

Date: 8 March 2022
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PLANNING COMMITTEE

16 MARCH 2022

A meeting of the Planning Committee will be held at **7.00 pm on Wednesday, 16 March 2022** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Tomlinson (Chair); Councillors: Coleman-Cooke (Vice-Chair), Albon, J Bayford, Crittenden, Everitt, Garner, Hart, Keen, Pat Moore, Paul Moore, Rusiecki, Wing and Wright

A G E N D A

Item No

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)

3. **MINUTES OF PREVIOUS MEETING** (Pages 3 - 10)

To approve the Minutes of the Planning Committee meeting held on 19 January 2022, copy attached.

4. **SCHEDULE OF PLANNING APPLICATIONS** (Pages 11 - 16)

To consider the report of the Director of Housing and Planning, copy attached for Members of the Committee.

For Approval

4a **A01 FH/TH/22/0013 - 20 WINDERMERE AVENUE RAMSGATE** (Pages 17 - 22)

4b **A02 FH/TH/22/0100 - 93 ALL SAINTS AVENUE MARGATE** (Pages 23 - 26)

4c **A03 FH/TH/21/1786 - 147 WESTBROOK AVENUE MARGATE** (Pages 27 - 32)

Item
No

Subject

- 4d **A04 TPO/TH/22/0027 - ST PETERS CHURCH YARD, HOPEVILLE AVENUE, BROADSTAIRS** (Pages 33 - 38)
- 4e **A05 L/TH/21/1924 - 1, 2 AND 3 PARK LODGE, MONTEFIORE AVENUE, RAMSGATE** (Pages 39 - 44)
- For Deferral**
- 4f **D06 F/TH/19/0323 - LAND ON THE NORTH SIDE OF STIRLING WAY, RAMSGATE** (Pages 45 - 114)
- 4g **D07 F/TH/21/1732 - LAND TO THE NORTH OF FAIRLAWN ROAD AND THE WEST OF NORTHWOOD ROAD, BROADSTAIRS** (Pages 115 - 134)
5. **F/TH/19/0889 - FORMER WESTONVILLE GARAGE, CANTERBURY ROAD, MARGATE** (Pages 135 - 176)
6. **NM/TH/22/0012 - 60 NORTHUMBERLAND AVENUE, MARGATE** (Pages 177 - 180)



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Planning Committee

Minutes of the meeting held on 19 January 2022 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Michael Tomlinson (Chair); Councillors Coleman-Cooke, Albon, J Bayford, Crittenden, Everitt, Garner, Hart, Keen, Pat Moore, Paul Moore, Wing and Wright

In Attendance: Cllr Scobie

1. **APOLOGIES FOR ABSENCE**

Apologies were received from Cllr Rusiecki.

2. **DECLARATIONS OF INTEREST**

Cllr Wing declared a significant interest in agenda item 5c (F/TH/21/1783), noting that the applicant was her Accountant and that she had signed a petition relating to their planning application when she was not a member of the Planning Committee.

3. **MINUTES OF PREVIOUS MEETING**

Councillor Albon proposed, Councillor Paul Moore seconded and Members agreed that the minutes of the Planning Committee meeting held on 15 December 2021 be approved and signed by the Chair.

4. **F/TH/20/1471 - FOY HOUSE, 27-29 HIGH STREET, MARGATE**

PROPOSAL: Application for a non-material amendment to Planning Permission.

It was proposed by the Chair and seconded by the Vice-Chair:

‘THAT the officer’s recommendation be adopted, namely:

That the application be APPROVED.

Upon being put to the vote, the motion was declared CARRIED.

5. **SCHEDULE OF PLANNING APPLICATIONS**

(a) **A01 F/TH/21/1510 - Land Adjacent 475 Margate Road, BROADSTAIRS**

PROPOSAL: Erection of coffee shop/restaurant with drive-thru (sui generis), new access from existing roundabout, realignment of existing footway, with associated parking, landscaping and associated works.

It was proposed by the Chair and seconded by the Vice-Chair:

'THAT the officer's recommendation be adopted, namely:

That the application be APPROVED subject to the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2. The proposed development shall be carried out in accordance with the submitted application as amended by the revised site plans numbered 2524-URB-P1-00-DR-A-208900 Rev P02, and 2524-URB-P1-00-DR-A-208150 Rev P03, received 11 January 2022; the external materials schedule dated Nov 2021, received 08 December 2021; the amended landscaping plan numbered 271 / P1 01E, and softworks information, received 11 January 2022; the elevation and floor plans numbered 2524-URB-P1-ZZ-DR-A-208251, 2524-URB-P1-ZZ-DR-A-208350, 2524-URB-P1-ZZ-DR-A-208150, and 2524-URB-P1-ZZ-DR-A-208151, received 24 September 2021; the Apollo Junior cycle shelter details and Bespoke Deacon bin store details, received 24 September 2021; the Construction Methodology dated 22 September 2021 and contractor site setup plan numbered 2524-URB-P1-ZZ-DR-A-Z06100, received 24 September 2021.

GROUND:

To secure the proper development of the area.

3. The development hereby permitted shall be carried out in accordance with the drainage strategy plan numbered 61123-C-001 P3, received 23 September 2021.

GROUND:

To protect the district's groundwater, and to ensure the development is served by satisfactory arrangements for the disposal of surface water, in accordance with Policies SE04 and CC02 of the Thanet Local Plan and advice contained within the NPPF.

4 All hard and soft landscape works shall be carried out in accordance with the soft landscaping plan numbered 271 / P1 01E and the softworks specification, received 11 January 2022; and the hard surfacing/boundary treatment plan numbered 2524-URB-P1-00-DR-A-208900 P01. The works shall be carried out prior to the first use of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning

Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

5 The 4no. trees and 3no. benches shown on plan numbered 271 / P1 01E, and located within the blue line of the development, shall be provided prior to the first use of the development hereby permitted, and thereafter maintained.

GROUND

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

6 Existing trees, shrubs and hedgerows identified for retention within the development site or existing trees growing on an adjacent site, where excavations, changes to land levels or underground works are within the crown spread, shall be protected in accordance with BS 5837 2012 using the following protective fence specification - o Chestnut paling fence 1.2m in height, to BS 1722 part 4, securely mounted on 1.7m x 7cm x 7.5cm timber posts driven firmly into the ground. The fence shall be erected below the outer most limit of the branch spread or at a distance equal to half the height of the tree, whichever is the furthest from the tree, unless otherwise agreed in writing with the Local Planning Authority. The protective fencing shall be erected before the works hereby approved or any site clearance work commences, and shall thereafter be maintained until the development has been completed. At no time during the site works shall building materials, machinery, waste, chemicals, stored or piled soil, fires or vehicles be allowed within the protective fenced area. Nothing shall be attached or fixed to any part of a retained tree and it should not be used as an anchor point. There shall be no change in the original soil level, nor trenches excavated within the protective fenced area.

GROUND

To Protect existing trees and to adequately integrate the development into the environment, in accordance with Thanet Local Plan Policy QD02.

7 A landscape management plan (including long term design objectives), management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its approved use. The amenity areas shall be managed in accordance with the approved landscape management plan in perpetuity.

GROUND

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

8 There shall be no servicing of the building, no goods shall be loaded or deposited, and no delivery vehicles shall arrive, depart, be loaded or unloaded, within the application site before 06:00 or after 17:00 on any given day.

GROUND

In the interest of residential amenity and in pursuance of Policy QD03 of the Thanet Local Plan.

9 The premises shall not be open to the public other than between the hours of 06:00 and 23:00 on any given day.

GROUND

In the interest of residential amenity and in pursuance of Policy QD03 of the Thanet Local Plan.

10 In the event of the premises being used for the cooking or preparation of hot food that would require the installation of an extract ventilation system, details of the location, size, type and design of the system shall be submitted to and agreed in writing by the Local Planning Authority. Prior to the commencement of such a use, the extract ventilation system shall be installed in accordance with the approved details.

GROUND

In the interest of residential amenity and in pursuance of Policy QD03 of the Thanet Local Plan.

11 Prior to the first use of the site the vehicle loading/unloading and turning facilities shown on the submitted plan numbers 2524-URB-P1-00-DR-A-208900 Rev P01 shall be provided and permanently retained.

GROUND

In the interests of highway safety, in accordance with Policy TP08 of the Thanet Local Plan.

12 The area shown on the approved plan numbered 2524-URB-P1-00-DR-A-208900 Rev P01 for vehicle parking and manoeuvring areas, shall be kept available for such use at all times and such land and access thereto shall be provided prior to the first use of the development hereby permitted.

GROUND

To provide satisfactory off street parking for vehicles in accordance with Policy TP06 of the Thanet Local Plan and the advice contained within the NPPF

13 Prior to the first use of the development, the secure cycle parking facilities, as shown on approved drawing no. 2524-URB-P1-00-DR-A-208900 Rev P01 shall be provided and thereafter maintained.

GROUND

To promote cycling as an alternative form of transport, in accordance with Policy TP03 and SP43 of the Thanet Local Plan.

14 Prior to the first use of the site hereby permitted, the vehicular access and associated vehicle crossing point onto the highway, and the pedestrian crossing within the site, as shown on the approved plan numbered 2524-URB-P1-00-DR-A-208150 Rev P01, should be completed and made operational.

GROUND

In the interests of highway safety, in accordance with the advice contained within the NPPF.

Upon being put to the vote, the motion was declared CARRIED.

(b) **A02 L/TH/21/1535 - Numbers 4 to 15 and 19 to 23 Royal Crescent St Augustines Road, RAMSGATE**

PROPOSAL: Application for Listed Building Consent for repair and redecoration works to external elevations, roofs, drainage goods, boundary and retaining walls and replacement Flat entrance doors together with internal repairs and damp treatment to basements

It was proposed by Cllr Albon and seconded by Cllr Wing:

‘THAT the officer’s recommendation be adopted, namely:

That the application be APPROVED subject to the following conditions:

1 The works hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2 The repair and redecoration works hereby approved shall utilise appropriate like-for-like materials and methods for the building element to be repaired as outlined in the submitted 'Outline Scope of Works' received 07 January 2022 and the submitted Heritage Statement 28 September 2021. Where original historic fabric has been removed or replaced, repair works shall be carried out in appropriate traditional, like-for-like materials and methods as used within the adjacent historic fabric for the relevant building

element. Works shall be carried out in a careful manner so that no unnecessary damage is caused to the built fabric or features. Any damage so caused shall be rectified to the satisfaction of the Local Planning Authority.

GROUND:

To secure a satisfactory external and internal treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

3 If on undertaking the repair and redecoration works hereby permitted it is established that replacement works or larger scale intrusive repair is required, further details and information of the proposed replacement or intrusive repair works including photographs of the building element to be replaced and details of its condition, together with details of the proposed intrusive repair or replacement works to be carried out to include the proposed materials and methods, shall be submitted to, and approved in writing, by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

4 Prior to the works and structural repairs to the Verandahs to the southern elevation, the chimney stacks to the roof and the western side boundary wall hereby permitted, a detailed methodology of the proposed repair/replacement and structural works to these building elements, supported by applicable structural information by an suitably competent individual/company, shall be submitted to, and approved in writing, by the Local Planning Authority. Development shall be carried out in accordance with the approved methodology and structural details unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

5 Prior to the internal works to the basement, installation of secondary glazing and fire proofing works hereby permitted, further details of these works including the methodology of the tanking, secondary glazing attachment points and fire proofing arrangements shall be submitted to, and approved in writing, by the Local Planning Authority. Development shall be carried out in accordance with the approved methodology and structural details unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory internal treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

6 Prior to the installation of any new replacement materials to the building, samples of the proposed replacement slate roof tiles, lead or zinc to the canopy roof, replacement timber sections to existing timber windows and doors to be repaired, stone cills and copings, shall be submitted to, and approved in writing, by the Local Planning Authority. Development shall be carried out in accordance with the approved samples unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

7 The proposed replacement external render and stucco shall be replaced in lime based render/stucco where existing lime based render/stucco or adjacent historic building fabric is in situ. Where external render is cement based to the non-original rear elevations, replacement external render shall be replaced in cement based render to match, as stated in the submitted Heritage Statement, received 28 September 2021.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

8 Repairs to external brickwork shall utilise brickwork of the same colour, type, texture and appearance as the brickwork to be repaired. Repaired brickwork shall be set within lime mortar where existing lime based mortar is in situ or adjacent, and cement mortar where existing cement based mortar is in situ to the non-original external elevations, as stated in the submitted Heritage Statement, received 28 September 2021.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

9 Prior to the application of paint to the exterior of the building, associated structures and boundary treatments, details of the colour of the proposed paint including its RAL number and the location of the proposed paint on the building shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with

the approved details, unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

To secure a satisfactory external treatment and to safeguard the special character and appearance of the designated heritage asset in accordance with Policy HE03 of the Thanet Local Plan and advice contained within the National Planning Policy Framework.

(c) **R03 F/TH/21/1783 - 274 Northdown Road, MARGATE**

PROPOSAL: Retrospective application for installation of replacement shopfront.

Following her declaration of interest, Councillor Wing left the meeting for the duration of this item.

Cllr Scobie spoke under rule 20.1 in favour of the application.

It was proposed by the Chair and seconded by the Vice-Chair:

‘THAT the officer’s recommendation be adopted, namely:

That the application be REFUSED for the following reasons:

1 The alterations to the shop front have resulted in the loss of a shop front that was constructed with a traditional design and materials. The replacement shopfront by virtue of its modern design and materials fails to preserve the architectural and historic merit of the building, detracting from the special character and significance of the Conservation Area as a designated heritage asset, resulting in significant harm which is not considered to be outweighed by the public benefits of the proposal. This development is therefore contrary to the aims of paragraphs 130, 197, 199, 200, and 202 of the National Planning Policy Framework and Thanet Local Plan Policies HE02 and QD02.

Upon being put to the vote, the motion FELL.

It was then proposed by Cllr Albon and seconded by Cllr Jill Bayford that:

“Members approve the application as the benefits from the new shopfront, specifically accessibility, thermal efficiency and reduced fascia size, outweigh the identified harm to the Northdown Road Conservation area.”

Upon being put to the vote, the motion was declared CARRIED.

Meeting concluded : 8.13 pm

THANET DISTRICT COUNCIL

PLANNING COMMITTEE

16th MARCH 2022

BACKGROUND PAPERS TO SCHEDULE OF APPLICATIONS

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended)

(A) Standard Reference Documents - (available for inspection at the Council offices and via thanet.gov.uk and gov.uk)

1. Thanet District Council Local Plan and associated documents.
2. Cliftonville Development Plan Document
3. Broadstairs and St Peters Neighbourhood Plan
4. The National Planning Policy Framework and the National Planning Practice Guidance issued by the Ministry of Housing, Communities and Local Government.

(B) Register of Applications for Planning Permission (Article 40 of the Town and Country Planning (Development Management Procedure) (England) Order 2015))

(Copy of applications together with accompanying plans or drawings are available for inspection via the Council's website <https://planning.thanet.gov.uk/online-applications/> or at the Council offices)

(C) Background Papers in relation to specific reports in the Schedule of Planning Applications

(Copies of background papers and any appeal decisions referred to are available via the Council's website <https://planning.thanet.gov.uk/online-applications/>)

I certify that the above items are not exempt information.

(D) Exempt information in accordance with paragraph of Schedule 12 (A) of the Local Government Act 1972.

N/A

I certify that the above items are exempt information.

Prepared by: IAIN LIVINGSTONE



SIGNED:.

Proper Officer

DATE:7TH MARCH 2022

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THANET DISTRICT COUNCIL

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

PART A

TO: THE PLANNING COMMITTEE

DATE: 16 March 2022

Application Number	Address and Details	Recommendation
A01 FH/TH/22/0013	20 Windermere Avenue RAMSGATE Kent CT11 0PA Erection of a single storey side and rear extension together with erection of dormer to rear elevation and 3No rooflights to front elevation Ward: Nethercourt	Approve
A02 FH/TH/22/0100	93 All Saints Avenue MARGATE Kent CT9 5QH Erection of a rear dormer window with juliet balcony and insertion of sun tunnel to the front roof slope Ward: Garlinge	Approve
A03 FH/TH/21/1786	147 Westbrook Avenue MARGATE Kent CT9 5HH Erection of a two storey side extension following demolition of existing together with porch to front elevation Ward: Westbrook	Approve
A04 TPO/TH/22/0027	St Peters Church Yard Hopeville Avenue BROADSTAIRS Kent CT10 2TR TH/TPO/20(1986) - 1No Ash (T1) - Crown lift to 6m, 1No Holly (T2) - Crown reduce to 4m and removal of epicormic growth, 1No Cherry (T3) - Remove crossed branches, 2No Oak	Approve

Agenda Item 4

Annex 1

(T5 T6) - Fell, 1No Holm Oak (T7) -
Remove left third of the stool to
coppice, 1No Catalpa (T8) - Remove
major cross branches crown reduce by
15% and crown thin by 30%, 1No Yew
(T9) - Crown lift by 4m

Ward: St Peters

A05 L/TH/21/1924

**1, 2 And 3 Park Lodge Montefiore
Avenue RAMSGATE Kent CT11 8BD**

Approve

Application for Listed Building Consent
for the installation of replacement roof

Ward: Sir Moses Montefiore

THANET DISTRICT COUNCIL

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

PART B

TO: THE PLANNING COMMITTEE

DATE: 16 March 2022

Application Number	Address and Details	Recommendation
D06 F/TH/19/0323	Land On The North Side Of Stirling Way RAMSGATE Kent	Defer & Delegate
MAJOR	Erection of 23no. 2 storey dwellings and a 3-storey building accommodating 15No. self-contained flats together with associated parking and landscaping Ward: Northwood	
D07 F/TH/21/1732	Land To The North Of Fairlawn Road And The West Of Northwood Road Broadstairs Kent	Defer & Delegate
MAJOR	Erection of 6no. dwellings (4no four bedroom dwellings and 2no three bedroom dwellings) with associated access, parking and landscaping Ward: St Peters	

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A01

FH/TH/22/0013

PROPOSAL: Erection of a single storey side and rear extension together with erection of dormer to rear elevation and 3No rooflights to front elevation

LOCATION:

20 Windermere Avenue RAMSGATE Kent CT11 0PA

WARD: Nethercourt

AGENT: Mr Simon Bowmont

APPLICANT: Mr & Mrs Tomkinson

RECOMMENDATION: Approve

Subject to the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised drawings numbered 20-WA-2 received on 25th February 2022, and 20-WA-3 received on 4th March 2022.

GROUND:

To secure the proper development of the area.

SITE, LOCATION AND DESCRIPTION

The application site lies within the urban confines, in a residential area.

No. 20 Windermere Avenue is a semi-detached bungalow set back from the highway, with a dwarf walled area of hardstanding and driveway to the front, leading to a detached garage and walled area with gate that provides access to the private amenity space at the rear.

Windermere Avenue is a residential street on the outskirts of Ramsgate, located in the Nethercourt Estate and is characterised by semi-detached and detached bungalows as well as two storey dwellings, set along gently sloping roads. All dwellings benefit from being set back from the public highway and having off-street parking.

RELEVANT PLANNING HISTORY

No relevant planning history

PROPOSED DEVELOPMENT

This is an application for the erection of a single storey side and rear extension, together with a dormer to the rear elevation and 3 No. rooflights to the front elevation.

The proposed single storey side and rear extension would provide additional space to the lounge and kitchen area as well as creating a utility space. The extension would increase the depth of the existing rear extension by approximately 1.42m (creating a total depth of 3.90m) and extend sideways, to infill the existing walled area attached to the garage by approximately 1.13m. These extensions would have a flat roof.

A flat roof rear dormer extension is proposed to create an additional bedroom and en-suite, with two casement windows and a set of french doors with juliette balcony . The dormer will sit 0.94m below the ridge, 0.35m above the existing eaves height and be set in from either side.

DEVELOPMENT PLAN POLICIES

THANET LOCAL PLAN 2020

SP35 - Quality Development
QD02 - General Design Principles
QD03 - Living Conditions
TP06 - Car Parking

NOTIFICATIONS

Letters were sent to neighbouring occupiers and a site notice was posted near the site. One residential response has been received in the form of an objection.

The objection raised the following concerns:
Overlooking and loss of privacy in the rear garden as a result of the proposed dormer.

Ramsgate Town Council: no comment.

CONSULTATIONS

None.

COMMENTS

The application has been called to the planning committee at the request of Councillor Ovenden for Members to consider the potential impact upon neighbouring privacy.

The main considerations with regards to this planning application are the impact of the proposal upon the character and appearance of the area, the impact on living conditions of neighbouring property occupiers and highway safety.

Character and Appearance

In terms of character and appearance, paragraph 130 of the NPPF states that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, establish or maintain a strong sense of place, optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and create places that are safe, inclusive and accessible.

Thanet Local Plan Policy QD02 relates to general design principles and outlines that the primary planning aim in all new development is to promote or reinforce the local character of the area and provide high quality and inclusive design that is sustainable in all other respects. Proposals must relate to the surrounding development in terms of its form and layout, be well designed, respect and enhance the character of the area paying particular attention to context and identity of its location, scale, massing, rhythm, density, layout, use of materials appropriate to the locality, be compatible with neighbouring buildings and spaces.

Windermere Avenue is a residential street on the outskirts of Ramsgate, located in the Nethercourt Estate and is characterised by semi-detached and detached bungalows as well as two storey dwellings, set along gently sloping roads. All dwellings benefit from being set back from the public highway and having off-street parking.

The proposed dormer will be set upon the rear roof plane, set down from the ridge and up from the eaves, and set in from both sides. Although a small part of the eastern dormer cheek will be visible from public vantage points when standing to outside Nos. 16 and No. 3 Windermere Avenue, given that it is not an unusual feature to the rear of residential properties and proposes to use a grey cedar cladding to blend in with the greyed appearance of the existing roof tiles, it is unlikely to appear overly dominant or out of keeping with the character of the host dwelling and surrounding streetscene.

The proposed single storey rear extension will be almost entirely located within the rear garden and only the eastern corner which will infill and replace the existing gap and boundary wall between the host dwelling and garage will be visible. It will be flat roofed and use materials to match the structures it adjoins. As such it is not considered to create any significant harm to the character or appearance of the application site or wider area.

Although there are three roof lights proposed to the front roof plane, given these are not an unusual roof feature and the front roof planes to both Nos 8 and 22 Windermere Avenue are entirely covered with solar panels, these are not considered to create any harm to the streetscene.

It is therefore considered that the proposed development would not result in material harm to the streetscene or wider character and appearance of the area and therefore accords with Policies SP35 and QD02 of the Thanet Local Plan and the NPPF.

Living Conditions

In terms of living conditions, paragraph 119 of the NPPF outlines that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 130 of the NPPF states that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy QD02 of the Thanet Local Plan outlines that new development must be compatible with neighbouring buildings and spaces and inclusive in its design for all users. It should improve people's quality of life by creating safe and accessible environments and promote public safety and security. Thanet Local Plan Policy QD03 states that new development must not lead to unacceptable living conditions through overlooking, noise or vibration, light pollution, overshadowing, loss of natural light or sense of enclosure.

The proposed single storey rear extension will project outwards from the existing rear extension by 1.42 m creating a total depth of 3.90m. As this will project only 1m beyond the existing rear extension belonging to the adjacent property, No. 22, to the west, and given that there is a separation distance to the side elevation of their existing rear extension of 0.90m, along with a modest height of approximately 2.66m, it is unlikely to create a sense of enclosure or loss of light for the neighbouring occupier.

As there are no side windows proposed and only a set of bi-folding doors proposed to the rear elevation at ground floor level, facing into the garden of the application site, there is unlikely to be any loss of privacy as a result of the rear/side extension.

Furthermore, as there will be a separation distance of approximately 2.7m to the common boundary with No. 18, to the east, and it will be entirely screened from them by the existing garage, it is not considered to create any sense of enclosure, loss of light or privacy here.

A flat roof dormer is proposed to the rear roof slope, which will be set down from the ridge by 0.94m, set up from the eaves by 0.35m, set in from the eastern edge by 0.25m, and set in from the western edge by 0.42m (nearest to the adjacent property No. 22). Due to its position and design, the proposed dormer is unlikely to create a sense of enclosure or loss of light for neighbouring occupiers.

Concerns have been received from neighbouring occupiers regarding the potential for overlooking and loss of privacy in the neighbouring rear garden as a result of the proposed dormer. Whilst windows and french doors are proposed within the dormer, which would only indirectly overlook the neighbouring properties' garden, amended plans have been sought to reduce the perception of overlooking to the neighbouring property from the french doors and balconette, especially given that the properties in the immediately surrounding area are bungalows, and not currently overlooked.

Amended plans have been received swapping the french doors and juliette balcony in the western end of the dormer with a two-light casement window in the eastern end of the dormer. This has increased the distance between the french doors and balconette and the common boundary with No. 22 to approximately 5.59m.

The centre line of the two-light casement dormer window will be approximately 1.67m from the common boundary with No. 22, but given the reduced size of the nearest opening, and the presence of the neighbouring rear extension on the other side of the common boundary, which projects approximately 2.90m in depth, and will obstruct views towards the neighbours external amenity space, it is considered that any views from this window will be oblique and will not create any harmful overlooking or loss of privacy for the neighbouring occupier.

The proposed mid-point of the French doors and juliette balcony, now located to the eastern end, will be approximately 1.79m in from the edge, with a total separation distance of 5.55m to the common boundary with No. 18 Windermere Avenue, and approximately 9.37m to their blank first floor side elevation. As these two properties are set at differing angles on their plots any views into the neighbouring garden would be approximately 10m, over the top of their adjoining garages and considered entirely oblique. This is therefore considered to be a much more considerate location for the french windows and juliette balcony and not considered to create any harmful overlooking or loss of privacy.

To the rear of the site is a railway line, with no neighbouring properties beyond, so there will be no loss of neighbouring privacy to the rear.

For these reasons it is not considered that the proposal would adversely affect the living conditions of neighbouring property occupiers and therefore accords with Policy QD03 of the Thanet Local Plan and the NPPF.

Transportation

The scheme proposes to increase the number of bedrooms by one, but as the required provision for a one or two bedroom property is the same, and the garage is remaining, it is not considered that there would be a material increase in vehicle movements to and from the site or demand for car parking.

For these reasons, it is not considered that the proposed development would result in harm to highway safety or amenity.

