

PLANNING COMMITTEE – 8 DECEMBER 2016

PART 3

Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

REFERENCE NO - 16/507410/FULL			
APPLICATION PROPOSAL Construction of a one bedroom bungalow with associated parking			
ADDRESS Land South Of 30 Seaside Avenue Minster-on-sea Kent ME12 2HA			
RECOMMENDATION Refuse			
SUMMARY OF REASON FOR REFUSAL Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area.			
REASON FOR REFERRAL TO COMMITTEE Minster Parish Council supports the application.			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Malro Investments Limited AGENT Kent Design Partnership - Architect
DECISION DUE DATE 07/12/16	PUBLICITY EXPIRY DATE 15/11/16	OFFICER SITE VISIT DATE 27/10/16	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site consists of a narrow strip of land fronting Seaside Avenue measuring 6m wide by 30m long. The site is flat and has been cleared of vegetation. The side and rear boundaries are enclosed by a fence. It is entirely surrounded by residential dwellings.

2.0 PROPOSAL

2.01 To erect a one bedroom bungalow measuring 4.3m wide, 13.4m long and 5m to ridge height. It would have a dual pitched roof running the length of the building with a gable end fronting Seaside Avenue. The rear garden would measure 10m long. There would

be a single car parking space to the front of the dwelling. The dwelling would not project to the front or rear of 30 Seaside Avenue.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.018	0.018	0
No. of Storeys	na	1	+1
Parking Spaces	na	1	+1
No. of Residential Units	na	1	+1

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 The National Planning Policy Framework (NPPF) and the associated guidance within the National Planning Practice Guidance (NPPG) with regards to Achieving sustainable development; 6. Delivering a wide choice of high quality homes; and 7. Requiring good design.

5.02 Development Plan: Policies E1, E19, H2 and T3 of the Swale Borough Local Plan 2008. Policies CP3, CP4, DM7 and DM14 of the Council's emerging local plan Bearing Fruits 2031: The Swale Borough Local Plan Proposed Main Modifications June 2016.

6.0 LOCAL REPRESENTATIONS

- 6.01 Eleven letters of objection have been received which are summarised as follows;
- Not in keeping with the area or surrounding properties.
 - Proposed building is half the size of the neighbouring properties and is an overdevelopment of a very small site.
 - It will spoil the look of the properties around it.
 - Insufficient parking facilities. Will result in on street parking.
 - Proposal fails to improve the quality of the area and should be rejected.
 - Would look like a holiday chalet, downgrading the area.
 - Would set unwelcome precedent.
 - Will cause overlooking into neighbouring property.
 - Does not respect pattern of the road.
 - Poorly designed.
 - Human Rights Act, Protocol 1, article 1 states person has a right to peaceful enjoyment of their home and land- this could be compromised by noise, overlooking and lack of privacy.
 - Could be used as a holiday let.

7.0 CONSULTATIONS

7.01 Minster Parish Council *“fully supports the proposal. It is pleased to see derelict land being used for a good purpose.”*

7.02 The Council's Environmental Health Manager raises no objection subject to an hours of construction condition.

7.03 KCC Highways and Transportation makes no comment on the application.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application includes a full set of drawings and a design and access statement.

9.0 APPRAISAL

Principle of Development

9.01 The site is located within the built up area boundary of Minster as defined by the proposals map of the Swale Borough Local Plan 2008 where the principle of residential development is acceptable. Furthermore, the site is located within a very central sustainable location within Minster. The Council cannot demonstrate a 5 year supply of housing land therefore, in accordance with 49 of the NPPF, the Council's policies for the supply of housing are considered out of date. In such circumstances, the NPPF dictates that the proposal should therefore be determined in accordance with the presumption in favour of sustainable development at paragraph 14 of the NPPF. However, the Council's adopted and emerging local plan policies for design are considered to be up to date and are therefore attributed full weight in the decision making process. The small contribution the proposal would make to the Council's 5 year supply of housing land is acknowledged and this should be afforded significant weight in the decision making process.

Visual Impact

9.02 The plot is extremely narrow at 6m wide and the bungalow takes up almost the entire width of the plot except for a 0.8m gap on the southern boundary and a 1m gap on the northern boundary. The development would appear extremely cramped and incongruous in relation to the surrounding dwellings and plot sizes e.g. 26 Seaside Avenue has a plot width of 27m, number 30 13.5m, number 32 12m and number 34 12.5m. There are no dwellings or plot widths similar to the proposal within this section of Seaside Road. Within this context, despite the modest scale and design of the dwelling itself, it would appear as a cramped and incongruous form of development that harms the character and appearance of the streetscene and the visual amenities of the area contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, Policies CP4 and DM14 of the emerging local plan and paragraph 64 of the NPPF. I consider the aforementioned harm arising from the proposal significantly and demonstrably outweighs the benefits of the provision of an additional dwelling in a sustainable location in the context of the lack of a 5 year supply of housing land.

Residential Amenity

9.03 The proposal would be 7m from main body of the dwelling at 26 Seaside Avenue and due to the modest scale of the proposal would not harm the residential amenities of its occupiers.

9.04 The proposal would be located only 2m from 30 Seaside Avenue at the closest point. This neighbouring dwelling has an irregular layout that includes a small courtyard created by the rear elevation of its garage, side elevation of the dwelling which includes a bedroom window and door to a hallway, and the front elevation of the rear

part of the building which includes two lounge windows. The arrangement of this courtyard already creates a sense of enclosure in my opinion. Despite the position of the proposal directly to the south of this courtyard of openings to 30 Seaside Avenue, I do not consider there would be demonstrable harm to residential amenity because the lounge of 30 Seaside Avenue has an alternative light source from the rear facing window and the other openings affected serve a hallway which is a non-habitable room and the bedroom window would be approximately 5m from the proposal thereby reducing the impact to an acceptable degree such that no harm would arise.

- 9.05 With regard to the impact on the dwelling to the rear known as Justem, the proposed rear garden depth of 10 would serve to separate the proposal from this neighbouring dwelling. Furthermore, the proposed bungalow design means that a condition requiring a 2m high fence at the end of the garden would prevent overlooking at ground floor level.
- 9.06 The proposal would not give rise to harm to residential amenity in my opinion. The proposal would not contravene the human rights act in my opinion, contrary to the objectors view.

Highways

- 9.04 The proposed single car parking space accords with adopted KCC Highway and Transportation standards within Interim Guidance Note 3. The number, size and layout of parking provision at the site would have an acceptable impact on highway safety and convenience. I do not consider the provision of all vehicle parking to the front of the proposal to amount to a reason for refusal due to the mixed nature of the parking arrangement in the area such as 35 and 33 Seaside Avenue near the site which have all vehicle parking to the front.

10.0 CONCLUSION

- 10.01 Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area.

11.0 RECOMMENDATION –REFUSE for the following reasons:

Despite the sustainable location of the site, the Council's policies relevant to the supply of housing land being considered out of date and the small contribution it would make to the Council's 5 year supply of housing land, the benefits of the proposal are considered to be significantly and demonstrably outweighed by the harm caused by the cramped and incongruous form of development and the harm arising to the character and appearance of the streetscene and the visual amenities of the area contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, Policies CP4 and DM14 of the emerging Local Plan Bearing Fruits 2031 and paragraph 64 of the NPPF.

INFORMATIVES

None.

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

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Habitat Regulations Assessment Screening

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

The application site is located approximately 2.8km north 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 dwelling 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.