted.

Reason: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users.

- (19) No development shall take place before details of cycle storage (2 cycles per dwelling) shall have been 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.

Reason: In the interests of amenity and to ensure that the details are correct before development commences.

- (20) Adequate and suitable measures shall be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive shall be employed. Any redundant materials removed from the site shall be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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

- (21) Prior to the commencement of the development, a Code of Construction/Demolition Practice shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site, to include measures for the safe dismantling of asbestos containing material (ACM) so as to prevent the generation of airborne fibres
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works

Reason: In the interests of residential amenity and to ensure that the details are correct before development commences.

- (22) The first five metres of the access leading from the public highway to the development hereby permitted shall be of a bound material.



Reason: In the interests of highway safety and convenience.

- (23) Upon completion, no rearward extension other than at ground floor level, whether permitted by Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out to any of the houses hereby approved

Reason: To avoid any extension reducing the distance between rear windows, the interests of the amenities of the residents of Doubleday Drive.

### **Council's Approach to the 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.

### **Habitat Regulations Assessment**

This HRA has been undertaken without information provided by the applicant.

The application site is located within 6km of the Swale Special Protection Area (SPA) and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. 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 and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It 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 of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the 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.

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.