RECOMMENDATION

For the reasons outlined above, it is considered that the impact upon the character and appearance of the area would be acceptable, with no significant harm created for the residential amenities of neighbouring property occupiers or the local highway network. The proposal therefore accords with Policies SP35, QD02, QD03 and TP06 of the Thanet Local Plan and the National Planning Policy Framework.

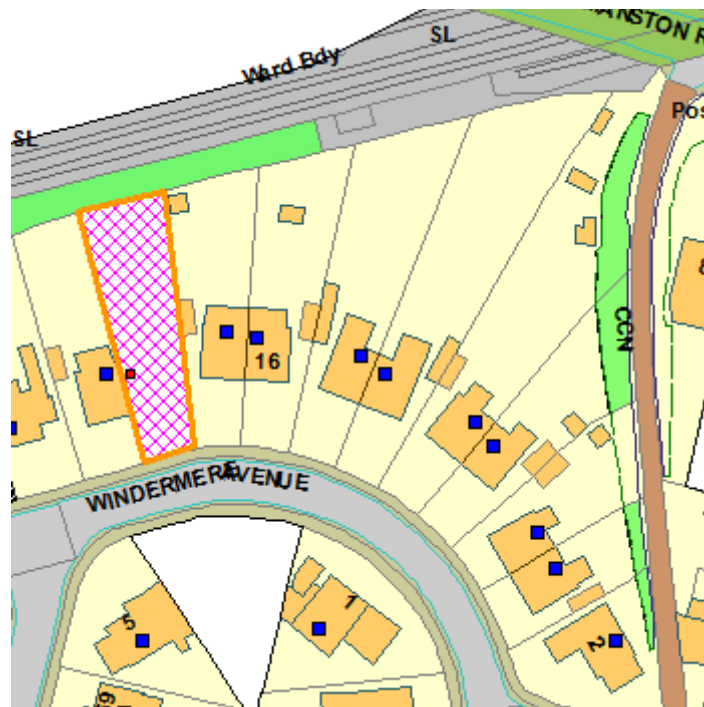
It is therefore recommended that Members approve the application, subject to safeguarding conditions.

Case Officer
Tanya Carr

TITLE: FH/TH/22/0013

Project 20 Windermere Avenue RAMSGATE Kent CT11 0PA

Scale:



A02

FH/TH/22/0100

PROPOSAL: Erection of a rear dormer window with juliet balcony and insertion of sun tunnel to the front roof slope

LOCATION:

93 All Saints Avenue MARGATE Kent CT9 5QH

WARD:

Garlinge

AGENT:

Mr Matthew Gerlack

APPLICANT:

Mr Bertie Braidwood

RECOMMENDATION:

Approve

Subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

- 2 The development hereby approved shall be carried out in accordance with the submitted drawings numbered 22/546/JG/PL01 received 21 January 2022.

GROUND:

To secure the proper development of the area.

INFORMATIVES

Please be aware that obtaining planning permission and complying with building regulations are separate matters - please contact building control on 01843 577522 for advice on building regulations

SITE, LOCATION AND DESCRIPTION

The site is located within the urban confines of Margate in a wholly residential area. Properties in this part of All Saints Avenue are predominantly two storey semi-detached dwellings set back from the highway with the front gardens providing hardstanding for off-street parking. The dwelling forms a semi-detached pair with No 95. The rear elevation faces towards the Naylands housing development and Margate Railway station to the north.

PLANNING HISTORY

None

PROPOSED DEVELOPMENT

The application seeks planning permission for the erection of a dormer extension within the rear roofslope with a juliet balcony and a sun tunnel within the front roofslope.

PLANNING POLICIES

Thanet Local Plan 2020

QD02 - General Design Principles

QD03 - Living Conditions

SE03 - Land affected by Contamination

NOTIFICATIONS

Neighbours have been notified and a site notice posted opposite the site. No representations have been received.

CONSULTATIONS

Environmental Protection Manager- Thank you for consulting Environmental Protection on the above planning application for which we have considered the potential for environmental health impacts and consider it to have a low environmental risk and therefore do not offer any comments in this regard.

COMMENTS

This application is reported to the Planning Committee as the applicant is a Councillor.

The main considerations for Members to assess are the principle of development, impact of the development on the character and appearance of the area and the impact on neighbouring amenity.

Principle of Development

The site is located in a wholly residential area within the urban confines of Margate and the principle of householder development is acceptable and therefore the application needs to be determined in accordance with the National Planning Policy Framework (NPPF) and Local Plan Policies.

Character and Appearance

Thanet Local Plan policy QD02 relates to general design principles and supports development that relates to surrounding development, is well designed, respects and

enhances the character of the area paying particular attention to context and identity of its location, scale, massing, rhythm, density, layout and use of materials appropriate to the locality.

The area is characterised by semi-detached pairs of two storey properties fronting onto All Saints Avenue. The proposed development relates to the erection of a dormer extension within the rear roofslope with a juliet balcony and a sun tunnel within the front roofslope.

The sun tunnel would provide light to the en-suite and would result in minimal disruption to the front roofslope. The dormer extension would be located within the rear roofslope and would not be immediately visible from All Saints Avenue due to the close proximity of neighbouring development which mostly screens views through to the rear elevation.

The dormer would be substantial in size and extend across the entire roofslope and extend out towards the edge of the eaves (approximately 6 metres wide by 4 metres deep) however the dormer would be set down from the ridge thereby reducing opportunities to view the presence of the dormer from All Saints Avenue. The dormer would be finished with horizontal slate grey Cedral cladding with black framed UPVC french doors. Whilst this is a large dormer extension any views of it would be at a significant distance. The dwelling is on higher ground level to properties in the Naylands housing development to the rear (to the north) and the railway line beyond, and the rear elevation of the dwelling and the proposed dormer would be visible from Naylands at a distance of approximately 60 metres.

Whilst the dormer would be substantial in size in relation to the main dwelling it would not be immediately viewed in relation to street frontage development in All Saints Avenue and therefore it would not appear unduly prominent or overbearing in respect to the character or appearance of the streetscene and would meet the requirements of Thanet Local Plan Policy QD02 and the NPPF.

Living Conditions

The rear elevation of the dwelling faces towards the Naylands housing development to the north. It is proposed to install french doors with a juliette balcony to serve the bedroom with a rooflight installed within the dormer roof. There would be a separation distance from the dormer to the rear garden boundary of approximately 31.5 metres, and the windows of the dormer would face towards the parking area between Nos 37 and 39 Naylands, with a separation distance of nearly 60 metres to Flats 1 to 4, 39 Naylands and 50 metres to 37 Naylands. At this distance there is unlikely to be unacceptable overlooking or loss of privacy resulting from views from the french doors. The window relationship resulting from the additional window opening would be similar to that of existing windows within the dwelling and from adjacent properties.

Given the above it is considered that the proposed development would not adversely impact on the living conditions of neighbouring property occupiers through overlooking or loss of outlook and the proposal would therefore accord with QD03 of the Thanet Local Plan and the NPPF.

Contaminated Land

The Environmental Protection Manager has been consulted as the land is adjacent to the railway line. No objection has been raised in this instance as the potential for environmental health impacts is considered to be low.

RECOMMENDATION

The proposed development is considered to be acceptable in terms of the character and appearance of the area and the living conditions of surrounding neighbouring residential occupiers. The proposed development therefore accords with Policies QD02, QD03 and SE03 of the Thanet Local Plan and the NPPF. It is therefore recommended that Members approve the application, subject to safeguarding conditions.

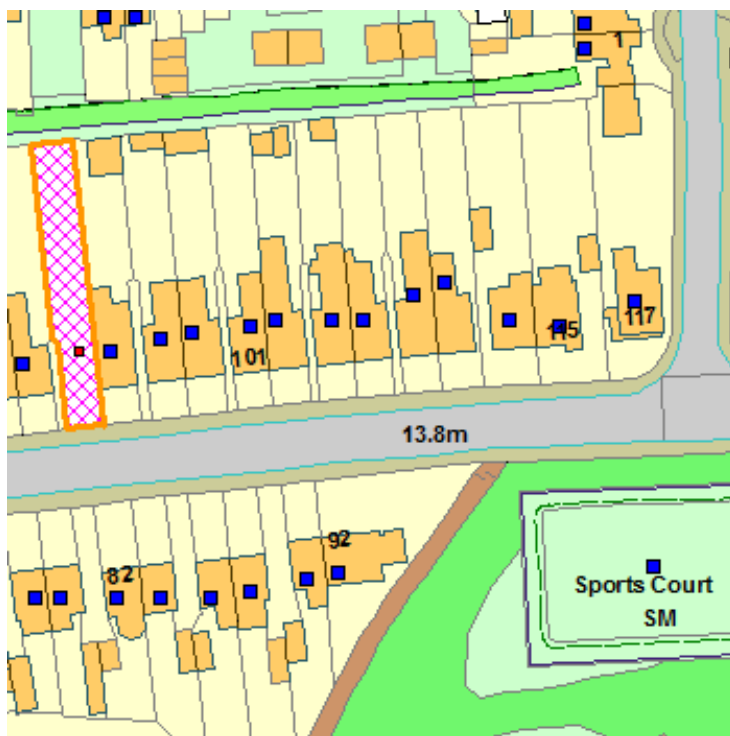
Case Officer

Rosemary Bullivant

TITLE: FH/TH/22/0100

Project 93 All Saints Avenue MARGATE Kent CT9 5QH

Scale:



SITE, LOCATION AND DESCRIPTION

147 Westbrook Avenue is a two storey detached dwelling located on the southern side of Westbrook Avenue close to the junctions with Audley Avenue and Fitzmary Avenue. The property has a hipped roof, bay windows to the front elevation and an attached flat roof garage. The property is constructed with a tiled roof and render to the first floor and brick to the ground floor.

RELEVANT PLANNING HISTORY

There is no planning history for the site.

PROPOSED DEVELOPMENT

The proposed development is the erection of a two-storey side extension following demolition of an existing garage and outbuildings together with a porch to the front elevation.

The two storey side extension would have a hipped roof set down and back from the existing roof and front elevation and would be constructed from materials to match the existing property.

The proposed porch would have a pitched roof and be located on the eastern side of the front elevation around the existing door. The porch would also be constructed from materials to match the existing property.

DEVELOPMENT PLAN POLICIES

THANET LOCAL PLAN 2020

Policy SP10 - Margate
Policy SP35 - Quality Development
Policy QD01 - Sustainable Design
Policy QD02 - General Design Principles
Policy QD03 - Living Conditions
Policy TP06 - Car Parking

NOTIFICATIONS

Letters were sent to neighbouring occupiers and a site notice was posted close to the site. No representations have been received in response.

CONSULTATIONS

None received.

COMMENTS

This application is brought before members as the applicant is related to a member of staff.

Principle

The site is situated within the urban confines of Margate where the 'principle' of household development is acceptable in this location, subject to, the impact on the character and appearance of the area, impact on neighbouring living conditions and highway implications.

The application needs to be determined in accordance with the National Planning Policy Framework (NPPF 2021) and Local Plan Policies.

Character and Appearance

The NPPF states that planning decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and appropriate landscaping; are sympathetic to local character and history; establish or maintain a strong sense of place; and provide a high standard of amenity for existing and future users (Paragraph 130).

Policy QD02 of the Thanet Local Plan provides general principles for new development and states that the primary planning aim in all new development is to promote or reinforce the local character of the area and provide high quality and inclusive design and be sustainable in all other respects. In this regard development must relate to the surrounding development, form and layout and strengthen links to the adjacent areas.

Policy SP35 relates to the quality of development and states that new development will be required to be of high quality and inclusive design.

Therefore, the development should be well designed, respect and enhance the character of the area paying particular attention to context and identity.

The two-storey side element would extend in width some 2.5 metres and would be set back from the front boundary by 0.2 metres. The proposed extension would extend 8 metres in depth falling in line at the rear with the original dwelling. The proposal would be to a height of 6 metres to the parapet, with a subservient hipped roof.

The two-storey extension would be tight to the western boundary and, whilst this is the same as that which currently exists at ground floor level, the impact of the first-floor element in terms of character needs to be considered.

Permission was recently granted (FH/TH/21/0139) for the erection of a part two storey, part single storey side extension to no. 149, (the dwelling adjacent to the western boundary). When considering the application for no. 149, the delegated report notes that,

"The proposed extension will retain a 1 metre separation distance would be retained to the side boundary and space at first floor level will be retained above the adjacent neighbours garage. The extension will be set under a hipped pitched roof which will pitch away from the adjacent neighbour, which will increase the sense of space/separation at roof level. There are a variety of separation distances between properties in the surrounding area, and the

separation that will be retained at first floor level, together with the form of the roof is considered to provide sufficient space and separation to prevent a cramped form of development, and is not considered to be out of character with the locality."

As the delegated report notes there are a variety of separation distances between properties in the surrounding area and there are also semi detached dwellings nearby. Whilst this application would remove the space at first floor level over the existing garage a 1m separation distance would remain between numbers 147 and 149. Furthermore the properties to the east are bungalows and to the west of number 149 is Audley Avenue.

The porch would be 2.5 metres in width x 2 metres in depth with a sloping roof to a maximum height of 3.8 metres. Whilst the porch would be visible within the street scene, its design is appropriate for the character of the dwelling and the area.

Therefore, given the variety of spacing between dwellings and their designs (Detached, semi-detached and bungalows) within the street scene, the proposed development is not considered to result in any significant harm to the character and appearance of the area in line with policies SP10, SP35, QD02 and paragraphs 130 and 134 of the NPPF.

Living Conditions

Local Plan Policy QD03 also states that all new development should "be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions through overlooking, noise or vibration, light pollution, overshadowing, loss of natural light or sense of enclosure".

In terms of neighbour amenity, there are no windows proposed in the flank elevation and no first-floor windows have been granted in the neighbour's extension, therefore, it is not considered that the proposal would lead to unacceptable living conditions in regard to overlooking.

The proposed extension would extend further to the rear than the neighbours consented scheme, however, it is not considered that this would have a detrimental impact on the single storey element approved under the consented scheme in terms of overshadowing or loss of natural light.

The proposed development is, therefore, considered to be acceptable in terms of residential amenity, in accordance with Policy QD03 of the Thanet Local Plan and the NPPF.

Transportation

Local Plan policy TP06 states that proposals for development will be expected to make satisfactory provision for the parking of vehicles, including disabled parking. Suitable levels of provision will be considered in relation to individual proposals taking account of the type of development, location, accessibility, availability of opportunities for public transport, likely accumulation of car parking, design considerations.

The proposal would not alter the existing off street parking provision, albeit it is noted that the existing and proposed garage is only 2.2 metres wide x 3 metres in depth, with an internal door opening into the garage and, therefore, use as a garage would be limited.

The proposal would not prejudice highway safety and would accord with Local Plan Policy TP06.

RECOMMENDATION

Overall it is considered that there would be no significant adverse effect from the proposed development on the character or appearance of the area, living conditions, highways, or other planning matters. Therefore the development is recommended for approval.

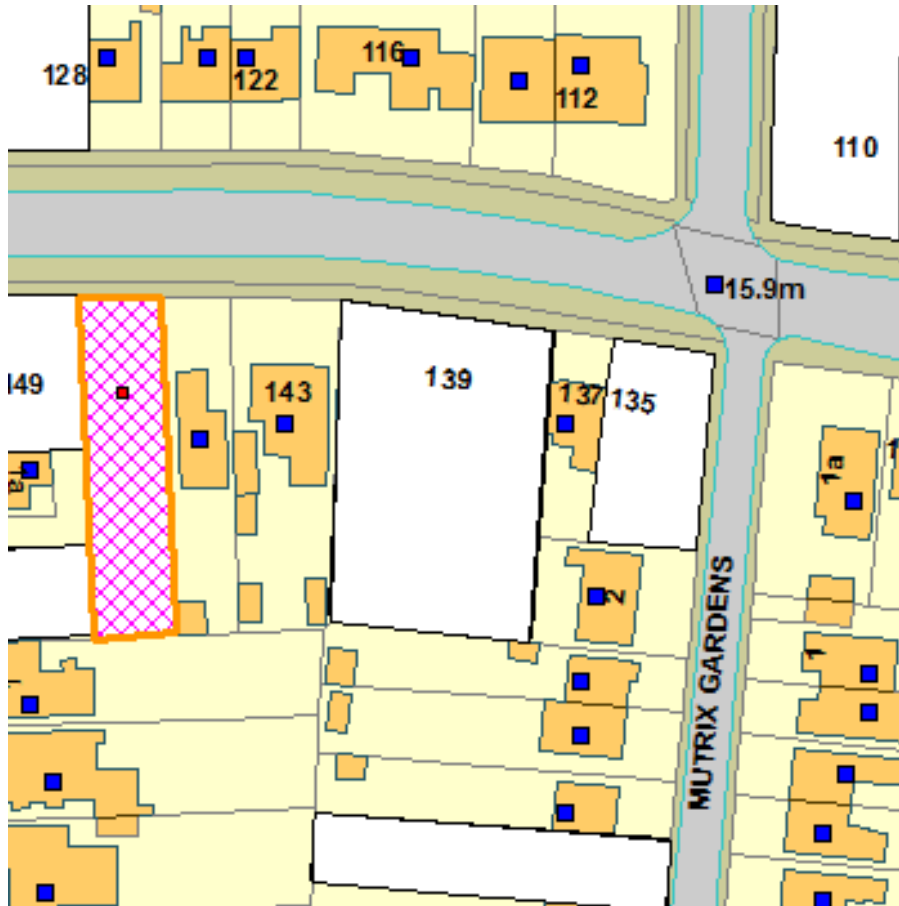
Case Officer

Duncan Fitt

TITLE: FH/TH/21/1786

Project 147 Westbrook Avenue MARGATE Kent CT9 5HH

Scale:



A04

TPO/TH/22/0027

PROPOSAL: TH/TPO/20(1986) - 1No Ash (T1) - Crown lift to 6m, 1No Holly (T2) - Crown reduce to 4m and removal of epicormic growth,
LOCATION: 1No Cherry (T3) - Remove crossed branches, 2No Oak (T5 T6) - Fell, 1No Holm Oak (T7) - Remove left third of the stool to coppice, 1No Catalpa (T8) - Remove major cross branches crown reduce by 15% and crown thin by 30%, 1No Yew (T9) - Crown lift by 4m

St Peters Church Yard Hopeville Avenue BROADSTAIRS Kent CT10 2TR

WARD: St Peters

AGENT: No agent

APPLICANT: Mrs Nicola Dowsett

RECOMMENDATION: Approve

Subject to the following conditions:

1. This approval is only valid for a period of 24 months from the date hereof. Failure to carry out any or all of the approved work within this period will make it necessary to submit a fresh application.

GROUND:

In accordance with Part 4 Regulation 17 of Town and Country Planning (Tree Preservation) (England) Regulation 2012.

2. The works approved by this consent shall not exceed those specified in the amended description. They should be carried out by a competent tree surgeon and in accordance with British Standard BS 3998: 2010 "Tree Work - Recommendations".

GROUND:

In accordance with Part 4 Regulation 17 of Town and Country Planning (Tree Preservation) (England) Regulation 2012.

3. The Council requires 2No. replacement tree to be planted, securely staked and tied within the next planting season following removal, in the same location approximately as the existing tree, the replacement trees being select nursery standard oak trees unless otherwise agreed with the Local Planning Authority. The Council to be notified in writing once this condition has been complied with.

GROUND:

In accordance with Part 4 Regulation 17 of Town and Country Planning (Tree Preservation) (England) Regulation 2012.

SITE, LOCATION AND DESCRIPTION

The trees are located within the churchyard towards the rear of the church and the rear of the buildings located on the southern side of Hopeville Avenue. The trees are highly prominent within the church yard itself and are considered to make an important contribution to the character and appearance of the conservation area.

RELEVANT PLANNING HISTORY

There is no history of works to these trees.

PROPOSED DEVELOPMENT

This application proposes the following works to trees covered by TH/TPO/20(1986); - 1No Ash (T1) - Crown lift to 6m, 1No Holly (T2) - Crown reduce to 4m and removal of epicormic growth, 1No Cherry (T3) - Remove crossed branches, 2No Oak (T5 T6) - Fell, 1No Holm Oak (T7) - Remove left third of the stool to coppice, 1No Catalpa (T8) - Remove major cross branches crown reduce by 15% and crown thin by 30%, 1No Yew (T9) - Crown lift by 4m.

NOTIFICATIONS

A site notice was posted close to the site. One letter has been received raising concerns about the felling of the two Oak trees and stating that pollarding these trees would be preferable.

Broadstairs and St Peter's Town Council - The Committee objects to this proposal specifically to the felling of the two oaks (T5 and T6). The Committee would propose pollarding in preference of felling. All other proposals specified should be as per the Tree Officer's report.

CONSULTATIONS

TDC Biodiversity and Horticulture Officer - "T1 appears in healthy condition with reasonable shape and form, so work proposed will address issues relating to space constraints and nearness to buildings.

T2 appears in healthy condition with reasonable shape and form, so work proposed will address issues relating to space constraints and nearness to buildings.

T3 appears in healthy condition with reasonable shape and form, but clearly has some crossed branches that need removing to reduce wound development.

T5/T6 appear healthy previously coppiced, so although felled specified, they could come from base again, but would need a coppice every 3 to 4 years to stop predation into Liriodendron.

T7 this is clearly impacting path and therefore is appropriate work.

T8 this will clean up the tree and hopefully help induce regrowth and therefore tree longevity.

T9 a crown lift will allow access under the tree and minimise potential pedestrian eye contact with branches."

COMMENTS

This application is brought before members as the application is made by Thanet District Council.

Principle

The proposed works are to a number of protected trees. A Tree Preservation Order (TPO) is an order made by a Local Planning Authority (LPA) to protect specific trees, groups of trees or woodlands in the interests of amenity. Orders prohibit the cutting down, topping, lopping, uprooting, wilful damage and wilful destruction of trees contained in the Order without the LPA's written consent. These prohibited activities are set out in Regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

As a result there is no in principle objection to works to a TPO tree, subject to an assessment of the works. The LPA can choose to grant consent subject to conditions, or to refuse consent for works. In considering an application, the LPA should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. The authority must be clear about what work it will allow and any associated conditions. Should an application for works be refused, the applicant can appeal to the Secretary of State, and in some circumstances compensation may be payable by LPA for loss or damage which results from the authority refusing consent or where consent is granted subject to conditions.

It falls to now be considered subject to an assessment of the details of the proposal, the impact of the works on the amenity of the area, the health of the trees, and any applicable living conditions of neighbouring occupiers or members of the public.

Amenity

Trees are important to the character and quality of an area, providing a visual break and relief from built development. They can lend character, in particular to conservation areas, and provide many other benefits, including the provision of natural habitats, the enhancement of health and wellbeing and the improvement of air quality. As such the retention of trees where possible are always sought.

In this instance the trees which are the subject of this application are considered to make a substantial contribution to the character and appearance of the area, and the conservation area, and great weight is placed upon their preservation.

The Council's Biodiversity and Horticulture Officer has visited the site to assess the application and has raised no objection to the works to T1-4 and T7-9.

The works to T1-3 appear necessary to reduce their proximity to the neighbouring buildings and remove branches that are crossed and have the potential to develop into wounds.

The removal of the Ivy on T4 does not require consent under the TPO regime.

The Council's Biodiversity and Horticulture has confirmed that T5 and T6 have been previously coppiced. Coppicing significantly alters the form of the trees by removing them back to ground level every few years. Trees that have been subject to this type of management are not normally considered suitable for protection as they are often multi stemmed and limited in scale. The sapling is of a limited size and age and therefore would not be covered by the TPO or Conservation area.

The works to T7 and 9 appear necessary to ensure that the trees do not present a hazard to users of the footpath.

T8 appears to be stressed with signs of dieback. Removal of dead branches does not require consent under the TPO regime and the Biodiversity and Horticulture Officer has indicated that the proposed reduction and thinning would help to induce regrowth in this tree.

RECOMMENDATION

The proposed works are considered to meet an appropriate balance between health and safety, management of the trees and the amenity of the area. It is therefore recommended that Members approve the application subject to conditions.

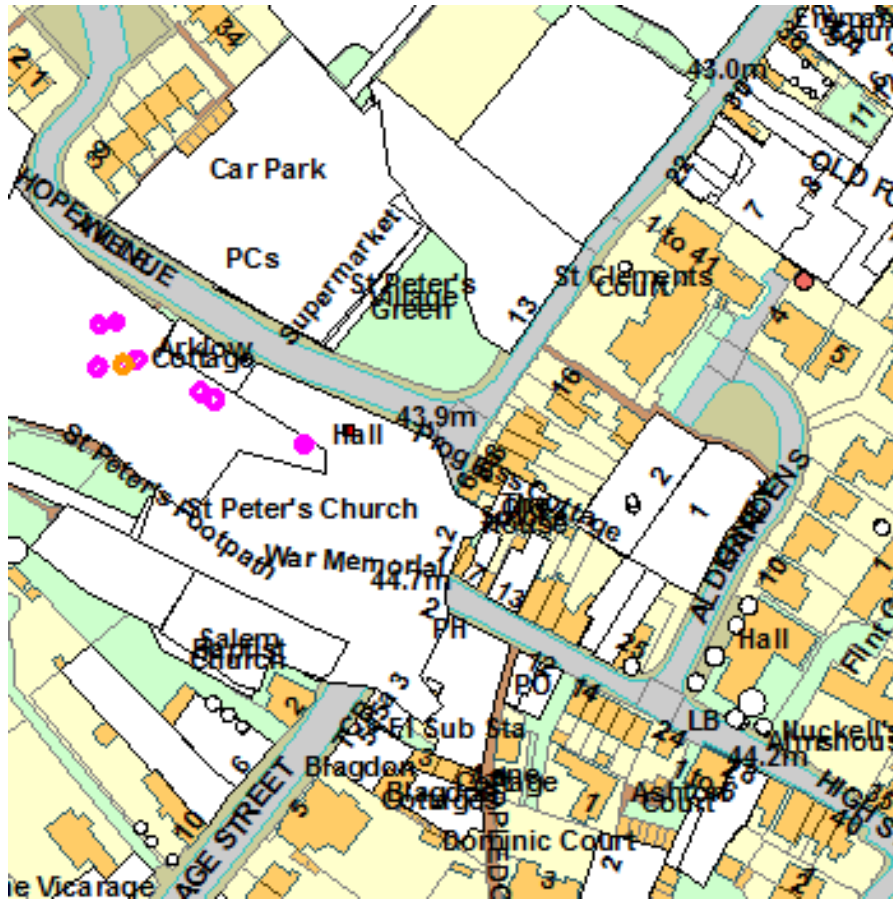
Case Officer

Duncan Fitt

TITLE: TPO/TH/22/0027

Project St Peters Church Yard Hopeville Avenue BROADSTAIRS Kent CT10 2TR

Scale:



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A05

L/TH/21/1924

PROPOSAL: Application for Listed Building Consent for the installation of replacement roof

LOCATION: 1, 2 And 3 Park Lodge Montefiore Avenue RAMSGATE Kent CT11 8BD

WARD: Sir Moses Montefiore

AGENT: No agent

APPLICANT: Mr Kieran Cooper

RECOMMENDATION: Approve

Subject to the following conditions:

- 1 The works hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2 The development hereby approved shall be carried out in accordance with the submitted drawings numbered 2148_Park Lodge Ramsgate-201B, received 1st March 2022, and using the stated materials.

GROUND;

To secure the proper development of the area.

SITE, LOCATION AND DESCRIPTION

The site is located within the King George VI Memorial Park close to the Montefiore Avenue entrance to the park. Park Lodge sits with a group of heritage listed properties close to the Gate House, Coach House, Old Stable Block and Italianate Greenhouse. Park Lodge is a Grade II Heritage Listed property comprising Nos 1, 2 and 3 Park Lodge. The building has two hipped roofs set behind a crenellated parapet wall.

PLANNING HISTORY

No planning history.

PROPOSED DEVELOPMENT

This application seeks listed building consent to make repairs to the current roof to prevent water ingress. The works include replacement of the existing roof covering following repairs and replacement of timbers where necessary. The existing slate roof tiles would be replaced with slate roof tiles and the flat roof replaced. The lead flashings to the chimneys are to be replaced and the guttering repaired and replaced as required and the downpipes and hoppers replaced.

PLANNING POLICIES

Thanet Local Plan 2020

HE03 - Heritage Assets

NOTIFICATIONS

Neighbours have been notified, a site notice posted and an advert placed in the newspaper and one representation has been received making the following comments:

- The address point only refers to Nos 1 and 2 and should include No 3 Park Lodge. The roof affects all three properties.
- The drawing details do not mention leadwork or coding of leadwork, although it does within the design statement, (but states it is code 5, when I understood it was code 7). This drawing note also refers to bitumen flat roof finish when it should be code 5/7 leadwork.
- The design document refers to water leaks over the past 8 years, which is incorrect. The water leaks actually commenced before year 2000 with plaster lath ceilings and walls being renewed at No 3 due to water ingress in 2001/2002, we have copies of the TDC work ticket, so at least 20 years not 8.
- I am unable to locate Appendix A, referred to in the design statement.
- The existing UPVC downpipe to the East flank above the entrance to No 3 is not in keeping with the Georgian Heritage displayed by the rest of the block and surrounding buildings. The arrangement of the roof outlet is of a wire sieve which is prone to blocking, and hence back up causing flooding to rooms down below.
- Surely the best way forward is to replace the UPVC downpipe arrangement with a leadwork opening as per the surrounding properties, discharging into a cast iron hopper below, and pipe, as per the original Georgian choice of design.
- Maybe a solution would be to create a third outlet and downpipe utilising the Georgian outlet and hopper design arrangement.
- The existing downpipes discharge to the ground, with the downpipe adjacent to the entrance of No 3 discharging along the garden path, there being no soakaways.
- I have lived at this property since 1984 and in the year 2000, approximately, water started coming into the property. Part of the problem, in my view, is that TDC since ownership of the property have at some time removed the leadwork outlet and hopper (leadwork and cast iron) and replaced it with a UPVC downpipe tied into the roof leadwork. This means that if the pipe gets blocked the roof drainage overwhelms the slate roofs and enters the building.

- A lead outlet and hopper ensures that should the hopper become blocked the lead outlet would just gush over the top of the hopper, so ensuring rainwater did not back up on the roof.

Ramsgate Town Council - This planning application was not called in for consideration and therefore no comment is made.

CONSULTATIONS

TDC Conservation Officer - Following a review of the proposed application I would be of the opinion that the proposed roof repairs appear appropriate and as such I do not object to the application proposed.

COMMENTS

This application is reported to the Planning Committee as the applicant is Thanet District Council.

The consideration for Members to assess is the impact of the work on the architectural and historic significance of the listed building.

ANALYSIS

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when 'considering whether to grant listed building consent for any works the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

The proposed works would repair and refurbish the roof of the Grade II Listed building and prevent water ingress. A detailed Design & Access Statement and Heritage Statement has been submitted with the application that sets out in detail the works to be undertaken.

Paragraph 198 of the NPPF requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Representations have been received from the occupier of No 3 Park Lodge who is concerned that the water ingress relates to blocked hoppers and downpipes confirming that this work appears to be fairly urgent in order to prevent longer term damage to the listed building. The comments also note that lead should be used as an alternative to bitumen on the flat roof and cast iron used to replace UPVC.

The applicant has confirmed that the proposal does not include the use of bitumen, with leadwork replaced with lead. For the rainwater goods, the existing cast iron and Upvc downpipes are proposed to be refurbished, and therefore the proposal would not result in any harm to the significance of the asset through the new introduction of non-traditional materials (as the UPVc is already present). The supporting documents acknowledge there is a need for the roof to be refurbished and the works set out include repair and refurbishment of existing where this is possible, including the use of slate tiles and lead work and the finish is to match the existing.

It is considered the proposed works would sympathetically repair the roof and prevent further water ingress. Paragraph 199 of the NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this instance the proposed works are considered to preserve the character and appearance of the listed building, with public benefits from the refurbishment preserving the building as a whole to allow for its future use, in line with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, Thanet Local Plan Policy HE03 and the NPPF.

RECOMMENDATION

The proposed works are considered to comply with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, Thanet Local Plan Policy HE03 and the NPPF, and as such it is recommended that Members approve the application subject to safeguarding conditions.

Case Officer

Rosemary Bullivant

TITLE: L/TH/21/1924

Project 1, 2 And 3 Park Lodge Montefiore Avenue RAMSGATE Kent CT11 8BD

Scale:



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D06

F/TH/19/0323

PROPOSAL: Erection of 23no. 2 storey dwellings and a 3-storey building accommodating 15No. self-contained flats together with associated parking and landscaping

LOCATION: Land On The North Side Of Stirling Way RAMSGATE Kent

WARD: Northwood

AGENT: Hume Planning Consultancy Ltd

APPLICANT: Kentish Projects Ltd

RECOMMENDATION: Defer & Delegate for approval subject to safeguarding conditions and the submission of a signed legal agreement within 6 months

Subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

- 2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised drawing numbered P01 Rev G, received 30 June 2020; and amended plans numbered P02 Rev C, P03 Rev E, P04 Rev E, P06 Rev H, and P08 Rev C, received 06 December 2019.

GROUND:

To secure the proper development of the area.

- 3 If, during development, significant contamination is suspected or found to be present at the site, then works shall cease, and this contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority. The approved works shall be implemented within a timetable agreed by the Local Planning Authority and 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 controlled waters. Prior to first occupation/use and following completion of approved measures, a verification report shall be submitted to the Local Planning Authority for approval.

GROUND:

To ensure that the proposed development will not cause harm to human health or pollution of the environment, in accordance with DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11) and National Planning Policy Framework.

- 4 No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details, including pollution prevention and maintenance measures.

GROUND:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilized contaminants in line with paragraph 170 of the National Planning Policy Framework.

- 5 No development shall take place until details of the means of foul drainage have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such details as are agreed and thereafter maintained.

GROUND:

To protect the district's groundwater, in accordance with Policy SE04 of the Thanet Local Plan, and the advice contained within the National Planning Policy Framework.

- 6 Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment Report dated Nov 2019 by Herrington Consulting and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 2 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

GROUND:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 7 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built

drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

GROUND:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, in accordance with Policy CC02 of the Thanet Local Plan and advice contained within the NPPF

- 8 Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

GROUND:

To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 9 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

GROUND:

To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy HE01 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 10 Prior to the commencement of development hereby permitted (including site clearance), the ecological mitigation measures as detailed within the Ecological Enhancement Strategy Report (Corylus Ecology September 2019) shall be implemented and retained thereafter.

GROUND:

In order to safeguard biodiversity, in accordance with Policy SP30 of the Thanet Local Plan and advice as contained within the NPPF.

- 11 Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include the noise mitigation measures as set out in S4.3 of the Construction Noise Impact Assessment, along with details of:

- Routing of construction and delivery vehicles to / from site
- Parking and turning areas for construction and delivery vehicles and site personnel
- Timing of deliveries
- Provision of wheel washing facilities
- Temporary traffic management / signage
- Access arrangements
- hours of construction working; measures to control noise affecting nearby residents;
- Wheel cleaning/chassis cleaning facilities;
- dust control measures;

- lighting control measures;
- Pollution incident control and site contact details in case of complaints.

The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

GROUND:

In the interests of highway safety and neighbouring amenity, in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF.

- 12 Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back gardens and other relevant amenity areas will conform to the standard identified by BS 8233 2014 Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

GROUND:

In the interests of amenity for future occupiers in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF

- 13 Construction works within the site shall only be carried out between the hours of 07:00 and 18:00 Monday to Friday, between the hours of 08:00 and 13:00 on Saturdays, and at no time on Sundays.

GROUND:

In the interests of neighbouring amenity, in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF.

- 14 The development hereby permitted shall incorporate measures to prevent the discharge of surface water onto the highway.

GROUND:

In the interests of highway safety, in accordance with the advice contained within the NPPF.

- 15 Prior to the first use of the site the vehicle loading/unloading and turning facilities shown on the submitted plan numbers P01 Rev G shall be provided and permanently retained.

GROUND:

In the interests of highway safety, in accordance with Policy TP08 of the Thanet Local Plan.

- 16 The area shown on the approved plan numbered P01 Rev G for vehicle parking and manoeuvring areas, shall be kept available for such use at all times and such land and access thereto shall be provided prior to the first occupation of the dwelling hereby permitted.

GROUND:

To provide satisfactory off street parking for vehicles in accordance with Policy TP06

of the Thanet Local Plan and the advice contained within the NPPF

- 17 Prior to the first occupation of the development, the secure cycle parking facilities, as shown on approved drawing no. P01 Rev G shall be provided and thereafter maintained.

GROUND:

To promote cycling as an alternative form of transport, in accordance with Policy TP03 and SP43 of the Thanet Local Plan.

- 18 The development hereby approved shall incorporate a bound surface material for the first 5 metres of the access from the edge of the highway.

GROUND:

In the interests of highway safety, in accordance with the advice contained within the NPPF.

- 19 Prior to the commencement of the development hereby permitted, details of the electric vehicle charging points to be provided within the development, including their location and design, shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points shall be in the form of one active charging point per allocated parking space, and one active charging point per ten unallocated parking spaces. The electric vehicle charging points shall be provided prior to the first occupation of the development and thereafter maintained.

GROUND:

To protect air quality, in accordance with Policy SP14 of the Thanet Local Plan and the advice as contained within the NPPF

- 20 Prior to the first occupation of the development hereby approved, pedestrian visibility splays of 2 metres by 2 metres behind the footway on both sides of each private access, with no obstructions over 0.6 metres above footway level shall be provided and thereafter maintained.

GROUND:

In the interest of highway safety in accordance with the advice contained within the NPPF.

- 21 Prior to the first occupation of the development hereby approved, visibility splays of 25 metres x 2 metres x 25 metres at the vehicular accesses to plots 1-5 and 6-10, with no obstructions over 1 metre above carriageway level within the splays, shall be provided and thereafter maintained.

GROUND:

In the interest of highway safety in accordance with the advice contained within the NPPF.

- 22 Prior to the first occupation of the development hereby approved, cyclist visibility splays of 2 metres x 5 metres behind the cycleway on both sides of the vehicular access to plots 11-15, with no obstructions over 0.6 metre above cycleway level within the splays, shall be provided and thereafter maintained.

GROUND:

In the interest of highway safety in accordance with the advice contained within the NPPF.

- 23 Prior to the first occupation of the dwelling the following works between the dwelling and the adopted highway shall be complete

- (a) Footways and/or footpaths, with the exception of the wearing course;
- (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

GROUND:

In the interests of highway safety, and the living conditions of future occupants, in accordance with Policy QD03 of the Thanet Local Plan, and advice as contained within the NPPF.

- 24 The development hereby permitted shall be constructed in order to meet the required technical standard for water efficiency of 110litres/person/day, thereby Part G2 Part 36 (2b) of Schedule 1 Regulation 36 to the Building Regulations 2010, as amended, applies.

GROUND:

Thanet is within a water stress area as identified by the Environment Agency, and therefore new developments will be expected to meet the water efficiency optional requirement of 110litre /person/day, in accordance with Policy QD04 of the Thanet Local Plan.

- 25 The development hereby permitted shall be constructed to a high standard of energy efficiency to the equivalent of Level 4 of the Code for Sustainable Homes, unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

All new buildings and conversions of existing buildings must be designed to reduce emissions of greenhouse gases and have resilience to function in a changing climate, in accordance with Policy QD01 of the Thanet Local Plan.

- 26 Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape works, to include

- species, size and location of new trees, shrubs, hedges and grassed areas to be planted. This shall include new hedge planting around parking court areas and along the southern boundary of the site (where possible), and the planting of trees, including to the rear of plots 4 and 5;
- the treatment proposed for all hard surfaced areas beyond the limits of the highway, which shall include paving for all parking spaces;
- walls, fences, bin stores, bike stores, and other means of enclosure proposed;

shall be submitted to, and approved in writing by, the Local Planning Authority.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 27 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 first occupation; of any

part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 28 A landscape management plan (including long term design objectives), management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its approved use. The amenity areas shall be managed in accordance with the approved landscape management plan in perpetuity.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 29 The refuse storage facilities and clothes drying facilities as specified upon the approved drawing numbered P01 Rev G and received on 26th March 2020 shall be provided prior to the first occupation of the development hereby approved and shall be kept available for that use at all times.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy QD03 of the Thanet Local Plan.

- 30 Prior the construction of the external surfaces of the development hereby approved samples of the materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan

- 31 No further extensions, roof alterations or outbuildings, whether approved by Classes A, B, C, or E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out without the prior permission in writing of the Local Planning Authority.

GROUND:

To ensure a satisfactory external treatment and in the interests of the visual amenities of the locality in accordance with Policy QD02 of the Thanet Local Plan.

- 32 The first floor window to be provided in the northern side elevation of the unit within plot 5, shown on plan numbered Po1 Rev G, shall be non-opening below 1.73m above the finished internal floor level, and provided and maintained with obscured

glass to a minimum level of obscurity to conform to Pilkington Glass level 4 or equivalent. The obscure glazing shall be permanently retained thereafter.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy QD03 of the Thanet Local Plan.

- 33 No development shall take place until details of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations to be installed for all dwellings. The infrastructure shall be installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

GROUND:

To provide high quality digital infrastructure in new developments in accordance with Policies SP14 and SP41 of the Thanet Local Plan and paragraph 112 of National Planning Policy Framework.

INFORMATIVES

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice: excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution treated materials can be transferred between sites as part of a hub and cluster project.

Some naturally occurring clean material can be transferred directly between sites. Developers should ensure that all contaminated materials are adequately characterized both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. The Environment Agency recommends that developers should refer to the Position statement on the Definition of Waste: Development Industry Code of Practice and; The Environmental regulations page on GOV.UK

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

It is the responsibility of developers to have the appropriate waste storage facilities and containers in place prior to the property being occupied. For more information, please contact Waste and Recycling on 01843 577115, or visit our website <http://thanet.gov.uk/your-services/recycling/waste-and-recycling-storage-at-new-developments/new-developments/>

A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

It is the responsibility of the applicant to ensure, prior to the commencement of the development hereby approved, 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 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 Highway and Transportation to progress this aspect of the works prior to commencement on site

For the avoidance of doubt, the provision of contributions to as set out in the unilateral undertaking made on submitted with this planning application, and hereby approved, shall be provided in accordance with The Schedule of the aforementioned deed.

BACKGROUND

This application was originally granted approval under delegated authority by Thanet District Council on the 2nd October 2020.

Following the issuing of the decision, a judicial review claim was made against the Council, by a parent of a child at Laleham Gap School, in respect of the decision on six grounds, as set out below:

- (1) The application was "on behalf of" the Council and, under the scheme of delegation, had to be determined by the planning committee. The decision by an officer was therefore unlawful.
- (2) The appropriate assessment undertaken by the Council had failed to comply with the strict requirements of the Habitats Regulations, such that no lawful appropriate assessment of the impact of the development on the Special Protection Area was conducted.
- (3) The Council had failed to assess construction noise impacts on the school and the efficacy of potential noise mitigation was simply assumed and not actually considered.
- (4) The Council had failed to consider and grapple with highway safety risks in relation to children and parents at the school and failed to require a transport assessment, which would have included systematic consideration of highway safety, contrary to the policy requiring one.
- 5) The Council had failed to consider the issue of air quality and failed to require an air quality assessment, again contrary to the policy requiring one.
- (6) The decision was tainted by apparent bias.

By a Judgment dated 19th July 2021, the JR application was successful on all 6 grounds. The planning permission granted on 2nd October 2020 was thereby quashed by the court. This report makes recommendations for the Committee for its redetermination of the application in light of the court's decision.

I set out below in summary the findings of the court against the Council and indicate the way in which those findings have been taken into account and addressed in the redetermination of the application.

GROUND 1

The court found that the Council being one of the two partners in East Kent Opportunities (EKO, a joint venture with Kent County Council) which owns the land proposed to be developed with this application, and the existence of a contract between EKO and the applicants Kentish Projects Limited (KPL) requiring the latter to make a planning application and to seek to obtain planning permission as soon as possible, means that the application is made on behalf of and for the benefit of the Council.

In consequence, in accordance with the Council's Scheme of Delegation which requires applications made on behalf of the Council to be determined by the Planning Committee, this redetermination of the application is required to be presented to Committee for determination.

Further, following the court's decision the Council's scheme of delegation within the constitution has been amended to clearly state/confirm that if a planning application or application under planning legislation is submitted by TDC, or on land owned by Thanet District Council or any company of which Thanet District Council is a party, that application must go to planning committee.

GROUND 2

The court found that the Appropriate Assessment (AA) required in this case did not comply with the legislative requirements and relevant casework; it was found to be deficient in a number of ways as well as being out of date.

In light of this, the Council's template Appropriate Assessment has been updated with the necessary input of Natural England, whose comments have been incorporated. For the current proposal this matter is assessed in the report below.

The application has also now been assessed against policy SP14

GROUND 3

The court found that policy SE06 applies to the construction noise arising from the development of housing and in consequence the proposals should have been accompanied by a scheme of mitigation, particularly given the sensitivities to noise of the children at the nearby school

Following the JR decision a construction noise assessment has been submitted and an updated response from Environmental Health received. The noise impact is considered within the living conditions section of the following updated report.

GROUND 4

On this ground the court found that the particular sensitivity of the pupils at the school to highway safety matters and the school's specific desire to encourage them to become independent travellers to the school by walking along Ozengell Place should have been considered in determining the application. Whilst a full Transport Assessment was found not to have been required, the highway safety of the pupils, particularly the desire that they are independent travellers was not considered.

Following the JR decision a planning statement addendum has been submitted, which covers the point of independent journeys, and an updated response from KCC Highways has been submitted. The highway impact is considered within the highway safety section of the following updated report.

GROUND 5

The court found that contrary to policy SE05 an Air Quality Assessment had not been required of the developer and the delegated report had not considered whether such an Assessment was required.

The impact upon air quality is assessed through the air quality section of the following updated report.

GROUND 6

The court found that a fair-minded observer would have thought there was a real possibility that the decision-maker was biased, for reasons including the application not being brought before planning committee, despite initially having been proposed to be heard by Committee, and matters which were the subject of grounds 2-5 (set out above) not being dealt with properly.

With this report the application is now being brought before the Planning Committee and the matters the subject of Grounds 2-5 have been addressed in the report below.

SITE, LOCATION AND DESCRIPTION

The application site is located at the end of Ozengell Place, and is north of Stirling Way and west of Marlowe Way. To the west of the site are 2-3 storey commercial units, with associated parking provision. To the north of the site is the Marlowe Innovation Centre, a 2-storey modern design orange clad building. To the north-east of the site is The Royal Harbour Academy School, a 2-3 storey modern design yellow, white and red clad building. To the north-west of the site is Laleham Gap School, a part single storey, part 2-storey, part 3-storey flat roof blue and white clad building. Access to the school is served off Ozengell Place.

The site itself is an undeveloped green area, and contains a pedestrian link between Ozengell Place and Stirling Way. The site forms part of an allocated housing site under Policy SP09 of the Thanet Local Plan. The site is accessed by Ozengell Place.

RELEVANT PLANNING HISTORY

OL/TH/11/0910 - Application for outline planning permission for mixed-use development for up to 550 dwellings; up to 63,000sqm Class B1 business floorspace; car showroom; a new local centre comprising up to 2,000sqm convenience retail (class A1, A2, A3), community facilities up to 5,000 sqm (class D1/D2) and community healthcare up to 1,200sqm (class D1); and associated highway works with all matters reserved.

Application Refused on the 23rd October 2013 for the following reasons:

The application site does not constitute previously developed land and as such the proposed residential development would involve the release of greenfield land, where there is no identified need, contrary to policy H1 of the Thanet Local Plan 2006 and the National Planning Policy Framework, which seeks to concentrate development on brownfield land at appropriate locations within the confines of existing urban areas and rural settlements.

The proposed development, in the absence of a legal agreement to secure contributions for community facilities, measures to mitigate recreational impact on designated sites of ecological importance and the provision of affordable housing, would be contrary to Thanet Local Plan Policies H14 and CF2 and guidance within the National Planning Policy Framework.

The decision was appealed, and on the 29th October 2014 the Appeal was Allowed. The application site forms part of this outline site, and has therefore previously had the principle of residential development on this site approved.

PROPOSED DEVELOPMENT

The application is for the erection of a row of 10no. 2-storey 2-bed shallow pitched terraced dwellings, two rows of 5no. 2-storey 3-bed shallow pitched terraced dwellings, a row of 3no. 2-storey 3-bed shallow pitched terraced dwellings, and a 3-storey flat roof building containing 15no. 1-bed and 2-bed flats. Vehicular access to the site is served off Ozengell Place, and 64no. off-street parking spaces are provided, including 7no. visitor parking spaces.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan 2020

SP01 - Spatial Strategy - Housing
SP02 - Implementation
SP09 - Westwood
SP14 - General Housing Policy
SP22 - Type and Size of Dwellings
SP23 - Affordable Housing
SP29 - Strategic Access Management and Monitoring Plan (SAMM)
SP30 - Biodiversity and Geodiversity Assets
SP34 - Provision of Accessible Natural and Semi-Natural Green Space, Parks, Gardens and Recreation Grounds
SP35 - Quality Development
SP38 - Healthy and Inclusive Communities
SP41 - Community Infrastructure
SP43 - Safe and Sustainable Travel
SP45 - Transport Infrastructure
HO1 - Housing Development
GI04 - Amenity Green Space and Equipped Play Areas
QD01 - Sustainable Design
QD02 - General Design Principles
QD03 - Living Conditions
QD04 - Technical Standards
QD05 - Accessible and Adaptable Accommodation
HE01 - Archaeology
CC02 - Surface Water Management
CC04 - Renewable Energy

CC05 - District Heating
SE04 - Groundwater Protection
SE05 - Air Quality
SE06 - Noise Pollution
SE08 - Light Pollution
CM01 - Provision of New Community Facilities
TP01 - Transport Assessments and Travel Plans
TP02 - Walking
TP03 - Cycling
TP04 - Public Transport
TP06 - Car Parking

NOTIFICATIONS

Initial notification responses

Neighbouring occupiers have been notified and a site notice posted. 32 letters of objection have been received raising the following concerns:

- Overlooking to the school, and noise and disturbance for children during construction,
- Increased traffic,
- Lack of parking,
- Air quality,
- Cramped development, high density,
- Concerns for children at school with anxieties,
- Poor design of flat block,
- Highway safety for children and parents during school drop off/collection,
- Doesn't reflect local housing stock,
- Overbearing,
- Units don't meet the national space standards,
- Height out of keeping,
- Lack of infrastructure and amenities to support development.

Ramsgate Town Council - Ramsgate Town Council raises concerns over room sizes and requests that TDC ensures that they are in compliance with the size guidelines within the Local Plan.

Further notification responses (following JR)

Neighbouring occupiers have been notified and a site notice posted. A total of 52 letters of objection have now been received raising the following concerns:

- Overlooking to the school,
- Noise and disturbance for children during construction,
- Proposed development will be detrimental to the children's education and progress,
- Impact upon the mental state and anxiety levels of the children,
- Increased traffic,
- Lack of parking,
- Air quality,
- Ecological damage,
- Cramped development, high density,
- Concerns for children at school with anxieties,
- Highway safety for children and parents during school drop off/collection,

- Safety impact for children who travel to school independently,
- Access would be better served from Stirling Way,
- Conflict of interest with all involved,
- Emergency vehicles may find it difficult to get to the school,
- Lack of infrastructure and amenities to support development,
- Loss of open and recreational space for dog walking etc.
- Potential increase in crime,
- Impact on drainage.

Ramsgate Town Council - No comments

CONSULTATIONS

KCC Highways and Transportation -

(Final Comment (following JR))

Having reviewed the application and highway matters, previous comments still stand in relation to application 19/0323, with the following comments in relation to the Judicial Review.

The application provides improved pedestrian links from Ozengell Place to Stirling Way which will benefit those wishing to access the school via Sterling Way.

In terms of safety for independent journeys, the development creates a low-speed environment and reasonable pedestrian facilities.

The pedestrian facilities provided on site will enhance independent access, by providing more direct access to Stirling Way, avoiding the busy A256 Haine Road corridor.

Speed reduction measures are proposed at the entrance to the site and this will help to manage vehicles speeds within the site and the approach to/from the existing highway network within Ozengell Place.

In line with previous comments, the proposal will not generate significant peak hour traffic generation. It is anticipated that around 21 vehicle movements would be generated, which when spread across the peak hour equates to 1 vehicle movements every 3 minutes. It is not considered that this will create an overbearing barrier to independent journeys.

It is relevant to highlight that the site is allocated in the Thanet District Local Plan for mixed use residential / commercial, where the principal of the development on the site has been established.

The proposal provides improved pedestrian links to bus services on Stirling Way and settlements to the south.

Taking the above into account, on balance the proposal is not considered to be objectionable with respect to highway & transportation matters.

(Final Comment (prior to JR))

I refer to the above planning application and note that the site was included in the outline consent F/TH/11/0910 for redevelopment of the wider former Eurokent site. This permission is still extant and therefore the principle of residential development on the current application site has been accepted. I confirm the layout now shown on drawing number HM49 P01 Rev. E is now acceptable, with suitable turning facilities being provided. The footway/cycleway in Ozengell Place is continued through the site and will make a connection to the existing

facility in Stirling Way, thus providing a more direct through route for pedestrians and cyclists and providing access to the wider network for residents of the site.

The amount of parking shown is acceptable, however the remote location of some parking means that parking restrictions may need to be considered if the road is to be adopted by the highway authority. There is also a short section of existing road between the existing public highway and the site boundary which will need to be adopted if the road within the site is also to be adopted.

In accordance with the requirements of the outline permission for the Eurokent site, highway contributions of £64,567.89 and £20,006.66 are to be provided for improvements along the A256 Haine Road corridor.

I therefore now have no objections in respect of highway matters subject to the above highway contributions, and the following being secured by condition:

(Initial Comment)

I refer to the above planning application and note that the site was included in the outline consent F/TH/11/0910 for redevelopment of the wider former Eurokent site. This permission is still extant and therefore the principle of residential development on the current application site has been accepted. I would comment further as follows:

1. The Transport Note appears incorrect in saying that the approved Masterplan-Road Hierarchy drawing under F/TH/11/0910 shows a vehicular route connection between Ozengell Place and Stirling Way, however it appears reference is made to a bus-only link in the s.106 agreement attached to the outline consent. It is not entirely clear where this bus link was envisaged but it appears bus services and possibly route strategy have changed in the intervening years. The applicant should therefore discuss proposed bus service strategy with our Public Transport Team and Stagecoach to determine if a bus link is required and more importantly, if it needs to be provided through the current application site. The following comments assume there is no bus link.
2. The existing footway/cycleway in Ozengell Place should be continued through the site and connect to the existing footway/cycleway in Stirling Way, as envisaged by the previous outline consent and Masterplan.
3. The proposed adoptable carriageway appears to be 6 metres in width. This can be reduced to 4.8 metres from the entrance point to the adjacent existing car park, although may need to be varied in the turning head to accommodate the refuse vehicle manoeuvres. This should assist in providing the footway/cycleway from item 3 above, which it appears would be better located on the southern side of the road to avoid the accesses to multiple parking spaces. For the rest of the adoptable road a 1.5 metre-wide footway should be provided adjacent to the carriageway, including around the turning head. Parking spaces served directly off the adoptable highway should have a suitable margin between the spaces and carriageway to provide visibility for drivers exiting the spaces, which the footway will provide.
4. Bearing in mind the long, straight approach along Ozengell Place and the limited change of direction at the proposed bend, an effective speed restraint measure should be provided near the site access. I suggest a raised table could be utilised and combined with the reduction in carriageway width highlighted in item 4 above.
5. Parking should be in accordance with Kent Design IGN3 for a suburban situation. As such a minimum total of 64 spaces is required, including 7 visitor spaces. The 53 spaces shown are therefore insufficient. It is also not clear if and how spaces are to be allocated to

individual dwellings, but the current layout is also unacceptable as the apparent remote location of parking for plots 11-19 is likely to lead to parking on the adoptable carriageway and footway/cycleway.

6. It appears highway contributions were payable under the s.106 agreement attached to the outline consent OL/TH/11/0910 but it is not clear if development of the current application site would trigger such contributions. Clarification on this point is therefore required.

I wish to place a holding objection until the above matters have been satisfactorily resolved. It appears early discussion on the bus link is necessary as this will dictate the nature of the road through the site.

KCC Biodiversity -

(Final Comment (following JR))

I cannot see that the proposed amendments/variations will alter the impact to ecology, therefore, our previous comments remain valid.

(Final Comment (prior to JR))

We have reviewed the updated ecological information submitted in support of this planning application and advise that sufficient information has been provided. Our previous comments (dated 19th July 2019) recommended the relocation of botanically interesting ground flora to maintain biodiversity on-site. This recommendation has now been included within the submitted ecological enhancement strategy.

Thanet and Canterbury SAMMS

The development includes proposals for new dwellings within the zone of influence (7.2km) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Therefore, Thanet District Council will need to ensure that the proposals fully adhere to the agreed approach within the Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the Thanet Coast and Sandwich Bay SAMMS, there is a need for an appropriate assessment to be carried out as part of this application.

Breeding Bird Informative

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season, mitigation measures need to be implemented during construction in order to protect breeding birds. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged. We suggest the following informative is included with any planning consent:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence

against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Ecological Enhancements

In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. A suitable enhancement strategy has been submitted which includes recommendations from the previous reports, such as the translocation of the botanically interesting grassland to an on-site receptor site. To secure the implementation of enhancements, we advise that a condition is attached to planning permission if granted. Suggested wording:

From the commencement of works (including site clearance), all measures detailed within the Ecological Enhancement Strategy Report (Corylus Ecology September 2019) will be implemented and retained thereafter.

(Interim Comment)

We have reviewed the ecological information submitted in support of this planning application and advise that sufficient information has been provided.

Following our previous advice note (14th May 2019) a Preliminary Ecological Appraisal (PEA) was undertaken and identified suitable reptile habitat on-site. A subsequent reptile survey concluded that reptiles were not present on-site and, therefore, we require no further information regarding reptiles. However, the reptile survey report did identify botanical interest on the site which we advise is considered in the determination of the application.

Ground Flora

As stated in the reptile survey report, a pyramidal orchid was observed in the north of site, which will be impacted by the proposed development. As recommended in the report, and in alignment with the NERC Act 2006 which requires public authorities to demonstrate regard for conserving biodiversity, this area of grassland and respective seed bank should be translocated to the areas in the west of the site.

As such, we advise that a methodology is provided, along with revised site plans, to demonstrate that translocation of the grassland and seed bank is achievable and implementable with the current development design. We recommend this is included within the ecological enhancement requirements for the development (securing its implementation with a condition), as mentioned below in the enhancement section of this document.

(Initial Comment)

No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records) and the information submitted with the planning application, we advise that further information is sought with regards to the potential for ecological impacts to arise as a result of the proposed development.

Protected Species

The Planning Statement notes the site as 'unmanaged scrub' with 'informal access' routes. Scrub habitat offers opportunities to species that are afforded various degrees of protection, such as Badgers, breeding birds and Hedgehogs. The presence of protected species is corroborated by records in the biological dataset.

Paragraph 99 of the ODPM 06/2005 states: "...it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

Consequently, we advise that a Preliminary Ecological Appraisal (PEA) is undertaken to assess the potential for protected species to be utilising the site. Results of the PEA, along with any recommended surveys and/or required mitigation measures, should be submitted with any planning application.

Ecological Enhancements

In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. The recommended PEA (above) will be able to inform an appropriate enhancement plan. Any species to be planted as part of the soft landscape plan should be listed.

We recommend that the implementation of an appropriate enhancement plan is secured via an attached condition, should planning permission be granted.

KCC Archaeology - The proposed development site lies in an area that has archaeological potential particularly arising from the discovery on the site to the west of Neolithic, Bronze Age, Iron Age, Roman and medieval remains. The site itself has remained undeveloped and new development works on the site could potentially impact on archaeology.

I would therefore recommend that in any forthcoming consent provision is made for a programme of archaeological works through a condition.

KCC SUDs -

(Final Comment (following JR))

We have no further comment to make on this proposal and would refer you to our previous response on 20 March 2020.

(Final Comment (prior to JR))

We have reviewed the revised Flood Risk Assessment Report dated November 2019 by Herrington Consulting Limited and have reviewed the infiltration tests results which have been included as per the BRE Digest 365.

The Soiltech Soakage Test Report indicates at shallow depths the underlying geology comprise sandy very silty Clay. The report however does not include borehole logs to show the depths of Clay. Desk information suggests that this will be less than 3 m thick but as proposed infiltration systems, both permeable paving and trench soakaways, are at shallow depths it is important to make sure the site discharge to the permeable strata.

We would note that the results show the infiltration rate for trial holes TH2 and TH3 are lower than that used in the design. In detailed design we would require that design considers an appropriate infiltration rate to represent the worst case.

Not with standing these issues, it is expected that a drainage solution based upon this approach may serve the proposed development adequately, but it is important that these matters are addressed within detailed design.

If your authority is minded to approved this planning application we would recommend the inclusion of safeguarding conditions.

(Initial comment)

We have reviewed the Flood Risk Assessment (Herrington Consulting Ltd, April 2019) and in principle satisfied with the drainage design, however at present, the level of information provided by the applicant is limited for a full planning application and we have concerns regarding soakage testing.

We have the following concerns:

- Soakage testing does not seem to be compliant with BRE 365 where there is a requirement to test the pit three times. Only one infiltration rate for each trial pit has been presented in the results sheet. We would recommend that soakage testing is undertaken again to our requirements or that the correct results sheets are submitted.
- Soil investigation results should be submitted to identify strata at different depths and confirmation that soakaways will be placed over natural strata.

We would recommend clarification of where the trial pits are located on site e.g. whether TH1 and TH3 correspond to trial pit 1 and 3.

Please be aware that the half drain time for any infiltration device should be less than 24 hours. The drainage calculations shows that this exceeds 24 hours for the soakaway. We would recommend that the minimally modified but may also need additional mitigation allowances, for example additional attenuation or provision of exceedance routes since there is an incidence of flooding at the 1 in 100 year +40% climate change.

Until this information is provided, we are unable to recommend approval to this application.

Southern Water -

(Final Comment (following JR))

Under current legislation, Southern Water can consider the adoption of SuDS if they are to be designed and constructed in line with the Design and Construction Guidance. No new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main.

All other comments in our response dated 24/02/2020 remain unchanged and valid.

(Final Comment (prior to JR))

Our initial investigations indicate that Southern Water can facilitate foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

Our initial investigations indicate that there are no dedicated public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.

As no detailed drainage layout has been provided for assessment, we request that should this application receives planning approval, a safeguarding condition is attached to the consent.

The proposed development would lie within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the Environment Agency's

Groundwater Protection Policy. Southern Water will rely on your consultations with the Environment Agency to ensure the protection of the public water supply source.

Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer. We request that should this application receive planning approval, an informative is attached to the consent.

Environment Agency -

(Final Comment (following JR))

We have no further comments to make on this planning application beyond those in our previous response, KT/2019/125552/01-L01, dated 10 May 2019.

(Final Comment (prior to JR))

Due to the scale, nature and setting of this proposal and the supporting information submitted, we do not object to the proposal in principle providing the following conditions are placed on any permitted development.

Natural England -

(Final Comment (following JR))

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 10 May 2019.

The advice provided in our previous response applies equally to this amendment.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

(Final Comment (prior to JR))

No objection subject to securing appropriate mitigation.

TDC Environmental Health -

(Final Comment (following JR))

Thank you for consulting Environmental Protection on the resubmissions of the above application following judicial review.

Air Quality

Although the site falls within the administrative boundary of Thanet's urban Air Quality Management Area (AQMA); the decision on whether an air quality assessment is required is deferred to Environmental Protection who monitor and assess levels of pollution locally and have access to monitoring data showing the location of heavily trafficked pollution hot spots. Air Quality assessments are required when the screening criteria in the Institute of Air Quality Management Guidance: Planning for Air Quality or DfT criteria for major development requiring a transport assessment are met. The proposed application site is

located in an area well below air quality health objectives and the size of the development would mean an assessment is not required. Regrettably, this explanation was not given in full detail previously. For background information, Defra's appraisal of Thanet's Air Quality Annual Status Report 2021, recommended the AQMA be revoked given several years of no exceedances of the air quality health objectives.

Pollution levels were monitored near to the site along Haine Road between 2003 and 2009 and were always well below the national air quality health objectives; monitoring resumed from January 2021 and nitrogen dioxide levels have reduced further to around 20µg/m³ (microgram per cubic metre) with the national objective at 40µg/m³.

Construction Noise

A Construction Noise Impact Assessment has been carried out in accordance with the appropriate ABC methodology set out in BS5228 Code of Practice for Noise & Vibration Control on Construction and Open Sites. Baseline monitoring which has taken into account nearby residential receptors and schools establishes receptors as category A and a limit of 65dB limit is required between 7am and 7pm weekdays although I understand proposed hours are 7am to 6pm Monday to Friday and 08:00 to 1pm Saturdays which should be conditioned. Mitigation has been proposed to achieve these limits and is set out in S4.3 which must be secured by condition and incorporated into a Construction Environmental Management Plan to be submitted prior to work commences and after a contractor has been confirmed.

(Final Comment (prior to JR))

Thank you for consulting Environmental Health on application for the Erection of 23no. 2 storey dwellings and a 3-storey building accommodating 15No. self-contained flats together with associated parking and landscaping with regard to noise impacts.

Environmental Health has no objection in principle to the development which has been identified for residential allocation in the master plan. However, given that the site adjoins a school for children with special educational needs who are extremely sensitive to noise, the construction impacts must be effectively controlled. BB93 Acoustic design of schools: performance standards Building bulletin 93 February 2015 states:

'Pupils with special educational needs are generally even more sensitive to the acoustic environment than others. Consequently, required reverberation times are shorter, sound insulation between adjacent spaces is higher and indoor ambient noise levels (and the capacity for distraction) lower than in environments for other pupils.

Pupils with hearing impairment, autism and other special needs are often very sensitive to specific types of noise, particularly those with strong tonal, impulsive or intermittent characteristics. This should be taken into consideration in the design of areas which may be used by such children.'

It is therefore imperative that construction impacts are assessed and noise mitigation put in place e.g. air conditioning provided to schools and a Construction Noise Management Plan to ensure work is prohibited at school lunch and play times. It is also necessary to protect the residential development for noise associated with the school and commercial units nearby.

(Initial Comment)

As the site is within the urban AQMA it will require standard EV charging points, standard air quality mitigation and construction environmental management plan.

TDC Strategic Housing Officer -

(Final Comment (following JR))

Within Thanet District Councils Local Plan (adopted July 2020), SP23 requires residential schemes of 10 or more units to provide 30% of the dwellings as affordable housing, including extra care facilities falling under the Use Class C3. To be policy compliant, a contribution of 30% affordable housing (AH) across the 38 units (whole site) is required. The 30% AH shall be split 70% Affordable Rent (AR) and 30% Shared Ownership (SO) which equates to 11no. AH units - split 8no. AR and 3no. SO.

In the submitted Planning Statement Addendum prepared by Hume Planning Consultancy Ltd on behalf of Kentish Projects Ltd, dated November 2021, provides a final mix of unit sizes, as below:

Upon review of the affordable housing mix of unit sizes, the scheme is reflective of TDC's SHMA findings and the overarching housing needs across the district, therefore is acceptable. The exact tenure split of these units can be confirmed during the course of the application process.

Kent Accommodation -

(Final Comment (following JR))

We refer to the above re-submitted planning application which concerns proposed residential development at Land on the North Side of Stirling Way, Ramsgate, Kent and comprising: 38 new households.

The County Council has assessed the implications of this proposal in terms of the delivery of its community services currently and both CIL Regulations and requirements have changed since the original application and assessment in 2019. The proposed development will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) (Regulation 122) require that requests for development contributions of various kinds must comply with three specific legal tests:

1. Necessary,
2. Related to the development, and
3. Reasonably related in scale and kind

These tests have been duly applied in the context of this planning application and give rise to the following specific requirements (the evidence supporting these requirements is set out in the attached Appendices).

Clinical Commissioning Group - NHS Thanet Clinical Commissioning Group (CCG) has delegated co-commissioning responsibility for general practice services in Thanet and is the body that reviews planning applications to assess the direct impact on general practice.

I refer to the above outline planning application which concerns the proposed residential development comprising of 38 dwellings.

The CCG has assessed the implications of this proposal on delivery of general practice services and is of the opinion that it will have a direct impact which will require mitigation through the payment of an appropriate financial contribution.

Kent Police - Having reviewed the on line plans and documents and having no communication from the applicant/agent to date, the following issues need to be addressed including:

1. The ground floor recessed areas of the apartment block are a significant concern as they provide areas of concealment ideal for unsuitable activities including crime and ASB, they could increase the fear of crime for residents, particularly those alongside the recesses.
2. There are alleyways shown that are also of significant concern as they provide areas for concealment. They must be secured as close as possible to the building line with lockable (from both sides) gates. The alleyway between units 3 and 4 also provides secluded access via the alleyway that could increase the opportunity for crime to unit nos. 2,3,4,5,and 6.
3. Perimeter treatments need to be min 1.8m high. Any elevations that join school boundaries require additional security e.g. higher densely planted buffers, ideally with native (non-toxic) prickly species. This would need to be in place before the first resident moves in.
4. The alleyways alongside units 1, 8, 9, 20, 21 and 23 have routes to their rear garden areas that must be protected.
5. Divisional treatments between the houses need to be a min of 1.8m high to aid privacy.
6. We need to assess the design if the proposed pedestrian link to Stirling Way is to proceed.
7. Parking including for visitors, needs increased natural surveillance. We advise that residents have allocated spaces and all visitor spaces are marked as such with enforceable regulations to ensure they do not become additional parking for the nearest dwelling. There are plans for electric charging points, their siting needs to be considered to provide safe and secure spaces.
8. The bike store plans for the houses and apartments show no design or security. The store for the houses alongside unit 9 and that for the apartments are in secluded areas with very little natural surveillance. To reduce the opportunity for crime, they need to be repositioned, lit, locked and benefit from CCTV. Once bikes are vandalised or stolen, residents will seek safer storage thus reducing authorised usage of the store making it more likely to suffer crime, ASB and nuisance. The bin area should be fenced or to secure it from unauthorised use.
9. We request opportunity to approve the lighting and CCTV plans once submitted.
10. We strongly advise that there are ground floor "active room" windows in the side elevations of units 1,3,4,8, 9,14,15, 20, 21 and 23 to improve the opportunity for natural surveillance.
11. Doorsets, including those to each apartment and balconies must meet PAS 24: 2016 UKAS certified standard. The covered access outside the communal access must not allow loitering thus stopping residents and their visitors from using it without fearing crime. It must be lit and designed to provide no hiding space.
12. Windows on the ground floor or potentially vulnerable e.g. from flat roofs should also meet PAS 24: 2016 UKAS certified standard.

13. The Apartment Access Control to meet SBD Homes 2019 standards and include alarms on all the emergency access doors. Communal mail delivery for the apartments needs to be "through the wall" or sited at the front in an air lock within the lobby, have CCTV coverage, be of robust construction (SBD or Sold Secure standard) and have anti-fishing design.

14. Planting to be designed to enhance security and maintain surveillance - e.g. tall slim trees rather than low crowned species and well maintained shrubs.

Thanet Waste and Recycling - We would like clarification of the tracking for the refuse vehicle. What does the red line represent? We have concerns around the bin collection points as the majority of them seem to require the loaders to walk the bins out to the freighter and back again. This will significantly increase the collection time.

As with all new developments we wish to be kept advised of progress. As always we have concerns around access, parking, street furniture placement and residents being moved onto the site prior to building works being completed. For us to collect we will need to see proof of vehicle tracking, site completion and will need to make a site visit prior to collections starting.

COMMENTS

This application is brought before members as the court has found that it was made "on behalf of" the Council, and is now required under the Council's amended constitution (being land owned by a company of which Thanet District Council is a party) to be determined at planning committee rather than by way of delegated authority..

Principle

The site is covered by Policy SP09 of the Thanet Local Plan, which allocates the site as part of a mixed use area development for both residential and business purposes. Any proposal should be in accordance with a comprehensive masterplan linking and integrating the development into the wider Westwood community.

In terms of the residential use, the land is allocated for up to 550 new dwellings, with proposals judged and only permitted in accordance with a masterplan, which should include a minimum of 3.4 ha of publicly accessible natural/semi natural open space (in accordance with the requirements of Policy SP34); and a range of community facilities (in accordance with Policy SP14, including small scale convenience retail provision to serve the day to day needs of the community).

The policy states that development will be expected to provide proportionate contribution to necessary offsite highway improvements in the form of the Westwood Relief Strategy, improvements to the A256 from Lord of the Manor and any other improvements identified in the Transport Assessment. All development proposals must include a phasing and implementation plan to include the phasing of development, infrastructure and landscaping. The masterplanning will need to be informed by and address liaison with service providers to investigate the need to upgrade the capacity of any utility services and infrastructure; and archaeological assessment and the need to preserve and enhance the setting of heritage assets adjoining the site. The policy requires that any proposal is accompanied by a Transport Assessment, which shall assess the impact of the development on the local road network, and identify measures to promote multi modal access including footway and cycleway connections, an extended bus service accessible to the development, and rail

linkages (although it has been determined that a transport assessment is not required for an application of the size proposed).

Policy SP14 is a general housing policy for allocated housing sites, and requires that proposals for residential development provide one electric car charging point for every 10 parking spaces provided in communal areas, or one charging point to be provided for every new dwelling with parking provision within its curtilage; retain existing boundary features where possible; provide a connection to the sewerage system at the nearest point of adequate capacity, in collaboration with the service provider; allow future access to the existing water supply infrastructure for maintenance and upsizing purposes; provide for the installation of digital infrastructure; provide for the installation of Fibre to the Home (FTTH); and contribute towards the Strategic Access Management and Monitoring Plan to meet the requirements of Policy SP29.

The proposal is for the erection of 38no. residential units, which falls significantly below the allocation number; however this application site is a very small part of the overall allocation area, and an application for the larger residential element for 500no. units is currently pending. The previous outline consent has expired, however, this application is based upon the masterplan approved through that scheme, which was extant at the time of submission. The masterplan has been attached to the planning statement, and indicates that this application site was always intended to be a smaller independent residential scheme, separate to the main residential development. For this reason some of the policy requirements are not justified on the basis of the small residential scheme proposed, and these have instead come forward as part of the pending larger Eurokent housing scheme.

The principle of residential development on the site is therefore acceptable and in accordance with Policy SP09 of the Thanet Local Plan.

Character and Appearance

The proposal will result in the loss of open space, which has raised concerns with some neighbouring occupiers who have commented that this land is often used for dog walking and recreational use. The site is not allocated as open space or local green space, and therefore has no policy protection. Whilst consideration will need to be given to whether the loss of the open space is detrimental to the character and appearance of the area, the location of the site within an allocated housing site is a significant planning consideration. Furthermore, the site is within walking distance of Jackey Bakers Recreation Ground, which is Thanet's main area for sports and recreation purposes, which limits the weight that can be applied to this space as a necessary recreation area.

The site is located in between commercial office/storage units within the Eurokent industrial site, Laleham Gap School, and the Marlowe Innovation Centre. Each of these buildings are unique in their design and materials/colours. The commercial buildings are 2-storey metal clad buildings with curved roofs, the school is a 3-storey blue and white clad flat roof rectangular building, and the innovation centre is orange and white clad, with part of the building with a monopitch and the other flat roof with angled elevations. The application site is more likely to be seen in the context of these buildings served by Ozengell Place than in the context of the more traditional semi-detached pitched roof properties on the opposite side of Stirling Way.

The proposal is for quite a high density form of development, consisting of a row of 10no. 2-storey 2-bed shallow pitched terraced dwellings, two rows of 5no. 2-storey 3-bed shallow pitched terraced dwellings, a row of 3no. 2-storey 3-bed shallow pitched terraced dwellings, and a 3-storey flat roof building containing 15no. 1-bed and 2-bed flats.

The dwellings are all of similar design, with the 3-bed units forming one building type and the 2-bed units forming another building type. The buildings have a unique design, which takes reference from the adjacent commercial buildings. The dwellings are 2-storeys in height with a very shallow offset pitched roof constructed from standing seam single ply roofing membrane to give an industrial appearance. The elevations are constructed using a range of materials including red brick, timber cladding and render, with the windows aluminium framed. Coloured glass spandrel panels have also been used to make reference to the colourful palette of material in the surrounding area. The elevations are simple with some floor to ceiling windows and some at a standard cill height, all of a casement design. The dwellings are modest in scale and height, and with a simplistic but effective design that respects the surrounding character of the area.

The flat block is of a similar scale, height and design to Laleham Gap School. The elevations have been staggered and plenty of variety in material has been used to provide interest to these elevations. The original plans showed a more traditional palette of material, but the applicant has been encouraged to be more imaginative given the context of the site, which has led to a proposal for a mix of sky blue, moonstone and gunmetal grey cladding panels, and orange glazing panels below some window panes. Floor to ceiling glazing along with sliding doors have been used to provide a variety of openings within the elevations, again providing interest along with active frontages and scope for natural surveillance from the building. Balconies have been used with glazed balustrading to add depth to the building. Overall the design is considered to be of good quality, and again reflective of the surrounding character, in both design, scale and height.

In terms of the layout, the access road is a continuation of Ozengell Place. All of the units front onto the access road other than one 5no. dwelling terrace block, which is orientated so that it fronts a parking court area along with the access point into the site. The footprints of the buildings are staggered so that some are setback from the road by only 1m, and others are setback further behind parking spaces, creating a more spacious frontage. Whilst the development is high density with terraces and flats, there are quite spacious gaps between each of the blocks, and the terraced footprint is similar to the terraced block of industrial units on the adjacent site. As such the proposed pattern of development is in keeping with the surrounding pattern of development where there are larger buildings within spacious settings.

Parking is located in wide parking courts and frontage parking areas. The hard surfacing material for these areas is extremely important in order to break up the expanse of hard surfacing and limit its visual impact. The site plan indicates that this would be paving, and a condition requiring details of this is intended.

In terms of soft landscaping, hedging is proposed around the boundaries of the parking court areas, and grassed areas are also provided around the buildings and parking areas. A large communal garden area is provided around the flat block. An indicative planting plan suggests that approximately 25no. trees could comfortably be planted within the development site, although the detail of this would be submitted via condition. The site is setback from Stirling Way, with a grass strip maintained adjacent to the road, maintaining an element of space around the development when viewed from Stirling Way.

Overall the design, scale, height, and layout of the proposed development is considered to be in keeping with the character and appearance of the surrounding area. The proposal is therefore considered to be in accordance with Policy QD02 of the Thanet Local Plan, and paragraph 130 of the NPPF.

Living Conditions

The site adjoins the innovation centre and commercial units within the Eurokent business park, so there is no impact upon these units. On the other side of Stirling Way are semi-detached residential properties, but the 10no. dwelling terrace is at least 43m from the proposed development, and the 3no. Dwelling terrace is at least 37m from the nearest neighbouring property. As such the impact upon the light to and outlook from these properties will not be significantly affected. In terms of overlooking, the distance significantly exceeds the minimum distance for protection of privacy. In addition, the proposed development is at a lower ground level, being up to 0.8m below road level of Stirling Way. The impact upon the privacy of properties in Stirling Way is therefore considered acceptable.

A high number of objection letters have been received to the proposed development. The majority of these letters are from the school or parents of children at the adjacent Laleham Gap School. Concerns raised relate to the potential impact the proposal could have on the well-being of the children, who are specifically affected by noise and who require privacy during their school day.

- **Privacy**

Amended plans were sought during the initial application (prior to the JR) to reduce the impact upon the privacy of the students. The amended plans show the reorientation of the terrace block nos.1-5 in order to remove any direct overlooking of the playground area. A first floor window is proposed within the first floor side elevation of plot 5, but this is conditioned to be obscure glazed and non-opening below 1.73m above internal floor level.

There is a distance of 45m between the proposed rear elevation of plots 6-10, and the site boundary of Laleham Gap School. This distance is considered adequate to prevent any impingement upon the privacy of the students at the school. All other views would be indirect. Immediately to the rear of these plots is the car parking area of the innovation centre, which raises no concern in relation to privacy.

Objection letters have referenced the proposed flat block and the impact upon privacy. Whilst the proposed flat block is 3-storey in height, there is a distance of 60m to the school boundary. The site is allocated for housing and therefore an element of overlooking is always likely to occur, but at this distance it is not considered that the impact would be significant.

- **Noise**

Objection letters have raised concern regarding the potential noise impact upon students of the school during the construction period of the development. Whilst it was previously considered that a safeguarding condition that required a construction management plan to be submitted prior to the commencement of works, and with that plan to be designed in conjunction with the school would suffice, the JR decision determined that given the sensitivities of the school pupils that a Construction Noise Assessment should have been submitted upfront rather than conditioned.

Policy SE06 of the Local Plan states that "development schemes that generate significant levels of noise must be accompanied by a scheme to mitigate such effects, bearing in mind the nature of surrounding uses". In this instance given the specific concerns raised and the nature of surrounding uses, this falls to be assessed.

A Construction Noise Assessment has now been submitted and Environmental Health has been consulted. The assessment advises that the Department for the Environment's Advisory Leaflet states that "noise from construction and demolition sites should not exceed the level at which conversation in the nearest building would be difficult with the windows shut....and noise levels, between say 07:00 and 19:00 hours, outside the nearest window of the occupied room closest to the site boundary should not exceed 70 decibels (dBA) in rural, suburban and urban areas away from main road traffic and industrial noise". The assessment states that due to the sensitivity of the school a 10 dBA reduction has been applied and targeted. The assessment shows that at the main teaching block within the school, predicted construction noise levels fall below the construction noise threshold; only slightly increasing at the residential block, residential dwellings in Stirling Way, and the offices at the Marlowe, but still falling within 60-65 dBA. The report concludes that whilst the impact is likely to be acceptable, there are still mitigation measures that could be put in place in order to keep construction noise to a minimum. This includes installing a temporary localised enclosure around any piling rig, as piling is likely to have the greatest noise impact (if used). Perimeter screening of 2.4m high around the site (where practicable) is also suggested to further reduce noise propagation from the site.

Environmental Health have advised through their consultation response that the Construction Noise Impact Assessment has been carried out in accordance with the appropriate ABC methodology set out in BS5228 Code of Practice for Noise & Vibration Control on Construction and Open Sites. Baseline monitoring, which has taken into account nearby residential receptors and schools establishes receptors as category A and a limit of 65dB limit is required between 7am and 7pm weekdays, although it is understood that the proposed construction hours are 7am to 6pm Monday to Friday and 08:00 to 1pm Saturdays, which Environmental Health recommends is conditioned. The mitigation proposed further achieves these limits, and again must be secured by condition and incorporated into a Construction Environmental Management Plan to be submitted prior to work commencing on site.

The submitted Construction Noise Assessment and the associated safeguarding conditions are considered to satisfactorily address the specific concerns raised by the school and parents, and within the Judicial Review about the lack of an assessment about the efficacy of construction noise mitigation. It is therefore considered that the application would comply with Policy SE06 of the Thanet Local Plan subject to the imposition of safeguarding conditions.

In terms of the future occupiers of the development, an acoustic assessment is required to deal with any noise from the closely located business park, which may need to be considered in the construction of the units. This is considered appropriate to mitigate any potential impact, and is secured through a safeguarding condition with a trigger point for submission prior to the commencement of the development.

Each property is provided with a secure, private garden area, or communal garden area in the case of the flats, thereby complying with Policy GI04 of the Thanet Local Plan.

Each of the units comply with the nationally described space standards, with the smallest units required to be single person units, in accordance with Policy QD04 of the Thanet Local Plan.

Refuse storage has been provided for the flat block, and there is space within the curtilage of each house for refuse storage provision.

It is considered that the impact upon the amenity of neighbouring occupiers, along with the school, and the impact for future occupiers, is acceptable and in accordance with Policies QD03 and SE06 of the Thanet Local Plan, and paragraph 130 of the NPPF.

Transportation

The proposal includes the extension of Ozengell Place to provide the access through the site. Concern was originally raised with KCC that this road should be adopted, and it may be needed to form part of a future bus link onto Stirling Way. Discussions have taken place with bus operator Stagecoach and it would appear that a bus link is no longer intended.

A footpath/cyclelink is required to connect between Ozengell Place and Stirling Way. The Estates team has advised that the sale of this land to enable a connection link is possible, subject to the applicant being responsible for all future maintenance of the path. The requirement for the footpath/cyclelink is secured through the S106 agreement, and will improve the sustainability of the development by allowing for a more direct pedestrian/cycle link between Westwood and Newington.

KCC has advised that the long, straight approach along Ozengell Place and the limited change of direction at the proposed bend may impact upon visibility, and therefore an effective speed restraint measure was requested at the site access, for example a raised table. Amended plans showing this change have been submitted, to the acceptance of KCC.

Whilst policy SP09 covers this site, it is considered that the proposal does not require a transport assessment, as the development is for less than 100 dwellings (Policy TP01), with the Local Plan being taken as a whole.

Concerns have been raised by the school and parents of children from the school in relation to pedestrian movement, as many children are encouraged to walk to school as independent travellers. The judicial review judgement further determined that the issue of independent journeys was required to be addressed.

A planning statement addendum has been submitted by the agent that advises that the scheme has been specifically designed to provide a safe pedestrian environment in accordance with Kent County Council standards. In particular the key measures that achieve this are the provision of 2.5m wide footpaths, tracking plans that demonstrate that there is sufficient space for turning without overhanging the footpath, and the provision of a raised table at the site entrance, which encourages the slowing of vehicles, whilst also providing an informal crossing point close to the school entrance.

KCC Highways have been further consulted on this particular issue and have advised that the application provides improved pedestrian links from Ozengell Place to Stirling Way, including the bus services, which will benefit those wishing to access the school via Sterling Way. In terms of safety for independent journeys, the development creates a low-speed environment and reasonable pedestrian facilities. The pedestrian facilities provided on site will enhance independent access, by providing more direct access to Stirling Way, avoiding the busy A256 Haine Road corridor. Speed reduction measures are proposed at the entrance to the site and this will help to manage vehicle speeds within the site and the approach to/from the existing highway network within Ozengell Place.

Furthermore, in line with previous comments, the proposal will not generate significant peak hour traffic generation, and it is anticipated that around 21 vehicle movements would be generated, which when spread across the peak hour equates to 1 vehicle movement every 3 minutes. It is not considered that this will create an overbearing barrier to independent journeys, or that mitigation is required for this particular issue. It is therefore not considered

that the proposed development would result in a harmful impact to pedestrian safety, thereby enabling independent journeys to continue safely and conveniently for school users, in accordance with Policy TP02 of the Thanet Local Plan.

Parking provision initially fell below the minimum parking standards, which require 64no. spaces, including 7 visitor spaces. Concern was also raised with the layout, which showed spaces a distance from the dwellings they are associated with. Amended plans have been submitted, increasing the spaces to the minimum requirement, and locating the spaces, where possible, close to the properties they serve. Cycle parking has also been shown, and electric vehicle charging spaces have been agreed to, with details to be submitted via condition.

The previous outline application required an off-site financial contribution towards highway improvement works. That application has now expired, and therefore the proposal is not subject to the legal agreement associated with that scheme. This application is now being looked at as a stand-alone scheme, and on the basis of the 39no. units proposed, KCC do not feel that an off-site financial contribution is justified in this instance as the small number of units proposed will not result in a cumulative impact upon the highway. This view is agreed by officers.

The impact upon highway safety is therefore considered to be acceptable, and in accordance with the Thanet Local Plan and the NPPF.

Ecology

No ecological information was initially submitted with the application, and therefore concern was raised by KCC Biodiversity. Ecological information has subsequently been submitted, which identified suitable reptile habitat on-site. A subsequent reptile survey concluded that reptiles were not present on-site, however, the reptile survey report did identify botanical interest on the site. A pyramidal orchid was observed in the north of the site, which would be impacted by the proposed development. As recommended in the report, and supported by KCC, this area of grassland and respective seed bank has required translocation to the areas in the west of the site, with detail to be shown on the plan along with the methodology for this. An ecological enhancement strategy has since been submitted including these recommendations, which are to be conditioned. This is considered sufficient to accord with the requirement for sites to make a positive contribution to the conservation, enhancement and management of biodiversity and geodiversity assets resulting in a net gain for biodiversity assets.

The impact upon biodiversity is therefore considered to be acceptable and in accordance with Local Plan policy SP30 and NPPF.

Drainage

Southern Water advises that their initial investigations indicate that they can facilitate foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

Southern Water can provide a water supply to the site, however their initial investigations also indicate that there are no dedicated public surface water sewers in the area to serve this development, and therefore an alternative means of draining surface water from this development is required.

A Flood Risk Assessment Report dated November 2019 by Herrington Consulting Limited has been submitted. The Soiltech Soakage Test Report indicates at shallow depths the underlying geology comprises sandy very silty Clay. The report however does not include borehole logs to show the depths of Clay. Desk information suggests that this will be less than 3 m thick but as proposed infiltration systems, both permeable paving and trench soakaways, are at shallow depths it is important to make sure the site discharges to the permeable strata.

KCC SUDs has advised that whilst further information on the detailed design will need to be submitted via condition, it is expected that a drainage solution based upon the approach given is likely to serve the proposed development adequately.

The impact upon flood risk is therefore considered to be acceptable, and in accordance with the Thanet local Plan and the NPPF.

Air Quality

The Judicial Review judgement found that the report should have explicitly commented as to whether an air quality assessment was required.

Although the site falls within the administrative boundary of Thanet's urban Air Quality Management Area (AQMA); the decision on whether an air quality assessment is necessary is made in consultation with the council's Environmental Protection team who monitor and assess levels of pollution locally and are aware of pollution hot spots. The fact that a development could be within or close to an AQMA does not mean an air quality assessment is necessarily triggered. The scale of the development and its location are the determining factors on whether an air quality assessment is required. Air Quality assessments are typically required within heavily trafficked pollution hot spots, where there is evidence of high levels of pollution; or where the proposed development meets the screening criteria for major developments that require a transport assessment as set out by the Department for Transport, which includes those developments, which increase by 500 or more the annual average daily traffic movements.

The proposed application site is located in an area that falls well below national air quality objectives, which is set at 40µg/m³ annually, and the size of the development has meant that a transport assessment is not required, as agreed within the judicial review judgement.

In Thanet's most recent Air Quality Annual Status Report 2021, Defra has recommended that Thanet revoke the AQMA given several years of no exceedances of the air quality objective. However until the AQMA is formally revoked; if the proposal would exceed any of the criteria mentioned above then an assessment would be required.

Environment Health states that "Pollution levels were monitored near to the site along Haine Road between 2003 and 2009 and were always well within health objectives. Monitoring resumed January 2021 and nitrogen dioxide levels have reduced further to around 20µg/m³, considerably lower than the national objective of 40µg/m³." The development would not cause a change of Light Duty Vehicle flows of more than 500 annual average daily traffic (AADT) (IAQM) from the number of units created. Given the low level of pollution in the area and the limited vehicle movements resulting from the proposed development an air quality assessment is not required for the proposal.

Standard air quality mitigation measures of electric vehicle charging and gas fired boilers meeting a minimum standard are proposed.

The proposal is considered to comply with Policy SE05 of the Thanet Local Plan and would not result in harm to air quality subject to the standard mitigation measures being secured by conditions.

Affordable Housing

Policy SP23 of the Thanet Local Plan requires that for developments exceeding 10no. dwellings, 30% affordable housing be provided on site. The proposal is for 38no. units, which would require the provision of 11no. affordable units.

The applicant has agreed to this provision and has offered a mix of unit types and sizes, including 3no. 1-bed flats, 5no. 2-bed flats, and 3no. 3-bed houses

The Housing Strategy Officer has been consulted and has advised that she has no concerns with this proposal as it provides a good mix of unit sizes for which there is a need.

The proposal therefore complies with Policy SP23 of the Thanet Local Plan.

Size and Type of Dwellings

The proposal is for the erection of 13no. 3-bed houses, 10no. 2-bed houses, 6no. 2-bed flats, and 9no. 1-bed flats. This provides a good range in the size and type of units in order to achieve a development that is well-incorporated into the community. The proposal is therefore considered to comply with Policy SP22 of the Thanet Local Plan.

Financial Contributions and Obligations

Policy SP41 of the Thanet Local Plan requires that development only be permitted when provision is made to ensure the delivery of relevant and sufficient community and utility infrastructure; including, where appropriate, a contribution towards the provision of new, improved, upgraded or replacement infrastructure and facilities.

The following contributions are required:

- A contribution of £25,769.62 towards special education in the form of Foreland Fields School expansion,
- A contribution of £111,230 towards secondary education in the form of additional secondary places within a school expansion project within the District,
- A contribution of £623.96 towards community learning in the form of additional resources, equipment and classes at Broadstairs Adult Education Centre,
- A contribution of £2,489 towards youth service in the form of additional equipment and resources for the youth service in Thanet including early prevention and outreach provision,
- A contribution of £2,107.10 towards library bookstock in the form of additional resources, equipment, and bookstock at Newington Library,
- A contribution of £5,581.44 towards social care in the form of specialist care accommodation, assistive technology systems and equipment to adapt homes, adapting community facilities, sensory facilities and changing places within the District.
- A contribution towards equipped play provision is required under Policy GI04 of the Thanet Local Plan. The nearest park to the application site is Jackey Bakers Recreation Ground. There is a need for new or replacement play equipment at this park, and therefore a financial contribution of £25,373 is sought.
- A contribution has been requested by the CCG of £28,860 towards a new Medical Facility at Westwood.

The agent has agreed to all of these financial contribution requests.

Whilst a signed legal agreement securing the financial contributions has previously been submitted and signed by the Council, a revised legal agreement is required following the updating of the KCC charges through the re-consultation process.

Special Protection Area and Appropriate Assessment

Thanet District Council has produced the 'The Strategic Access Management and Monitoring Plan (SAMM)' which focuses on the impacts of recreational activities on the Thanet section of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The studies indicate that recreational disturbance is a potential cause of the decline in bird numbers in the SPA. The proposed development is within close proximity of the Thanet Coast and Sandwich Bay SPA, Ramsar and SSSI. Therefore, to enable the Council to be satisfied that the proposed development will avoid a likely significant effect on the designated sites (due to an increase in recreation) a financial contribution is required for the C3 units to contribute to the district wide mitigation strategy. Natural England has worked with the North-East Kent Local Planning Authorities to support them in preparing the SAMM Plan and the underpinning evidence base. Natural England agrees that the mitigation measures to ensure additional impacts from recreational disturbance to the SPA and Ramsar Site are ecologically sound.

The tariff for this contribution is provided in the SAMM report, and Policy SP29 of the Thanet Local Plan, and consists of £202 per 1-bed unit, £320 per 2-bed unit, £424 per 3-bed units, and £530 per 4-bed (plus) unit, resulting in a total of £12,450 for this development.

Previously, an appropriate assessment was carried out for the development, which concluded that the development would not result in any adverse impacts to the designated sites, subject to securing the mitigation under policy SP29. In light of the judicial review decision, the Council's Appropriate Assessment (AA) (under the Habitats Regulations) for the site has been updated to include the following:

- Identification of "all the habitats and species for which the site is protected";
- Reference added for one of the three species for which the SPA is protected, namely Little Tern;
- Inclusion of assessment of species other than those three species, which might have implications for the conservation objectives of the SPA;
- Inclusion of assessment of the implications of the proposed development for habitat types and species outside the SPA boundaries, insofar as those implications would be liable to affect the conservation objectives of the SPA;
- Inclusion of assessment of the efficacy of the SAMMs project.

Therefore, it is considered that the revised AA sufficiently assesses the impact of residential development in the district on the conservation objectives of the SPA. With regard to the efficacy of the SAMMs project, the plan includes wardening of the Thanet Coast and Sandwich Bay SPA and Ramsar Site, signage and interpretation, and increased education. In addition, monitoring and surveys of the site, particularly with regard to visitors and bird numbers, is part of a plan which is linked to the wardening programme. This is delivered through the Thanet Coast project, run by Thanet District Council working in partnership with conservation organisations in East Kent, to ensure that development, considered in combination, does not have an adverse effect on the integrity of the European site. Since 2019, 1 no. full time officer has been employed on the SAMMS project with 2no. temporary engagement officers, with a business plan 2020-2025 for the BirdWise project outlining progress to date and planning until 2025. This demonstrates the efficacy of the mitigation of the SAMM project to ensure residential development does not result in adverse impact on the designated sites.

Policy SP14 states that proposals must include an assessment of the development's effect on "functional land" that may be used as a roosting or feeding habitat by wintering or breeding birds with the SPA citation. No assessment has been submitted, however officers have assessed the submitted scheme, and given the existing condition of the site (not agricultural land), proximity to urbanised development of Manston business park, the school sites and residential dwellings adjacent, it is not considered that the land constitutes functionally linked land or that the development would have an effect on functional land, thereby not resulting in an impact on the objective of the SPA on this point.

The applicant has agreed to the SAMMs contribution, which has been secured through the submitted legal agreement. Following the appropriate assessment and with the required contribution towards the SAMM project secured, the proposal would not result in adverse impacts on the SPA and the development would be in accordance with Policy SP29 and the Habitat Regulations.

RECOMMENDATION

The site is allocated for housing development within the Thanet Local Plan, and the proposal provides a good quality scheme that reflects the surrounding character and appearance of the area. The impact upon highway safety is considered to be acceptable, and the impact upon neighbouring occupiers is considered to be dealt with through the amended scheme along with safeguarding conditions that will provide appropriate mitigation. A new pedestrian link/cycle link is proposed, and 30% on-site affordable housing is proposed, along with a number of off-site financial contributions to mitigate the impact of the scheme.

Whilst the application has been through a Judicial Review, and the issues of Appropriate Assessment, air quality, construction noise and highway safety were highlighted as areas that had not convincingly been dealt with through the officer report, each of these issues have been further considered with updated consultee comments included, and where necessary conditions amended. It is considered that each of these issues have now been satisfactorily dealt with through this committee report, with the conclusion being that the issues of air quality, pedestrian movement to and from the school, and construction noise to the school, have all adequately been dealt with, with no significant harm identified.

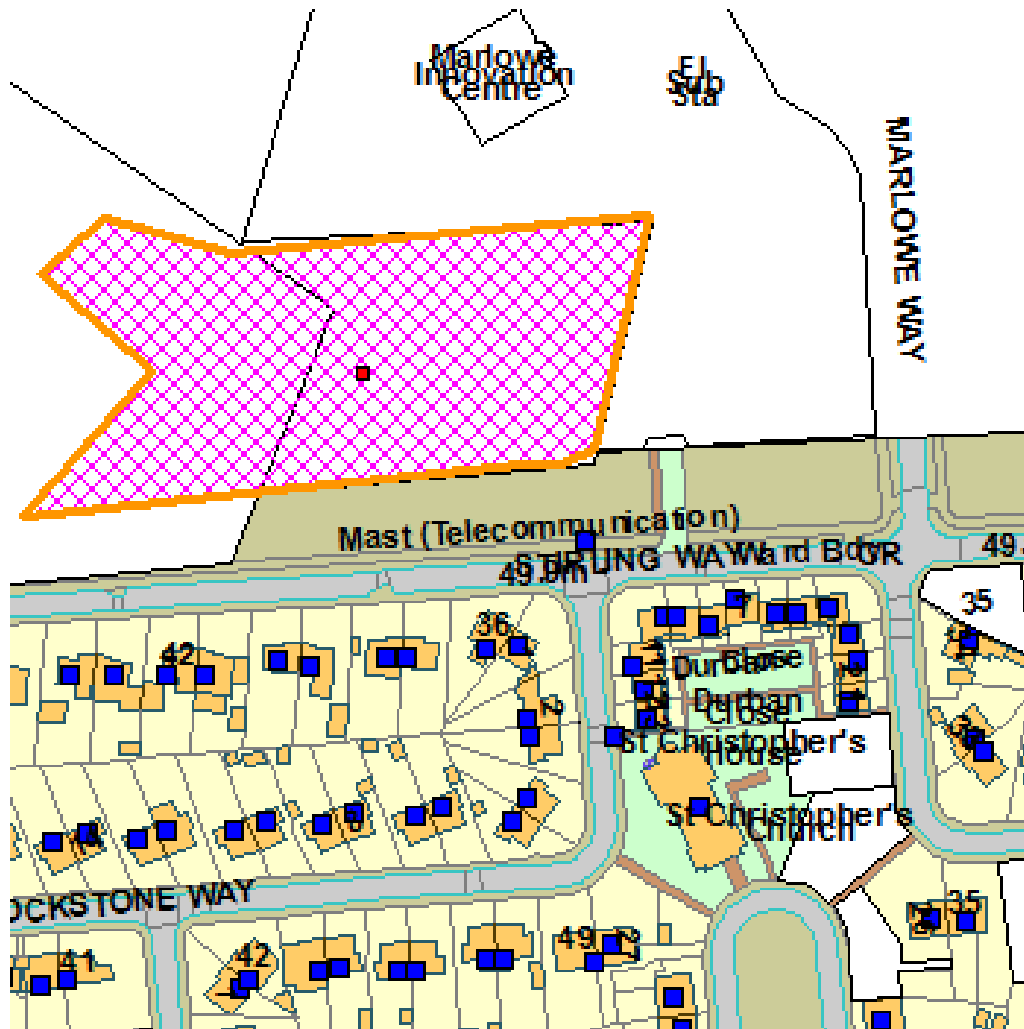
This application is of course also being presented to Committee for redetermination so addressing the court's other findings about it being an application made on behalf of the Council and the appearance of apparent bias.

Overall the proposal is considered to be a sustainable form of development that accords with the Thanet Local Plan and the NPPF. It is therefore recommended the Members defer and delegate the application for approval, subject to safeguarding conditions, and the receipt of a signed legal agreement securing the Heads of Terms as highlighted within 6 months of the planning committee decision.

Case Officer
Emma Fibbens

TITLE: F/TH/19/0323

Project Land On The North Side Of Stirling Way RAMSGATE Kent



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Neutral Citation Number: [2021] EWHC 2026 (Admin)

CO/4184/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/07/2021

Before:

Mr Timothy Corner, QC
Sitting as a Deputy High Court Judge

Between:

R (on the application of "G")
- and -
Thanet District Council
-and-
Kentish Projects Limited

Claimant

Defendant

Interested Party

Richard Honey, QC and Jonathan Welch (instructed by Kent Law Clinic) for **the Claimant**
Giles Atkinson (instructed by Director of Law and Democracy, Thanet District Council) for the
Defendant

Hearing dates: 7th and 8th July 2021

Approved Judgment

Timothy Corner, QC:

INTRODUCTION

1. This claim for judicial review is brought by the parent of a child at a Special Educational Needs school directly adjacent to land on the north side of Stirling Way, Ramsgate, Kent (“the site”) which is owned by East Kent Opportunities LLP (“EKO”) and for which the Defendant Council (“the Council”) granted planning permission (“the planning permission”) on 2nd October 2020 for a development of a three-storey block of 15 flats and 23 houses. The planning application was made pursuant to a contract between the landowners and the developer. The Claimant has brought this claim with pro bono representation to protect the interests of the school and its pupils, who are particularly sensitive and vulnerable children.
2. I thank all three counsel for their help. For the Claimant, although the pleaded case carries the signature of both counsel Mr Welch presented cogent oral submissions on ground 2, with Mr Honey dealing with the other grounds. For brevity, where I refer to submissions for the Claimant on ground 2, I refer to Mr Welch only, and for the other grounds, to Mr Honey only.
3. The Claimant contends that despite representations made, including by the school’s headteacher, the Council’s officer did not grapple with the impact of the development on the children of the school, especially in terms of construction noise, highway safety and air quality. The decision was procedurally flawed and infected by apparent bias. Overall, it is said to be apparent that the application was not properly scrutinised and was given an unduly easy ride. In summary, the Claimant advances the following grounds:
 - (1) The application was “on behalf of” the Council and, under the scheme of delegation, had to be determined by the planning committee. The decision by an officer was unlawful.
 - (2) The appropriate assessment undertaken by the Council failed to comply with the strict requirements of the Habitats Regulations, such that no lawful appropriate assessment of the impact of the development on the Special Protection Area was conducted.
 - (3) The Council failed to assess construction noise impacts on the school and the efficacy of potential noise mitigation was simply assumed and not actually considered.
 - (4) The Council failed to consider and grapple with highway safety risks in relation to children and parents at the school and failed to require a transport assessment, which would have included systematic consideration of highway safety, contrary to the policy requiring one.
 - (5) The Council failed to consider the issue of air quality and failed to require an air quality assessment, again contrary to the policy requiring one.
 - (6) The decision is tainted by apparent bias.

FACTUAL BACKGROUND

4. The Council granted planning permission on 2nd October 2020. Laleham Gap School is immediately north-west of the site. The development will be accessed along the same cul-de-sac as the school, with all traffic accessing the site passing the school entrance.
5. The school is a SEN school for pupils aged from 4 to 17 years of age, most of whom have a diagnosis of autism. The pupils are particularly sensitive to the surrounding environment, especially noise, air pollution and other disturbances. The sensitivities of the pupils are explained in the witness statements of the school's headteacher, Mr Les Milton, and the Claimant. These sensitivities are not disputed by the Council.
6. The site is a small part of the land allocated by policy SP09 of the Thanet Local Plan as a mixed-use area of development for residential and business purposes. It is a short distance from the Thanet Coast and Sandwich Bay Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest, and well within the zone of influence of that internationally important site.
7. EKO owns the site. EKO is a partnership of the Council and Kent County Council ("the County Council"). EKO has no employees and is steered by a management team of six persons, including one elected councillor and two senior officers of the Council. The obligations of EKO are performed by and through councillors and officers of the two councils, including the Council. EKO only acts with the authority of the Council.
8. The relationship between the Council-as one of two partner members of EKO- and developer Kentish Projects Limited (KPL) was raised in the Claimant's pre-action letter. The Council responded contending that "there is no contract between the Council and the developer in this case". The Claimant asked the Council to clarify the relationship between itself and KPL. In its Summary Grounds of Defence (SGD), the Council at paragraphs 13-15 acknowledged there was a contract but did not disclose it. A counterpart copy of the contract for the sale of land dated 11 February 2019 ("the Contract") was disclosed in redacted form by the Council after permission was granted for the claim. The Claimant asked for a copy of the Contract executed on behalf of EKO and a copy of that was provided. Despite the Council initially claiming that "the Council itself is not a signatory" to the Contract, the second copy of the Contract showed a representative of the Council did sign it. The Contract contains the following provisions:
 - i) In clause 5.1, EKO obliges KPL to submit a planning application to the Council and to "use best endeavours to obtain the grant of a Satisfactory Planning Permission as soon as reasonably possible".
 - ii) In clause 5.3, EKO agrees not to "do anything which may prejudice or obstruct the progress of any Planning Application or Planning Appeal made pursuant to this contract".
 - iii) By clause 9, EKO is obliged "to co-operate with [KPL] and use all reasonable endeavours to assist [KPL] in obtaining a Satisfactory Planning Permission."
 - iv) Where a Planning Agreement is required, KPL "shall (in consultation with [EKO] (who shall act reasonably and promptly)) use best endeavours to

negotiate and agree the terms of the Planning Agreement free from any Buyer's Unacceptable Conditions as quickly as reasonably possible" (clause 12.1).

9. The form of transfer in Schedule 1 to the Contract is required to be signed by an authorised representative of EKO. It is to be signed by a "Thanet District Council Representative". Clause 12 of Schedule 1, "Execution", states that the sale has been agreed by the EKO management committee and provides space for signature by authorised representatives.
10. The Council accepted in its Detailed Grounds of Defence (DGD) that the "transfer of land that results from the agreement can be said to be undertaken on behalf of the Defendant Council, as joint land owner" and that "if permission is not granted there is no sale". The s106 agreement is signed twice by the Council, including in its capacity as landowner.
11. Objections to the planning application were made in relation to issues including overlooking of the school, noise and disturbance for children during construction, increased traffic, lack of parking, air quality concerns for children at school with anxieties, and highway safety for children and parents during school drop off/collection.
12. The County Council biodiversity officer advised that, due to the proximity of the site to the SPA, the development must fully adhere to the Strategic Access Management and Monitoring Strategy (SAMMS) to mitigate for additional recreational impacts on the SPA. He advised that appropriate assessment ("AA") should be carried out. An AA was carried out, which the Claimant criticises.
13. The Council's own Environmental Health Officer (EHO) advised that "given the site adjoins a school for children with special educational needs who are extremely sensitive to noise, the construction impacts *must be effectively controlled*", and concluded: "It is therefore *imperative that construction impacts are assessed* and noise mitigation put in place" (emphasis added).
14. The Council's scheme of delegation provides that the Planning Committee will determine a planning application where:
 - "2.2.1.
 - (c) *The application has been submitted by or on behalf of a Member or an Officer of the Council;*
 - (d) *It is an application by or on behalf of Thanet District Council.*"
15. The school's headteacher, Mr Milton, was told that the planning application would be determined by the Council's planning committee. The application was originally scheduled to be heard at a committee meeting.
16. The Council's planning officer Ms Fibbens prepared a delegated report setting out her consideration of the application. That report was checked by a senior officer before being finalised. The delegated report recorded the fact that objections had been made about noise during construction, highway safety for children and parents, and air quality.

17. The delegated report describes a potential construction management plan involving consultation with the school. Condition 25 requires a scheme for mitigating construction noise impact to be submitted to and approved by the Council. The delegated report does not assess construction noise impacts on the school. The conditions do not require any such assessment either. The delegated report concluded that highway safety impacts were considered to be acceptable, although the Claimant says this was without considering the issue of highway safety in relation to the school.
18. The delegated report acknowledged the SPA is affected negatively by recreational disturbance potentially causing a decline in bird numbers and concluded that a financial contribution was required to enable the Council to be satisfied that a likely significant effect could be avoided.

LEGAL PRINCIPLES ON DETERMINATION OF PLANNING APPLICATIONS

19. Under section 70(2) the Town and Country Planning Act 1990 (“the 1990 Act”) local planning authorities must have regard to the provisions of the development plan so far as material and to any other material considerations. By section 38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan, the determination is to be made in accordance with the provisions of the development plan, unless material considerations indicate otherwise.
20. Whether or not a particular consideration is material is ultimately a matter for the court (Tesco Stores Ltd v Secretary of State for the Environment [1995] 1 WLR 759 (per Lord Keith at p.764)). In Oxton Farm v Harrogate Borough Council [2020] EWCA Civ 805 the Court of Appeal confirmed that material considerations fall into two categories, those which the decision-maker may take into account but need not and those which the decision-maker must take into account. Where a consideration is a policy requirement it is mandatory and must be taken into account.
21. A public body has a basic duty to take reasonable steps to acquaint itself with relevant material and to grapple with it (Secretary of State for Education v Tameside Metropolitan Borough Council [1977] AC 1014 at 1065B and R (CPRE Kent) v Dover District Council [2018] 1 WLR 108 at [62]).
22. There is a duty to take consultation responses conscientiously into account (R (Smith) v East Kent Hospital NHS Trust [2002] EWHC 2640 (Admin) at [61]).
23. In South Bucks District Council v Porter (No. 2) [2004] 1 WLR 1953 at [36] it was stated that reasons where given must be intelligible and must be adequate, enabling:

“The reader to understand why the matter was decided as it was and what conclusions were reached on the ‘principal important controversial issues’, disclosing how any issue of law or fact was resolved... The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter, or by failing to reach a rational decision on relevant grounds.”

24. Where a local planning authority has an interest in a site for which it is considering a planning application, it is under a particular duty to weigh the issues, engage with objections thoroughly, conscientiously and fairly (Stirk v Bridgenorth District Council (1996) 73 P&CR 439 at p. 444) and to set out all relevant material in any report (R v South Glamorgan County Council ex p. Harding (1998) COD 243). In such circumstances procedural requirements require close observance (R v Lambeth Borough Council ex p Sharp [1987] JPL 440 at 443 and (1988) 55 P&CR 232 at 237-240).
25. The general approach to planning officers' reports to planning committees was set out in Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314.

“42. The principles on which the court will act when criticism is made of a planning officer's report to committee are well settled. To summarise the law as it stands:

•The essential principles are as stated by the Court of Appeal in R. v Selby DC Ex p. Oxton Farms [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge LJ, as he then was). They have since been confirmed several times by this court, notably by Sullivan LJ in R (on the application of Siraj) v Kirklees MBC [2010] EWCA Civ 1286 at [19], and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J, as he then was, in R (on the application of Zurich Assurance Ltd t/a Threadneedle Property Investments) v North Lincolnshire Council [2012] EWHC 3708 (Admin) at [15]).

•The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in R (on the application of Morge) v Hampshire CC [2011] UKSC 2 at [36], and the judgment of Sullivan J, as he then was, in R v Mendip DC Ex p. Fabre [2017] PTSR 1112 (2000) 80 P&CR 500 at 509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison LJ in R (on the application of Palmer) v Herefordshire Council [2016] EWCA Civ 106 at [7]). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way-so that, but for the flawed advice it was given, the committee's decision would or might have been different-that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

•Where the line is drawn between an officer's advice that is significantly or

seriously misleading-misleading in a material way-and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example R (on the application of Loader) v Rother DC [2016] EWCA Civ 795 [2017] JPL 25), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, R (on the application of Watermead Parish Council v Aylesbury Vale DC [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, R (on the application of Williams) v Powys CC [2017] EWCA Civ 427: [2017] JPL 1236). But unless there is some distinct and material defect in the officer's advice, the court will not interfere."

26. As it was an officer decision the Council was under a statutory duty to provide reasons for granting the planning permission (Openness of Local Government Regulations 2014, reg 7(3)(b) and R (CPRE Kent) v Dover District Council [2018] 1 WLR 108 at para 30 per Lord Carnwath JSC). These are to be discerned from the delegated report.
27. It was agreed that the principles in Mansell are broadly applicable to when the decision is taken by the officer him or herself under delegated powers. However, Mr Honey rightly pointed out the situation is different. Apart from the existence of the specific duty to give reasons set out in the previous paragraph, where an application is determined under delegated powers there is no extra layer of member consideration in addition to the officer report. Members cannot themselves fill any gaps left in the officer report.

SUBMISSIONS

Ground 1: Under the scheme of delegation, the scheme should have gone to committee

28. The Claimant submitted that as an application made "on behalf of" the Council, under the scheme of delegation, it could only lawfully have been determined by the planning committee. The Claimant said that "on behalf of" means "in the interest of or for the benefit of" relying on the Oxford English Dictionary and Gillespie v City of Glasgow Bank (1879) 4 App Cas 632 (per Lord Hatherley at 642). He also relied on Cherwell District Council v First Secretary of State [2004] EWCA Civ 1420 at [56], where Chadwick LJ (with whom the other judges agreed) said that the expression was not limited to the private law concepts of master and servant or principal and agent, but had a wider meaning including "for the purposes of, as an instrument of, or for the benefit and in the interest of".
29. Mr Honey said that the application was on behalf of the Council because:
- (1) The Council as one of the two partners in EKO has obliged KPL under the contract to submit a planning application and to seek to obtain planning permission as soon as reasonably possible. The Council is a party to promoting

the development through the Contract and has agreed to the Contract which requires the planning application to be made. It would not have agreed to the Contract if the obligation on KPL to make an application was not in its interest.

- (2) As joint owner of the site via EKO, the Council will benefit financially from the sale of the land if the planning application succeeds.
30. Mr Honey said that it would be inappropriate to give “on behalf of” a narrow servant/agent meaning because the exceptions in the scheme of delegation are aimed at upholding propriety and the integrity of the planning process, including avoiding the appearance of conflict of interest through transparent decision-making.
31. In response, Mr Atkinson said that nowhere is the application said to have been made “on behalf of” the Council, or for that matter on behalf of the County Council. Nothing in the scheme of delegation indicates that an application made by companies such as KPL or in respect of land owned by a joint venture such as EKO is to be considered as made on behalf of the Council.
32. He said that EKO has a separate and very distinct role from that of the Council as local planning authority. EKO is concerned to encourage and facilitate economic growth in Thanet which it achieves by engaging with the private sector. Its development activity, after an initial loan, has been funded by local businesses. The Council and the County Council wrote off the value of the land they each transferred to EKO. EKO is a viable and stable company which is successfully repaying its debt to the Council and the County Council and has recently paid dividends/distributions to the Council partners.
33. He continued that there is no financial benefit to the Council in granting the permission because the Council gifted land to EKO. It may or may not be repaid by way of dividends but that is not the purpose of the arrangement; the purpose is to encourage economic development.
34. Mr Atkinson said that there is no evidence that the Council would benefit from proceeds of sale of the land and there could be no suggestion that either party would seek damages from the other in the event of a breach of the contract between them.
35. That the roles of EKO and the Council are distinct is illustrated, said Mr Atkinson, by the fact that in 2013 the Council refused an application for outline planning permission made for the Eurokent site in Thanet owned by EKO.

Ground 2: Habitats Regulations non-compliance

36. Mr Welch for the Claimant drew attention to Directive 92/43/EEC, which makes provision in Article 6 for the conservation of special areas of protection. The Directive is implemented in domestic law by the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”). Mr Welch relied on the process to be followed, according to regulations 61 to 69:
- (1) Screening. There must be an initial assessment by the competent authority (ignoring mitigation) whether a project is likely to have a significant effect on a protected site in combination or alone, with the threshold at this stage a “very

low one” (Sweetman v An Bord Pleanala (Case C-258/11) [2014] PTSR 1092 at [49] of AG Sharpston’s opinion).

- (2) Appropriate Assessment (“AA”) if the screening stage leads to the conclusion without assistance of mitigation measures that there is likely to be a significant effect. So far as the standard required of an AA is concerned, it was submitted that a strict precautionary approach must be adopted following Friends of the Earth’s Application for Judicial Review [2017] NICA 41 at [14]-[15] and [34]. The assessment must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt about the effects of the project on the site (Sweetman v An Bord Pleanala [2014] PTSR 1092 at [40-44]). It must also identify and examine the implications of the project for species present on the site, and for which that site has not been listed, as well as the implications for habitat types and species outside the boundaries of the site, insofar as those implications are liable to affect the conservation objectives of the site (Holohan v An Bord Pleanala (C-461/17) [2019] PTSR 1054 at [37]-[38]). An AA cannot be done without up-to-date information (Case C-43/10 Nomarchiaki [2013] Env LR 21 at [115] and [117] and Holohan per AG Kokott opinion at [29]).
- (3) Subsequent grant of consent. In the light of the conclusions of the appropriate assessment the competent authority is to agree to the project only having ascertained that it will not adversely affect the integrity of the protected site, with no reasonable scientific doubt remaining about the absence of such effects; regulation 64 (5) and Waddenzee (C-127/02) [2004] Env LR 14 at [59]. Any mitigation measures must have a high degree of certainty regarding their outcome, “guaranteeing beyond all reasonable doubt that the project will not adversely affect the integrity of the area” (Grace v An Bord Pleanala (Case C-164/17) [2018] Env LR 37 at [46]-[61]). The authority must be certain and convinced that the project will not adversely affect the integrity of the site concerned (Sweetman at [40] and where doubt remains permission must be refused; Waddenzee at [57]).

37. Mr Welch submitted that the purported appropriate assessment in this case fell very far short of the legal standard.

- (1) There was no consultation with Natural England (“NE”) until the assessment was completed, which gave no opportunity to have regard to its representations when undertaking the AA, contrary to regulation 63 (3). The AA failed to identify “all the habitats and species for which the site is protected” and was therefore not sufficient to dispel all reasonable scientific doubt as to the adverse effects on the integrity of the site. It fails to refer at all to the SPA’s habitats listed in the Natura 2000 site information reference document and omitted reference to one of the three species for which the site is protected, namely Little Tern.
- (2) No consideration was given to implications of the scheme for species present on the SPA for which it has not been listed which might have implications for the conservation objectives of the SPA.

- (3) The text of the AA was “mere assertion” against which the courts have warned.
- (4) The assessment was not up-to-date. It was 1.5 years old when permission was granted, and the most recent research referred to in it was from 2011, 2013 and 2014.
- (5) Evidence about the mitigation relied on which flowed from the 2016 SAMMS document was also not up-to-date and no consideration had been given to whether this type of mitigation has been successful or why it would be effective here.
38. Mr Welch said that the failure to carry out a proper and appropriate AA also meant that the Council failed to have regard to policy SP 14 of the Local Plan which requires an AA of the effects of the development of functional land in relation to the SPA. There had also been a failure by the Council to fulfil the duty set out in Secretary of State for Education and Science v Tameside Metropolitan Borough Council [1977] AC 1014 to properly inform itself of the nature of the application before it.
39. Mr Atkinson said that a compliant AA had been prepared. NE had been consulted on 23rd April 2019, the day that Ms Fibbens prepared the “Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment (AA) Statement for recreational disturbance”. A box headed “Summary of Natural England’s comments” was left blank. NE responded on 10th May 2019, making clear this was its “formal representation on appropriate assessment” and stating that it did not object to the grant of permission subject to the advice set out with regard to the SAMM scheme. That advice stated that the SAMM must be secured by planning conditions or obligations.
40. Mr Atkinson said that this showed that the Council did consult NE and did have regard to their representations before granting planning permission. Further, a subsequent email from NE to Ms Fibbens dated 26th February 2020 addressing an amendment to the scheme confirmed that NE had been consulted previously.
41. The Council was entitled to place considerable weight on the opinion of NE (Smyth v Secretary of State for Communities and Local Government [2015] PTSR 1417).
42. Furthermore, said Mr Atkinson, the Claimant’s detailed criticisms of the AA were unjustified in the light of the discretion granted to the Council by R (Champion) v North Norfolk District Council [2015] 1 WLR 3710.
43. The AA did seek to secure a contribution to the SAMMS by way of planning obligation, which was signed on 15 September 2020 securing the SAMMS contribution of £12,450 before the permission was granted. NE were clearly content with a generic approach to small housing schemes within the zone of influence of the SPA such as this one and it could be inferred from their letter of 11th March 2019 to the Defendant Council and Canterbury City Council that they were satisfied that the mitigation in the shape of SAMMS does work.
44. Mr Atkinson concluded by saying that in the light of the acceptability of the AA, the additional points made by the Claimant in relation to Local Plan policy SP14 and the breach of the Tameside duty fell away.

Ground 3: Construction Noise Impact

45. Mr Honey argued that construction noise impact on the school was obviously material, having regard to the proximity and sensitivity of the school to construction noise, the advice provided by the Council's Environmental Health Officer and because it was one of the main points of objection, with objections pointing to the sensitivity of the pupils of the school to noise.
46. However, although the delegated report considered noise, there was no assessment of the construction noise impacts on the school. Furthermore, development plan policy SE06 was left out of account in breach of the statutory duty in section 70(2) of the 1990 Act. That policy (which also covers construction noise) requires that:
- “Development proposals that generate significant levels of noise must be accompanied by a scheme to mitigate the effects, bearing in mind the nature of surrounding uses. Proposals that would have an unacceptable impact on noise – sensitive areas, or uses will not be permitted.”*
47. Furthermore, the efficacy of construction noise mitigation was simply assumed. Although the delegated report referred to a future construction management plan (which was required under condition 25 of the permission as granted) the error was made simply to assume without evidence or investigation that mitigation through that plan would be effective.
48. Mr Atkinson characterised this ground as a straightforward merits challenge. The particular sensitivity of the school's pupils to noise was highlighted by the Environmental Health Officer (“EHO”) in her email of 19 July 2019 to Ms Fibbens. That advice was reproduced in the delegated report. The EHO went on to specify what she expected by way of a construction noise condition, which was also reproduced in the delegated report. It could not be said without evidence that the proposed condition will not work. It had been imposed on the basis of the Council's own expert advice from its EHO and the express requirement that the school itself should help create the mitigation strategy is the safeguard against any assumption that the construction condition would not work.
49. Mr Atkinson also submitted that policy SE06 was not relevant to the application because it addressed development, which itself generates significant levels of noise pollution, which housing does not. In any event, the substance of the policy, if relevant, had been applied in the delegated report through reference to the British Standard document on noise and vibration control on construction and open sites, BS 5228.

Ground 4: Highway Safety

50. Mr Honey submitted that the highway safety implications of the development on the school were obviously material given the proximity of the school and that it shared access with the site, the sensitivity of the pupils and their vulnerability in highway safety terms, and because it was one of the main points of objection.

51. Mr Honey said that the highway safety risk for parents and children was not considered or grappled with in the delegated report at all. The conclusion expressed, that the impact on highway safety was acceptable, was reached without any mention of the school.
52. Furthermore, there was a specific but related failure to require a Transport Assessment pursuant to policy SP09 or explain why one was not required. The "Transport Note" provided by KPL was clearly not sufficient to fulfil the requirement for a Transport Assessment.
53. Mr Atkinson relied on the fact that the statutory highways consultee, the County Council, did not object to the application on highway safety or any other grounds. Furthermore, the parents' concerns about highway safety were clearly taken into account in the delegated report as there was reference to "Highway safety for children and parents during school drop-off/collection".
54. Mr Atkinson also rejected the criticism that policy SP09 had not been applied. It was made clear in the explanatory text for policy TP01 of the Local Plan that

"With larger developments, equivalent to 100 dwellings or more, a Transport Assessment would usually be necessary. Smaller developments may only need a Transport Statement."
55. The Transport Assessment referred to in policy SP09 was for the entire Westwood development, comprising up to 17,000 m² of retail floor space and more than 600 dwellings. The development subject to this challenge comprised only a tiny part of the greater whole. In those circumstances, it was appropriate that only a Transport Note as opposed to a full Transport Assessment was provided.

Ground 5: Air Quality

56. Mr Honey contended that air quality in relation to the school was an obviously material consideration. The site was in the Thanet Urban Air Quality Management Area (AQMA). The school faced directly onto the A 256, described by the Council in its 2020 Air Quality Annual Status Report as a main source of air pollution in the district. Also, this was one of the main points of objection and furthermore Local Plan policy SE05 required that it should be considered.
57. The delegated report recognised SE05 was relevant. However, air quality was not considered at all in the delegated report, let alone grappled with. Secondly, the Council failed to consider or apply policy SE05, which required the provision of an air quality assessment and refusal of applications which did not comply with the policy's requirements for the reduction of the extent of air quality deterioration through mitigation measures. The policy required an assessment where developments either individually or cumulatively were likely to have a detrimental impact on air quality. No such assessment was undertaken.
58. Mr Atkinson responded that SE05 was mentioned in the delegated report and also air quality was listed in the summary of objections. Absent any objection from the Environmental Health Officer and given the imposition of condition 17 for the protection of air quality in accordance with policy SP14 and advice contained in the National

Planning Policy Framework, it could reasonably be understood that the issue was considered by the officer granting permission.

59. Furthermore, the EHO commented, noting that the site was within the AQMA and would require Standard Air Quality Mitigation comprising minimum emissions standards for gas-fired boilers and one electric vehicle charging point to be provided per dwelling. The imposition of condition 17 largely effected the Standard Air Quality Mitigation required by the Environmental Health Officer.

Ground 6: The decision is tainted by apparent bias

60. Mr Honey argued that the decision was tainted by apparent bias. The test for apparent bias involved a two-stage process. The court must first ascertain all the circumstances which have a bearing on the suggestion of bias. It must then be asked whether those circumstances would lead the fair-minded and informed observer to conclude that there was a real possibility that the decision-maker was biased (Bubbles & Wine Ltd v Lushka [2018] EWCA Civ 468 at [17]).
61. A fair-minded and informed observer was presumed to have full knowledge of the material facts; such factors are found by the court on the evidence; facts known by the fair-minded and informed observer are not limited to those in the public domain (Viridi v Law Society [2010] 1 WLR 2840 at [37-44]). His or her approach will be based on broad common sense without inappropriate reliance on special knowledge, the minutiae of procedure or other matters outside the ken of the ordinary, reasonably well-informed member of the public (Locabail (UK) Ltd v Bayfield Properties Ltd [2001] 1 QB 451 at 477B-C).
62. When considering apparent bias, it was necessary to look beyond pecuniary or personal interests, to consider whether the fair-minded and informed observer would conclude there was a real possibility of bias in the sense that the decision was approached without impartial consideration of all relevant issues (Georgiou v LB Enfield LBC [2004] EWHC 779 (Admin) at [31]). Public perception of bias was the key (Lawal v Northern Spirit [2004] 1 All ER 187 at 193 F-H, 196 C-D). The facts and context are critical, with each case turning on an “intense focus on the essential facts of the case” (Bubbles and Wine at [14]).
63. Mr Honey listed the circumstances giving rise to the appearance of bias:
- (1) Clause 5.3 of the Contract requires EKO not to do anything which may prejudice or obstruct the progress of the planning application and clause 9 requires it to use all reasonable endeavours to assist KPL to obtain a satisfactory planning permission.
 - (2) Clause 12.1 obliges EKO to act reasonably promptly in relation to a planning agreement.
 - (3) Through its partnership in EKO the Council obliged KPL to submit a planning application and use its best endeavours to obtain the grant of planning permission as soon as reasonably possible (Clause 5.1).
 - (4) Through the means of the Contract and not just as joint landowner the Council will benefit financially from the grant of planning permission because under the Contract that grant will lead to the sale of the land.

- (5) The Council is a signatory to the contract and listed as an authorised representative of the EKO. It is evident that obligations under the Contract fall in practice to be undertaken by members and officers of the Council.
 - (6) The Council delayed the disclosure of a copy of the Contract and its lack of candour reinforces the appearance of bias.
 - (7) An email from KPL's agent negotiating about the planning agreement refers to the fact that certain contributions were "not factored into the client's land offer to the landowners EKO" and that the request for them would render the scheme undeliverable. The land offer is that which underpins the Contract, which shows the Contract being used in the negotiation by KPL and appearing to feature in the Council's consideration of the application and planning issues.
 - (8) Whilst the application was initially proposed to be heard at committee the failure to present it to the committee was influenced by the request of KPL. This gives the impression that the Council wished to avoid scrutiny of the decision because it was seeking to help the applicant to secure planning permission - i.e. acting in line with the obligations of the contract.
 - (9) Measures recommended by consultees were not pressed for, in particular the construction noise impact assessment requested by the EHO and normal requirements for assessments as set out in local plan policy in relation to transport and air quality were not applied. The generic and inadequate Habitats Report further suggests the Council gave this application an unduly easy ride.
 - (10) The Council's failure to give adequate scrutiny to issues raised by objectors and its failure carefully to consider the impact on the school gives the impression of a desire to grant permission, regardless of potential effects; a desire to help KPL secure planning permission in line with the obligations in the Contract.
 - (11) The stance taken by the Council in its amended detailed grounds of defence that it is unconstrained by the normal principles of apparent bias in this case would itself reinforce the appearance of bias.
64. In written submissions Mr Atkinson responded that in accordance with R v Sevenoaks DC ex p Terry [1985] 3 All ER 226 and subsequent authorities this is not a case where the fair-minded and informed observer test falls to be applied. The Council has to determine an application on land in which EKO has an interest but that is within the permissible structural bias (R (Cummins) v Camden LBC [2001] EWHC 1116). However, in his oral submissions Mr Atkinson accepted that the fair-minded observer test did apply in this situation.
65. Mr Atkinson argued that if the fair-minded observer test is applied:
- (1) The observer will know from the Contract that EKO is a distinct and separate body from the Council, which is the determining authority as defined in the Contract; there is no contract between the Council and the developer.
 - (2) The observer will know that the Contract between EKO and KPL does not include a clause specifying any damages payable in the event of a breach.
 - (3) It will not be known by the Observer that the remedy of damages is available "in the usual way".

- (4) Nor will the observer know how or indeed if the sale of the land will benefit the Defendant financially.
 - (5) The observer will know that planning decisions are to be taken in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70 (2) of the 1990 Act.
 - (6) The observer will also know that land ownership is not a material consideration in determining planning applications.
 - (7) The observer will know that the Council, like many local planning authorities, sometimes has to determine applications for land in which it has an interest.
 - (8) The observer will know that the Council has previously refused planning permission for development land owned by EKO.
 - (9) The observer will know that if Council members took the decision in place of the officer that position too could be criticised for giving rise to apparent bias because it is the Council as a whole that has an interest in the land through EKO.
66. In the light of these matters there was nothing in the Contract, said Mr Atkinson, that gave rise to the appearance of bias or that would act as a fetter or restraint on the exercise of the Council's functions.
67. Clause 5.3 was concerned with the progress of the planning application through the bureaucracy which does not and cannot include specific references to the determination of the application by the Council as Determining Authority; that is a matter for the Council alone.
68. Clause 9 was concerned with EKO cooperating with and assisting KPL to obtain a satisfactory planning permission, but similarly that could not include actual determination. Clauses 5.1 and 12.1 urging EKO to act promptly are similarly concerned with the progress of the application but cannot sensibly be read as indicating an influence on the outcome of the Council's determination. In both those clauses as well as clause 9, all that is required of the parties is that they use best endeavours to obtain planning permission or negotiate and agree the terms of the planning agreement. That clearly excludes the determination of the planning application, because neither signatory to the Contract has the power to determine it.
69. There was no lack of candour on the part of the Council. There simply was not a contract in existence between the council and the developer, but only one between EKO and KPL.
70. The email of which the Claimant complained was about viability, and not ownership of the land. The reference to the offer to the owners was simply to make the point that the three contributions being sought in relation to off-site highway works, open space and a medical facility were not justifiable and would make the scheme undeliverable in the context of the land. No one could conclude that email was requesting the Council not to present the application to committee. The request was to hold the application in abeyance.

ASSESSMENT

Ground 1

71. I begin by identifying the nature of the issue I am asked to determine. It was agreed that the issue was whether the application for planning permission, made by KPL subject to contractual obligations owed to the Council, was “on behalf of” the Council, and therefore should have been determined by the planning committee and not an officer, in accordance with paragraph 2.2.1 (d) of the Council’s scheme of delegation.
72. There was no evidence that the Council or any of its officers had before determination considered whether the application had been made “on behalf of the Council” and so whether it should be determined by the planning committee. Had this matter been considered and the judgement made that the application was not made “on behalf of the Council”, the issue before me might have been whether such judgement could reasonably have been made. But because the issue was not considered, it was agreed that the matter was for me to determine.
73. I do so against the agreed legal background that “on behalf of” means “in the interest of or for the benefit of” and that the expression is not limited to private law concepts of servant or agent or principal and agent but has a wider meaning including “for the purposes of, as an instrument of, or for the benefit and in the interest of”. Paragraph 2.2.1 (c) requires the planning committee to determine applications which have “been submitted by or on behalf of a Member or an Officer of the Council” but for paragraph 2.2.1 (d) it does not matter who actually made the application. The question is, whoever made the application, was the application for the benefit of the Council?
74. In my view, it was. The Council as one of the two partners in EKO obliged KPL under the Contract to apply for planning permission and to seek to obtain such a permission as soon as possible. As Mr Honey submitted, it is not possible to envisage the Council doing this unless seeking planning permission for the site was in its interest.
75. Mr Atkinson agreed that the obtaining of planning permission did not have to be in the Council’s *financial* interest for it to be said that the application was for its benefit and in its interest. Regeneration benefit to a public authority could be enough, he (rightly) agreed. Quite apart from any financial considerations, the Council plainly saw this application as being for its benefit and in its interest because it would help regenerate the area, through development. Such development was the very purpose for the creation of EKO. I think this is clear from the Kent County Council report on the Manston Business Park dated 3rd July 2020, which says at paragraph 1.1 that:
- “The JV was to focus and maximise the overall regeneration benefits to Thanet, with significant mutual benefits for both partner authorities.”*
76. Mr Atkinson did not suggest that this statement about the purpose of EKO’s creation represented only the views of the County Council and not those of his Council also. Nor did he suggest that the objective behind securing planning permission to develop the site was anything other than the regeneration benefit which is the founding purpose of EKO.
77. Therefore, even in the absence of any possibility of financial benefit for the Council, I would consider the fact that it would gain from the regeneration that development of the site would foster meant that this application was indeed made on behalf of the Council. The development was in its interest and for its benefit as a public authority seeking to regenerate the area through development. Given the Council’s acceptance that

regeneration benefit could be enough to mean an application was made on behalf of a public authority, it follows that the Council has in essence accepted that ground 1 is made out.

78. In any case, there was also at least the potential for financial benefit. As joint owner of the site via EKO, the Council stands to benefit financially from the sale of the land if the planning application succeeds. Mr Atkinson said that there is no financial benefit to the Council from the grant of permission because the Council gifted the land to EKO and had written off the value of the land it transferred to EKO. But the fact is that as its own accounts and the County Council report of 3rd July 2020 (paragraph 6.1) show, in recent years EKO has been able to make dividend distributions back to both Council partners. It was not disputed that EKO's ability to make those dividend payments came from the sale of the land in its possession with the benefit of planning permission.
79. Thus, the Council had a clear financial interest in planning permission being obtained for development of the site, as part of the portfolio of land interests conveyed to EKO by the Council and the County Council.
80. I was not persuaded by Mr Atkinson's argument that the application was not described in the documents (for example the planning application) as having been made "on behalf of the Council". I must decide what was the substance of this matter, and what the relevant documents did or did not say is not decisive. Nor was I persuaded by Mr Atkinson's point that nothing in the scheme of delegation indicates that an application made in respect of land owned by a joint venture such as EKO is to be considered as made on behalf of the Council. Again, I have to look at the substance.
81. Overall, therefore, accepting the responsibility of deciding as a matter of fact and degree whether this application was made "on behalf of" the Council, I am clear that it was. The application was in the Council's interest and to its benefit because it was plainly in its interest as a public authority promoting regeneration through development, and it was also strongly in its financial interest, having regard to the potential for being paid dividends by EKO, as in the past.
82. It follows that in my judgement this application fell squarely within paragraph 2.2.1 (d) of the scheme of delegation and should have been determined by the planning committee. That it was not so determined, but determined instead by an officer, means of itself that this judicial review application succeeds, and the planning permission must be quashed, whatever view I take on the other grounds.

Ground 2

83. In my judgement the Appropriate Assessment ("AA") did not comply with the legislative requirements and relevant caselaw.
84. As the Claimant submitted, the AA failed to identify "all the habitats and species for which the site is protected" and was therefore not sufficient to dispel all reasonable scientific doubt as to the adverse effects on the integrity of the site. It omitted reference to one of the three species for which the SPA is protected, namely Little Tern. Further, there was no assessment of species other than those three species which might have implications for the conservation objectives of the SPA, and no assessment of the

implications of the proposed development for habitat types and species outside the SPA boundaries, insofar as those implications would be liable to affect the conservation objectives of the SPA.

85. Also, the information on which the AA was based was not up-to-date in relation either to the effect of the development or the efficacy of mitigation. It relies on surveys from 2013/2014, whereas the Local Plan states (paragraph 4.46) that there has been further decline in Turnstone numbers since 2013, and I was told that there has been continuing monitoring concerning the effectiveness of SAMMS since 2019. The AA written in 2019 was not updated to take account of that monitoring and the monitoring was not taken into account in determining the application.
86. Mr Atkinson placed much reliance on the views of Natural England (“NE”). Had the AA been otherwise adequate I would not have thought the permission should be quashed on the ground that that the AA was prepared before NE was asked for comment. However, as I have said, a compliant AA was not prepared.
87. I do not think that the correspondence from NE saves the Council in relation to ground 2. On 10th May 2019 in its response to consultation NE said that subject to the advice “given below” it did not object to the grant of permission. It repeated the view previously expressed in a letter of 11th March 2019 that SAMMS was effective to deal with increased recreational pressure but then went on to say:
- “Providing that the appropriate assessment concludes that these measures must be secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your authority’s appropriate assessment, Natural England is satisfied that this appropriate assessment can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.”*
88. Of course, the Council is entitled to place considerable weight on the opinion of NE, as established in Smyth. However, to begin with, NE was not saying that it was satisfied with the AA. It was placing the burden on the Council to satisfy itself that there were no adverse impacts other than from recreational disturbance. I do not see how the Council could satisfy itself of that point without undertaking a proper AA. Secondly, although the Council was entitled to place considerable weight on NE’s satisfaction with the SAMMS, it was for the Council to satisfy itself of its efficacy on the basis of up-to-date information. I do not see how it could have done that, given that I was told that there was monitoring after the date of NE’s letter which shed further light on the efficacy of SAMMS. I should add that on 26th February 2020 NE responded to a further consultation from the Council in relation to amendments to the application. But that response simply said that the amendments made no material difference; it did not indicate any up-date to its views as expressed in the letter of 10th May 2019.
89. Given that the AA was not compliant, it follows that the Council failed to apply Local Plan policy SP14.
90. I have considered whether it would be appropriate to refuse relief as a matter of discretion. It would not. Under section 31 (2A) of the Senior Courts Act I cannot say

that had a compliant AA been produced, the decision whether to grant permission would be highly likely to have been the same. In any event, as stated by Holgate J in Pearce v Secretary of State for Business Energy and Industrial Strategy and Norfolk Vanguard Limited [2021] EWHC 326 at [147], where a decision is flawed on a point of EU law the bar for withholding relief is higher than under section 31 (2A).

91. Ground 2 therefore succeeds.

Ground 3

92. In relation to construction noise, the EHO said that a Construction Noise Management Plan should be required by condition to mitigate the impact of construction noise on the school. Such a condition was imposed, by condition 25.
93. However, it is said for the Claimant that the imposition of a Construction Noise Management Plan was not sufficient, and that the impact of construction noise should have been assessed before permission was granted and that a scheme of mitigation should have been submitted with the application.
94. As a starting point I must consider policy SE06 of the Local Plan. That policy requires that “[d]evelopment schemes that generate significant levels of noise must be accompanied by a scheme to mitigate such effects, bearing in mind the nature of surrounding uses.”
95. At first Mr Atkinson said that SE06 was not relevant because it did not relate to construction noise. However, as Mr Honey pointed out, the supporting text (at paragraph 16.35) lists “BS5228 Code of practice for noise and vibration control on construction and open sites” as one of the sources of guidance in relation to the policy. This suggests that the policy applies to construction as well as operational noise, and in oral submissions Mr Atkinson rightly accepted this.
96. Therefore, it seems to me that the policy means that development proposals that generate significant levels of noise, including construction noise, must be accompanied by a scheme to mitigate such effects, bearing in mind the nature of surrounding uses.
97. This requirement was not addressed in the delegated report. Having regard to the evidence, it should have been addressed. The EHO’s consultation responses made clear, in my view, that in the specific context of proximity to the school this was a case where construction noise would generate significant levels of noise. Her consultation response of 19th July 2019 drew attention to the guidance stating that pupils with special educational needs are generally more sensitive to the acoustic environment than others and that pupils with autism are often very sensitive to specific types of noise. She said that it therefore was imperative that construction impacts were assessed, and noise mitigation put in place.
98. This consultation response was reproduced in the delegated report, but the consequences were not worked through. Given the EHO’s comments, accepted (by their incorporation in the delegated report) by the determining officer, this application had to be considered, in the context of the school, as one generating significant levels of noise.

99. In those circumstances policy SE06 applied and required the application to be accompanied by a mitigation scheme. However, the delegated report ignored SE06 and no mitigation scheme was required.
100. As Mr Honey said, the problem with this approach was that it meant that the efficacy of construction noise mitigation was simply assumed. Once planning permission is granted, there is no going back, and it is simply a question of identifying the best mitigation that can reasonably be put in place. It would no doubt be highly unusual for a planning application scheme to be refused on the ground of construction noise; but given the sensitivities of the school's pupils that cannot be ruled out.
101. It would have been open to the determining officer to take account of the requirements of SE06 for a mitigation scheme to be submitted with the application, and to have decided that this was not necessary, on the ground that it was clear that a satisfactory scheme could be devised so all that was required was a condition requiring a scheme to be submitted. The conclusion would then have been that the requirement in SE06 should not be applied. Provided reasons were given, this approach would be acceptable. But this was not what the officer did. Instead, she took no account of SE06 and the requirement for a mitigation scheme to be submitted with the application and went straight to imposition of a condition. In my view that was an unlawful approach.
102. If this ground stood alone, would it have been appropriate to refuse relief under section 31(2A) of the Senior Courts Act? In usual circumstances I would have done so, as it is highly unusual for planning permission to be refused because of the impossibility of providing sufficient mitigation for construction noise, particularly on an allocated site. In this case, however, my approach would have been different, because of the extra sensitivity of the school. I do not think it would be for me to say that the outcome would be highly likely to have been the same had the error I have identified not been made.
103. Ground 3 therefore succeeds.

Ground 4

104. The specific highway safety implications of the development of the school were, as the Claimant said, obviously material given the proximity of the school and that it shared access with the site, the sensitivity of the pupils and their vulnerability in highway safety terms. Also, a point of relevance and concern specifically to the school was raised in the objection letters, including that of the head teacher Mr Milton. The school tries to encourage older pupils to become independent travellers to the school. This involves them walking along Ozengell Place to access the school, whether they walk all the way from home or after alighting from a bus. Mr Milton's concern (explained in his witness statement at paragraph 22) was that increasing the traffic flow directly outside the school would increase the risk of this activity and deter young people and their parents from allowing the young people to travel independently to the school.
105. This alleged risk was a highly material issue in my judgement and one which needed to be properly considered. In the "Notification" section of the delegated report, where concerns of neighbouring occupiers are listed, there is reference to "Highway safety for

children and parents during school drop off/collection.” However, in the Comments section of the report there is no reference to this point, and “school drop off/collection” does not refer to the particular point of independent journeys to and from the school by older pupils.

106. Mr Atkinson relied on the fact that the County Council Highways and Transportation department did not object to the scheme. They were zealous, he said, so they must have considered this point. I do not accept that. There is reference in the County Council’s representation to speed restraint, but they cannot be assumed to have considered the concern about independent journeys.
107. There is a section of the delegated report headed “Highway Safety.” However, though that section deals in detail with a number of issues, including a footpath/cycleway, the need for speed restraint, parking and highway improvement, it does not mention the independent journeys issue. In my judgement the only reasonable interpretation is that this issue was ignored. It was an important issue and a judgement should have been reached on it. Did it make the development unacceptable, or if not, was there mitigation that could be put in place that would make the development acceptable in this regard? We do not know.
108. Ground 4 must therefore succeed based on the above points. I should add that I am not convinced of the Claimant’s submissions about the need for a Transport Assessment. Policy SP09 is the policy allocated Westwood as a whole for development and in that context states that “Proposals will be accompanied by a Transport Assessment.” I do not think this necessarily means that proposals for any part of the Westwood site, however, small, have to be accompanied by a Transport Assessment. The Local Plan has to be read as a whole, and as Mr Atkinson said the explanatory text for policy TP01 envisaged that a Transport Assessment would not necessarily be needed for developments which (like this one) proposed fewer than 100 dwellings.
109. As with grounds 2 and 3, I have considered whether had this ground stood alone I would have refused relief under section 31(2A) of the Senior Courts Act. As with those other grounds, I would not have done so. It would be unusual for a development of this nature on an allocated site to be refused permission on highway safety grounds, but I cannot say that in the specific circumstances of this case the outcome would be highly likely to have been the same had the highway safety issue raised been taken properly into account. Permission could have been refused, or perhaps more likely, allowed but with further mitigation to deal with the issue raised by the school.

Ground 5

110. Policy SE05 provides that all developments which either individually or cumulatively are likely to have an impact on air quality will be required to submit an Air Quality or Emissions Mitigation Assessment.
111. Further guidance is given in the supporting text to the policy. Paragraph 16.24 states that:

“Developments that require the submission of an Air Quality Assessment include the following:

(1) If the development is located in an area of poor air quality (i.e. it will expose future occupiers to unacceptable pollutant concentrations) whether the site lies within a designated AQMA, or, if so, advised by the Local Authority, or a 'candidate' AQMA..."

112. During argument Mr Atkinson accepted that this meant that where development is proposed within in an AQMA, the planning application requires the submission of an Air Quality Assessment. Paragraph 16.25 goes on to say that the Council's air quality officer will confirm whether an air quality assessment is required, or if an emissions mitigation statement is required instead.
113. However, in the present case neither an air quality assessment nor an emissions mitigation statement was required of the developer, and there is nothing in the delegated report to indicate that consideration was given to requiring either. It is true that SE05 is mentioned in the list of development plan policies, but beyond that, there is no reference to air quality in the delegated report other than the bald reference in the list of local neighbour concerns to "air quality."
114. Mr Atkinson submitted that air quality had been sufficiently addressed in the report, also drawing attention to the EHO's consultation response. He said that we can assume that the EHO had considered whether an air quality assessment was required and decided one was not required. All the EHO did require was "Standard Air Quality Mitigation" in the form of minimum requirements for gas-fired boilers and also electric vehicle charging points (which are required by condition 17 in the permission).
115. I do not think it is possible to assume that the EHO considered whether an air quality assessment was required. The reality is that the Council failed to consider whether one was required, and therefore failed to apply its own Local Plan policy. Furthermore, I could not properly refuse relief under section 31 (2A) of the Senior Courts Act, as I cannot say the outcome would be highly likely to have been the same had the policy been applied. We cannot know whether had the Council had regard to the requirement for an air quality assessment it would have required such an assessment, or, had an assessment been required, what such an assessment would have said.

Ground 6

116. There was agreement on the approach to be taken to the apparent bias ground, as per the submissions of Mr Honey summarised above. As submitted by Mr Honey, the test for apparent bias involves the two-stage process of first ascertaining all the circumstances which have a bearing on the suggestion of bias, and then asking whether those circumstances would lead a fair-minded and informed observer to conclude that there was a real possibility that the decision-maker was biased.
117. However, I am to apply this test in the specific context that this is a case where the Council is the joint owner of the land subject of the application. It is inevitable that local authorities will have to determine planning applications relating to land in which they have an interest. Any judgement about apparent bias has to recognise this. In the words of Richards J in Georgiou at [31], it is important whenever an authority's decisions are being challenged not to apply the test in a way that renders decision-making impossible

or unduly difficult. I also remind myself of Ouseley J's reference in Cummings at [261] to there being a degree of permissible structural bias built into the statutory framework for decision-making where the local planning authority is dealing with an application relating to its own land.

118. Applying the agreed principles, I must reach a judgement as a matter of fact and degree.
119. I am not convinced that the Contract on its own would be sufficient to persuade a fair-minded observer that the decision was tainted by apparent bias. I think such an observer would recognise the reality that local planning authorities do own land. The observer would also recognise that since they are the local planning authority for land in their area, if land they own or in which they have an interest is to be developed, that will involve making a planning application to the authority, either directly or through a developer agent. Where an authority engages with a developer, there is likely to be a contract obliging the developer diligently to pursue the submission of a planning application and obliging the authority (as landowner) to assist or not obstruct.
120. Where an authority contracts directly with a developer there may be a specific clause providing that nothing in the contract shall be taken to prejudge the decision to be made on any planning application by the authority in its capacity as local planning authority. No such clause was included in the Contract in the present case, but that is perhaps unsurprising given that the person contracting with the developer KPL was not the Council itself (and/or the County Council) but EKO. As Mr Atkinson said, the Contract referred to the body that would determine the planning as the "Determining Authority". This recognised the distinct status of that body, whether local planning authority or Secretary of State on appeal.
121. I am therefore not convinced the Contract on its own was enough to convince the fair-minded observer that there was a real possibility that the decision-maker was biased. In saying this I have had regard to Steeple v Derbyshire County Council [1985] 1 WLR 256, in which planning permission for the County Council's own land was quashed in the light of a prior contract between the County Council and the proposed developer. The judge in that case referred to there being a liquidated damages clause if the County Council failed to use best endeavours to obtain a planning permission. I agree with Mr Honey that if EKO breached its contractual obligations in the present case KPL could seek damages, but it may be that the presence of a liquidated damages clause would have a greater impact on a fair-minded observer.
122. In any event, however, I do not have to decide whether the Contract on its own was enough in order to come to a conclusion on ground 6, as there are other matters to be taken into account also. Taking the Contract together with the following other matters, my view is that the fair-minded observer would indeed think there was a real possibility that the decision-maker was biased:
 - (1) As I have found in relation to ground 1, the application should have been determined by the planning committee, under the scheme of delegation. That is a separate reason why this challenge must succeed, but Mr Atkinson accepted it was also relevant to ground 6. The fact that the application was not determined in this way, contrary to the scheme of delegation, would have substantial influence on the fair-minded observer.

(2) The application was initially proposed to be heard by the planning committee, but then the approach was changed. This has never been satisfactorily explained. In her statement, Ms Fibbens said that the reason it had not been determined by the committee was that no councillor had asked for it to be so determined. However, that does not explain why it was initially proposed for committee determination and then the approach was changed to one of officer determination.

(3) Matters which are the subject of grounds 2-5 were not dealt with properly. I will not repeat my conclusions on those grounds, but the fact that the report did not deal adequately with those matters would in my view have reinforced the observer's impression that the decision was tainted by apparent bias.

123. I therefore conclude that a fair-minded observer would have thought there was a real possibility that the decision-maker was biased. I should add that I do not give weight to the circumstances in which the Contract came to be disclosed or the arguments the Council made in this challenge. As to the latter, I think the fair-minded observer would expect a local authority faced with a challenge of this nature to seek to defend its actions and as to the former the Council was not formally a party to the contract, which may explain any delay in providing a copy. Also, I do not think the content of the email from KPL to Ms Fibbens of 11th May 2020 adds substantially to the points referred to in the two previous paragraphs of this judgement.

CONCLUSION

124. In my judgement therefore all the grounds succeed. This application should have been determined by the planning committee. Further, because it had an interest in the site this was a case in which the Council had a particular duty to weigh the issues, engage with objections, set and closely observe procedural requirements (see Stirk v Bridgenorth Borough Council and R v Lambeth Borough Council v Sharp). I think that duty was not complied with. Finally, I think a fair-minded observer would conclude there was real possibility of bias.

125. Mr Atkinson rightly accepted that if either ground 1 or ground 6 succeeded he could not argue that I should refuse relief as a matter of discretion. Ground 6 goes to the very heart of the decision-making process, and as to ground 1, it cannot be said that the outcome was highly likely to be the same had the right body (the planning committee) determined the application. I have in any event explained in relation to the other grounds why I would not have exercised the discretion to refuse relief.

126. It follows that this application succeeds and the planning permission must be quashed.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Claim No: CO/4184/2020

B E T W E E N:

R (on the application of) "G"

Claimant

- and -

THANET DISTRICT COUNCIL

Defendant

- and -

KENTISH PROJECTS LIMITED

Interested Party

AGREED ORDER

Upon hearing Mr Richard Honey QC and Mr Jonathan Welch on behalf of the Claimant and Mr Giles Atkinson on behalf of the Defendant

It is ordered that:

1. The claim for judicial review is allowed.
2. Planning permission reference F/TH/19/0323 dated 2 October 2020, for the erection of 23 two storey dwellings and a three storey building accommodating 15 self-contained flats together with associated parking and landscaping on land on the north side of Stirling Way Ramsgate, is quashed.
3. The Defendant must pay costs for the Claimant's pro bono representation within 14 days to the charity prescribed pursuant to s194 of the Legal Services Act 2007, namely the Access to Justice Foundation (PO Box 64162, London WC1A 9AN), in the agreed sum of £35,000.

Signed: *Timothy Corner*

Dated: 15 July 2021

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**Habitat Regulation Assessment (HRA)
Screening Matrix and Appropriate Assessment (AA) Statement for
recreational disturbance**

IMPORTANT NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process.

Application reference:	F/TH/19/0323
Application address:	Land On The North Side Of, Stirling Way, RAMSGATE, Kent
Application description:	Erection of 23no. 2 storey dwellings and a 3-storey building accommodating 15No. self-contained flats together with associated parking and landscaping
Lead Planning Officer:	Emma Fibbens
HRA Date:	17.11.2021

Part 1 – Details of the plan or project	
European site or sites potentially impacted by planning application, plan or project:	Thanet Coast and Sandwich Bay SPA and Ramsar site
Is the planning application directly connected to the management of the site?	No

Part 2 – HRA Screening Assessment
<p>Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant should provide evidence to allow a judgement to be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA / Ramsar site.</p> <p><u>Thanet Coast and Sandwich Bay SPA / Ramsar site</u></p> <p>The Thanet Coast and Sandwich Bay Special Protection Area (SPA) is classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically important network for birds on migration. The site is also listed as a Wetland of International Importance under the Ramsar Convention (Ramsar Site). For clarity, and the purpose of this assessment, 'European Sites' refers to both the SPA and Ramsar Site.</p> <p>The Thanet Coast and Sandwich Bay SPA is used by large numbers of migratory birds. The site qualifies under Article 4.2 of the Birds Directive through supporting populations of European</p>



importance over-wintering Turnstone (*Arenaria interpres*) and European Golden Plover (*Pluvialis apricaria*), and Little Tern (*Sterna albifrons*) (breeding season).

The European Site Objectives for the Thanet Coast and Sandwich Bay Special protection Area are to:

- Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring; The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

The Natura 2000 data reference document (<https://jncc.gov.uk/jncc-assets/SPA-N2K/UK9012071.pdf>) outlines the following general site character:

Habitat Class	% Cover
Humid grassland, Mesophile grassland	2
Coastal sand dunes, Sand beaches, Machair	1
Shingle, Sea cliffs, Islets	1
Improved grassland	10
Tidal rivers, Estuaries, Mud flats, Sand flats, Lagoons (including saltwork basins)	83
Other arable land	3
Total Habitat Cover	100

An assessment of threats and pressures identified the following issues as high rank for negative impacts:



- Outdoor sports and leisure activities, recreational activities (inside)
- Pollution to groundwater (point sources and diffuse sources) (outside and inside)
- Invasive non-native species (outside and inside)
- Changes in biotic conditions (outside and inside)
- Human induced changes in hydraulic conditions (outside and inside)

The Thanet Coast and Sandwich Bay Ramsar site is designated as supporting 15 British Red Data book wetland invertebrates and as supporting species occurring at levels of international importance (Ruddy Turnstone, *Arenaria interpres*).

<https://jncc.gov.uk/jncc-assets/RIS/UK11070.pdf>

The site description in the citation reads "A coastal site, consisting of a long stretch of rocky shore, adjoining areas of estuary, sand dune, maritime grassland, saltmarsh and grazing marsh. The wetland habitats support 15 British Red Data Book invertebrates, as well as a large number of nationally scarce species. The site attracts internationally important numbers of turnstone *Arenaria interpres*, and nationally important numbers of nationally important wintering populations of four wader species: ringed plover, golden plover, grey plover and sanderling, as well as Lapland bunting. The site is used by large numbers of migratory birds."

The Natura 2000 data reference document (<https://jncc.gov.uk/jncc-assets/RIS/UK11070.pdf>) outlines the following wetland environment:

Wetland Types	% Area
Tidal flats	56
Rocky shores	15.5
Seasonally flooded agricultural land	15
Rivers / streams / creeks: permanent	10
Freshwater, tree-dominated wetlands	1
Sand / shingle shores (including dune systems)	0.9
Estuarine waters	0.8
Freshwater marshes / pools: permanent	0.6



Salt marshes	0.2
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Birds species identified as occurring at levels of national importance include:

- Ringed plover, *Charadrius hiaticula*
- Common greenshank, *Tringa nebularia*,
- Red-throated diver , *Gavia stellata*
- Great crested grebe , *Podiceps cristatus*
- European golden plover , *Pluvialis apricaria*
- Sanderling , *Calidris alba*

Other species recorded in a 2004 survey are outlined in the information sheet on the wetlands, including various invertebrate species.

The following factors are considered in the document to have a major impact on the site's ecological character:

- Vegetation succession (inside)
- Water diversion for irrigation/domestic/industrial use (inside and outside)
- Eutrophication (inside and outside)
- Pollution - pesticides/agricultural runoff (inside and outside)
- Recreational/tourism disturbance (inside)
- Urban use (unspecified development) (inside)

Research conducted by Sandwich Bay Bird Observatory Trust for the last 20 years and have shown an ongoing decline in wintering numbers of Turnstones (Walton & Hodgson, 2018)<https://eastkent.birdwise.org.uk/thanet-wader-survey-2020/> Recent surveys in 2019 and 2020 found a drop in Turnstone numbers when compared to previous surveys. There is a body of evidence that supports recreational activity causing the disturbance of birds. In particular walking with dogs, predominantly in the intertidal area, close to roosts at high tide and with dogs off leads, are the most common disturbance stimuli. It is also this recreational activity which occurs in the highest volume and which is most likely to increase with increased housing.

Supplementary guidance advice on Conservation objectives identifies disturbance by human activity as affecting all three identified bird species, stating:

“The nature, scale, timing and duration of some human activities can result in bird disturbance (defined as any human-induced activity sufficient to disrupt normal behaviours and / or distribution of birds in the absence of the activity) at a level that may substantially affect their behaviour, and consequently affect the long-term viability of the population. Such disturbing effects can for example result in changes to feeding or roosting behaviour, increases in energy expenditure due to increased flight, abandonment of nest sites and desertion of supporting habitat (both within or outside the designated site boundary where appropriate). This may undermine successful nesting, rearing, feeding and/or roosting, and/or may reduce the



availability of suitable habitat as birds are displaced and their distribution within the site contracts.

Disturbance associated with human activity may take a variety of forms including noise, light, sound, vibration, trampling, presence of people, animals and structures.”

Therefore impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

A 7.2km Zone of Influence has been identified to establish which future housing sites are likely to contribute to this recreational impact from a number of visitor surveys carried out since 2011. The proposed development is located within this Zone of Influence ((Bayne and Hyland, 2016)(Bayne and Hyland, 2014)).

Following the CJEU ruling, avoidance or mitigation measures cannot be taken into account as part of the application at this stage of the HRA, and must be considered under an Appropriate Assessment stage of the HRA in part 3 of this document.

It is therefore considered that the proposal would result in an effect on species which would have implications for the conservation objectives of the SPA from residential development.

It is not considerate that there are any implications which would affect the conservation objectives of the SPA for habitat types and species outside the SPA boundaries.

Are there any other plans or projects that together with the planning application being assessed could result in a likely significant effect on the site when considered in-combination?

Yes. All new dwellings built within 7.2km of the Thanet Coast and Sandwich Bay SPA and Ramsar Site, or other developments that could lead to an increased recreational pressure, could combine to have a likely significant effect on the SPA and Ramsar site.

Would the proposal lead to a likely significant effect on the European sites, without mitigation measures either alone or in-combination? YES / NO (if yes, continue to part 3)

Part 3 – Appropriate Assessment

Appropriate Assessment under Regulation 63(1) – if there are any potential significant impacts, the Applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The project being assessed would result in a net increase of dwellings within the Thanet Coast and Sandwich Bay SPA and Ramsar site Zone of Influence. In line with Policy SP28 and SP29 of the Thanet Local Plan 2020, based upon the best available evidence a permanent likely significant effect on the SPA and Ramsar Site due to increased recreational disturbance as a result of the new development, is likely to occur. As such, in order to avoid and mitigate for an



adverse effect on the integrity of the SPA and Ramsar Site, the development will need to include a package of avoidance and mitigation measures to reduce the frequency, duration and / or intensity of disturbance affecting roosting, nesting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed.

Strategic Access, Management and Monitoring Plan for the Thanet Coast and Sandwich Bay SPA/Ramsar

The District Council has produced a Strategic Access, Management and Monitoring Plan for the Thanet Coast and Sandwich Bay SPA and Ramsar Site that will be applied to development within the identified Zone of Influence. Elements within the Plan are:

- Wardening of the Thanet Coast and Sandwich Bay SPA and Ramsar Site;
- Signage and interpretation;
- Increased education.

In addition, monitoring and surveys of the site, particularly with regard to visitors and bird numbers, is part of plan which will also linked to the wardening programme. This will inform further management measures depending on the effectiveness of the mitigation, looking at people's behaviour and bird numbers.

The suite of strategic mitigation measures are being delivered through the Thanet Coast project, run by Thanet District Council working in partnership with conservation organisations in East Kent, to ensure that development, considered in-combination, does not have an adverse effect on the integrity of the European site. A per-dwelling tariff has been calculated using the total cost of delivering the mitigation measures in-perpetuity and the planned number of additional dwellings expected to be built in Thanet District.

Natural England has worked with the North-East Kent Local Planning Authorities to support them in preparing the SAMM Plan and the underpinning evidence base. Natural England agree that the mitigation measures to ensure additional impacts from recreational disturbance to the SPA and Ramsar Site are ecologically sound. As such, the Applicant does not need to provide their own evidence base on these aspects. Evidence must be submitted showing that a mitigation contribution payment has either:

- Been made to the District Council to fund the access and monitoring measures through a Unilateral Undertaking
- Or will be made through a s106 agreement where Heads of Terms have been agreed and the agreement will be signed prior to any permission being granted.

The website of the project is here: <https://eastkent.birdwise.org.uk/>

A SAMMs officer working on the project was employed by Thanet District Council and Canterbury City Council in 2019. The management/business plan of the project is available here (published in 2021): <https://eastkent.birdwise.org.uk/wp-content/uploads/2021/01/Business-Plan-SAMM-3-1.pdf>

It is considered by virtue of the existing funding secured since 2015 and the appointment of SAMM's officer (carrying out duties since 2019) that this has demonstrated the efficacy of the project in mitigating the identified effects, as evidenced by the management plan and work on



the project here: <https://eastkent.birdwise.org.uk/>

Part 4 – Summary of the Appropriate Assessment - To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Having considered the proposed mitigation and avoidance measures to be provided in-perpetuity through the secured contribution to the access and monitoring measures, Thanet District Council concluded that with mitigation, the project will have no adverse effect on the integrity of the European protected site.

Having made this appropriate assessment of the implications of the project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received (see below), the authority may now agree to the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England:

Summary of Natural England's comments:

Additional note: A bespoke Habitat Regulations Assessment (HRA) may be required in certain situations for recreational disturbance. This template may form the basis of a more detailed HRA for developments such as those mentioned above.

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D07

F/TH/21/1732

PROPOSAL: Erection of 6no. dwellings (4no four bedroom dwellings and 2no three bedroom dwellings) with associated access, parking

LOCATION: and landscaping

Land To The North Of Fairlawn Road And The West Of Northwood Road Broadstairs Kent

WARD: St Peters

AGENT: Mr Jaimie Watler

APPLICANT: Mr Bob Bridge

RECOMMENDATION: Defer & Delegate for approval subject to safeguarding conditions and the submission of a signed legal agreement within 6 months

Subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

- 2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised plan numbered 119A_041.PL1.3 (hard surfacing), received 04 March 2022; the revised plans numbered 119A_006.PL1.2 (site plan), 119A_040.PL1.2 (site access), and 119A_042.PL1.2 (soft landscaping), received 24 February 2022; the plans numbered 119A_025.PL1, 119A_026.PL1, 119A_027.PL1, 119A_028.PL1, 119A_030.PL1, 119A_031.PL1, and 119A_032.PL1, received 07 February 2022; the plan numbered 119A_011.PL1, received 25 November 2021; the plan numbered 119A_050.PL1, received 10 November 2021; and the plans numbered 119A_010.PL1, 119A_012.PL1, 119A_013.PL1, 119A_014.PL1, 119A_020.PL1, 119A_021.PL1, 119A_022.PL1, and 119A_023.PL1, received 08 November 2021.

GROUND:

To secure the proper development of the area.

- 3 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

GROUND:

To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy HE01 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 4 Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back gardens and other relevant amenity areas will conform to the standard identified by BS 8233 2014 Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

GROUND:

In the interests of amenity for future occupiers in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF

- 5 All hard and soft landscape works shall be carried out in accordance with the approved hard and soft landscaping plans. The works shall be carried out prior to the first occupation; of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 6 Existing trees, shrubs and hedgerows identified for retention within the development site or existing trees growing on an adjacent site, where excavations, changes to land levels or underground works are within the crown spread, shall be protected in accordance with BS 5837 2012 using the following protective fence specification - o Chestnut paling fence 1.2m in height, to BS 1722 part 4, securely mounted on 1.7m x 7cm x 7.5cm timber posts driven firmly into the ground. The fence shall be erected below the outer most limit of the branch spread or at a distance equal to half the height of the tree, whichever is the furthest from the tree, unless otherwise agreed in writing with the Local Planning Authority. The protective fencing shall be erected before the works hereby approved or any site clearance work commences, and shall thereafter be maintained until the development has been completed. At no time during the site works shall building materials, machinery, waste, chemicals, stored or piled soil, fires or vehicles be allowed within the protective fenced area. Nothing shall be attached or fixed to any part of a retained tree and it should not be used as an anchor point. There shall be no change in the original soil level, nor trenches excavated within the protective fenced area.

GROUND:

To protect existing trees and to adequately integrate the development into the environment, in accordance with Thanet Local Plan Policy QD02.

- 7 The ecological enhancements as identified on plan numbered 119A_042.PL1.2 shall be provided prior to the first occupation of the development hereby permitted. The ecological enhancements shall therefore be maintained.

GROUND:

In the interests of nature conservation in accordance with Policy SP30 of the Thanet Local Plan, and the advice as contained within the NPPF.

- 8 Prior to the commencement of any development on site details to include the following shall be submitted to and approved by the Local Planning Authority and should be carried out in accordance with the approved details.

(a) Routing of construction and delivery vehicles to/from site, which shall be from Northwood Road only (and at no time from Fairlawn Road)

(b) Parking and turning areas for construction and delivery vehicles and site personnel

(c) Timing of deliveries

(d) Provision of wheel washing facilities

(e) Temporary traffic management / signage

(f) Measures to control noise affecting nearby residents

(g) Dust control measures

(h) Access arrangements

GROUND:

In the interests of highway safety and neighbouring amenity, in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF.

- 9 Prior to the first occupation of the development, the area shown on plan numbered 119A_006.PL1.2 for the parking of vehicles shall be operational. The area approved shall thereafter be maintained for that purpose.

GROUND:

To provide satisfactory off street parking for vehicles in accordance with Policy TP06 of the Thanet Local Plan and the advice contained within the NPPF.

- 10 Prior to the installation of the boundary treatment to the northern boundary of the site, details of the height, design and materials of the boundary (which may include a retaining wall), and shall provide an opening for a pedestrian link as indicated on plan numbered 119A_006.PL1.2 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved boundary details.

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan.

- 11 Prior the construction of the external surfaces of the development hereby approved samples of the materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan.

- 12 No further rear extensions to plot 6, whether approved by Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out without the prior permission in writing of the Local Planning Authority.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy QD03 of the Thanet Local Plan.

- 13 The refuse storage facilities as specified upon the approved drawing numbered 119A_006.PL1.2 shall be provided prior to the first occupation of the dwellings hereby approved and shall be kept available for that use at all times.

GROUND:

To safeguard the residential amenities currently enjoyed by the occupiers of nearby residential properties in accordance with Policy QD03 of the Thanet Local Plan.

- 14 The development hereby permitted shall be constructed to a high standard of energy efficiency to the equivalent of Level 4 of the Code for Sustainable Homes, unless otherwise agreed in writing by the Local Planning Authority.

GROUND

All new buildings and conversions of existing buildings must be designed to reduce emissions of greenhouse gases and have resilience to function in a changing climate, in accordance with Policy QD01 of the Thanet Local Plan.

- 15 The development hereby permitted shall be constructed in order to meet the required technical standard for water efficiency of 110litres/person/day, thereby Part G2 Part 36 (2b) of Schedule 1 Regulation 36 to the Building Regulations 2010, as amended, applies.

GROUND

Thanet is within a water stress area as identified by the Environment Agency, and therefore new developments will be expected to meet the water efficiency optional requirement of 110litre /person/day, in accordance with Policy QD04 of the Thanet Local Plan.

INFORMATIVES

Please ensure that you check the above conditions when planning to implement the approved development. You must clear all pre-commencement conditions before development starts on site. Processing of conditions submissions can take up to 8 weeks and this must be factored into development timescales. The information on the submission process is available here:

<https://www.thanet.gov.uk/info-pages/planning-conditions/>

Please be aware that obtaining planning permission and complying with building regulations are separate matters - please contact building control on 01843 577522 for advice on building regulations

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

It is the responsibility of the applicant to ensure, prior to the commencement of the development hereby approved, 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 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 Highway and Transportation to progress this aspect of the works prior to commencement on site

It is the responsibility of developers to have the appropriate waste storage facilities and containers in place prior to the property being occupied. For more information, please contact Waste and Recycling on 01843 577115, or visit our website <http://thanet.gov.uk/your-services/recycling/waste-and-recycling-storage-at-new-developments/new-developments/>

A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

For the avoidance of doubt, the provision of contributions to as set out in the unilateral undertaking made on submitted with this planning application, and hereby approved, shall be provided in accordance with The Schedule of the aforementioned deed.

SITE, LOCATION AND DESCRIPTION

The site is currently accessed from Northwood Road, and physically forms part of a much larger site, all of which is previously undeveloped land that has historically been used as an orchard and agricultural use. The application site is in separate ownership to the adjoining northern larger site, but there is no physical boundary treatment between them. The two sites form part of one allocated housing site within the Thanet Local Plan.

The site is located at the end of Fairlawn Road, with a fence preventing either vehicular or pedestrian access onto the site from Fairlawn Road. Fairlawn Road is a cul-de-sac, containing semi-detached 2-storey dwellings.

To the west of the site is Broadstairs Retail Park, located within Westwood Town Centre. The site backs close onto the rear service yard area serving The Range retail unit.

To the east of the site are existing residential properties that front Northwood Road, including a bungalow and 2-storey detached and semi-detached dwellings.

The site is a green undeveloped area of land. Historically a few boundary trees were located within the site but these have since been removed. The site does not fall within a conservation area and the trees were not covered by a TPO, so consent for their removal was not required.

RELEVANT PLANNING HISTORY

No relevant planning history for this site, but there is a pending application for the adjoining site to the north :-

F/TH/21/0671 - Erection of 12No 3-bed dwellings, 26No 4-bed dwellings, 3No 1-bed flats, and 3No 2-bed flats, together with associated access, parking and landscaping, following demolition of existing structures.

PROPOSED DEVELOPMENT

The application is for the erection of 4no. 4-bed 2-storey semi-detached dwellings, with accommodation at roof level, and 2no. 3-bed 2-storey detached dwellings. Access to the dwellings is from Fairlawn Road, with a turning head for cars and small delivery vehicles provided at the end of Fairlawn Road.

Each unit is provided with 2no. off-street parking spaces to the front of the property (with two spaces in the parking court for the detached dwellings), and a garden area to the rear, measuring between 7.5m and 23.5m deep.

A parking court is provided at the end of the access road to the rear of plot 4, which accommodates 2no. visitor parking spaces, as well as the parking for plots 3 and 4 as mentioned above.

The potential for a pedestrian link to the adjoining northern application site is illustrated on the plan.

The dwellings are proposed to be constructed using bricks and tiles to match the existing properties in Fairlawn Road. The proposed timber cladding is 'western red cedar', and cedar cladding is proposed to the dormers. Windows and doors will be aluminium framed.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan 2020

SP01 - Spatial Strategy - Housing
SP29 - Strategic Access Management and Monitoring Plan (SAMM)
SP30 - Biodiversity and Geodiversity Assets
SP35 - Quality Development
SP43 - Safe and Sustainable Travel
SP45 - Transport Infrastructure
HO1 - Housing Development
GI04 - Amenity Green Space and Equipped Play Areas
QD01 - Sustainable Design
QD02 - General Design Principles
QD03 - Living Conditions
QD04 - Technical Standards
HE01 - Archaeology
CC02 - Surface Water Management
SE04 - Groundwater Protection
SE06 - Noise Pollution
TP02 - Walking
TP03 - Cycling
TP06 - Car Parking

NOTIFICATIONS

A site notice has been posted and neighbouring occupiers notified. Eleven letters of objection have been received raising the following concerns:

- Fairlawn Road is too narrow for additional vehicles serving the development, and won't support construction vehicles;
- Don't want a through road to northern site, needs to remain a cul-de-sac;
- Illegal activity has been carried out on the site, including burning toxic waste, and loss of animal and plant life;
- On-street parking is likely to increase, which can block pavements;
- Increased security/vandalism risk, litter from proposed through route;
- Loss of farmland;
- Overdevelopment;
- Concern regarding access for emergency vehicles;
- No drainage details provided;
- Archaeology dig is needed due to significant artefacts being found nearby;

- Loss of privacy to nearby houses;
- Strain on GP surgeries, drainage, refuse collection services, and school places.

CONSULTATIONS

KCC Highways and Transportation -

(Final comment)

Further to previous comment dated 16 February 2022, I note that further details have been received whereby the bin collection points have been altered to be as close to the existing dwellings to reduce carry distances.

Confirmation was requested from Waste and Recycling regarding the extension of the existing refuse collection strategy whereby operatives reverse back along Fairlawn Road. I accept that fire tenders would be required to adopt the same strategy (as existing), albeit a slightly longer route.

I can confirm that I am satisfied that is Waste and Recycling have agreed to reverse the slightly increased distance, I would expect Kent Fire & Rescue to adopt the same view.

I suggest that a pedestrian link to the current application is secured by way of a Condition.

I note that there is an existed access on Northwood Road, which should be utilised for construction vehicles. The use of Fairlawn should be avoided due to the width and proximity to existing residential units. Gates for the access on Northwood Road access should be set back from the highway sufficiently to ensure no vehicles wait on the highway. This can be fully addressed in a CMP.

In line with the above, I confirm that I raise no objection n behalf of the LHA, subject to safeguarding conditions.

(Initial comment)

Thank you for your consultation in relation to the above planning application.

The application provides an access point via Fairlawn Road, whereby the existing carriageway is proposed to be extended to serve the 6 dwellings. This includes the extension of the existing footway.

Two visitor parking spaces are proposed to the east of the dwellings, with a 1.5 metres footway between Plots 4 and 5. One parking space is provided for both Plots 3 and 6 within this parking area.

A current planning application (LPA ref: 21/0671) is pending a decision immediately to the north of the application site. I understand that an extension of the pedestrian access into the adjoining site is being explored. This is clearly out of the ownership of the applicant, but this is an opportunity that should not be overlooked. The potential link is illustrated adjacent to Plot 3.

The neighbouring application is currently awaiting a decision, whereby KCC Highways have objected to the proposal due to the level of car parking.

All dropped kerb driveways should demonstrate pedestrian visibility of 2 metres x 2 metres from either side of the access, with no obstruction above 0.6 metres within the splays. This can be secured by way of a suitable condition. However, it appears that such splays may be obstructed by the bin stores located adjacent to the footway.

It is understood that refuse freighters currently reverse along Fairlawn Road, and the current proposal seeks to maintain this strategy. Confirmation should be sought from Waste and Recycling as to whether this strategy is appropriate for the increased distance.

Should the refuse strategy be acceptable to Waste and Recycling, tracking is required to ensure that fire tenders can enter and site and turn within the turning area.

KCC Archaeology - Thank you for consulting on the above application for residential development on this piece of agricultural / farm land. I provided advice in November 21 on the site immediately north and I repeat that advice for this site concerning archaeology though I note the former barns are not included in this site.

The submission for the site to the north included a desk based study compiled by MOLES Archaeology that provided a good account of the rich archaeological potential of the site and the surrounding area. It also illustrated that the site was the location of a former farm since at least the beginning of the 19th century and possibly the 18th century according to historic maps. The farm appears on the Kent Historic Farmsteads survey and in the Kent Historic Environment Record. Of the present buildings on the site, a couple of barns, the southern one appears to date to the late Victorian period according to historic maps. Significant multiperiod archaeology has been found in the area of the business park to the north including remains of Neolithic, Bronze Age and Iron Age date. A Palaeolithic hand axe was found in brickearth deposits in the college site to the north. A Bronze Age gold penannular ring was found by a detectorist in the area of the site according to Portable Antiquities Scheme database. The site has been generally open land and relatively undisturbed.

Given the above archaeological potential and the potential impacts of groundworks from the development across the site, it would be appropriate to make provision in any forthcoming planning consent for a programme of archaeological works. A safeguarding programme of archaeological work condition would be appropriate.

KCC Biodiversity -

(Final Comment)

We have reviewed the further ecological information submitted in support of this planning application (revised soft landscaping plans) and advise that sufficient information has been provided to satisfy the requirements for ecological enhancements. We advise that if planning permission is granted, the approval be made subject to implementing the submitted ecological enhancements as shown in the submitted soft landscaping plans.

(Initial Comment)

Summary - Sufficient Information Provided

We have reviewed the ecological information submitted in support of this planning application and advise that sufficient information has been provided.

If planning permission is granted, we advise that the following conditions securing ecological avoidance and mitigation measures and the implementation of ecological enhancements are attached.

Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area.

Thanet and Canterbury SAMM

The development includes proposals for new dwellings within the zone of influence (7.2km) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Therefore, Thanet District Council will need to ensure that the proposals fully adhere to the agreed approach within the Strategic Access Management and Monitoring Plan (SAMMP) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the Thanet Coast and Sandwich Bay SAMMP there is a need for an appropriate assessment to be carried out as part of this application.

Biodiversity losses and net gain

The application site has been cleared of vegetation in the recent past and prior to the submission of the current planning application. Figure 1 below shows the application site in April 2017 illustrating that the site was covered in what appears to be semi-improved grassland and there is a significant group of mature deciduous trees forming a small woodland in the south-east corner. The current application if approved would result in further losses of biodiversity, including the mature hedgerow along the southern boundary.

The mandatory requirement for new developments to deliver a minimum 10% net gain in biodiversity does not come into effect until November 2023. However, in the meantime the current NPPF, July 2021 requires that:

174. Planning policies and decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. In a very recent Appeal decision dated 5 January 2022 (Ref: APP/Y3940/W/21/3278256) (CD 6.23) the Inspector stated the following:

"Full on-site mitigation is not achievable. Compensation for residual harm is therefore required.

In this regard, although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable to these appeals. Policy CP50 of the CS, and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. A net gain of just 1% would be policy compliant in these circumstances. This could be secured by a planning obligation."

We note that some hedge and tree planting is proposed within the submitted scheme.

However, we would advise that further ecological enhancements are required and therefore advise that a safeguarding condition be applied to any planning permission.

Natural England - Thank you for your consultation on the above dated 24 January 2022 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Natural England advises that the specific measures previously identified and analysed by your Authority to prevent harmful effects on coastal European Sites from increased recreational pressure should be applied to this proposed development at appropriate assessment.

Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Site(s) for the duration of the proposed development.

Providing that the appropriate assessment concludes that these measures must be secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your authority's appropriate assessment, Natural England is satisfied

that this appropriate assessment can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.

If your authority's appropriate assessment has identified any other adverse impacts from the proposed development in addition to those that may be caused by increased recreational pressure and which have not been addressed by your Authority, you must consult Natural England for further advice on this appropriate assessment. Permission should not be granted until such time as Natural England has been able to consider these additional impacts and respond.

TDC Waste and Recycling - As we have said before we have issues with collection points. If the developers ensure that the road is not block paving and is suitable to take a 26tonne vehicle we will ask the crews to reverse the extra length of the road. However as I said this is not something that we are particularly happy about. A vast number of the accidents that occur happen when the vehicles are reversing and it is something that we try to eliminate wherever possible.

TDC Environmental Health - Thank you for consulting Environmental Protection on the above planning application for which we have considered the potential for environmental health impacts and offer the following comments.

The proposed dwellings are in close proximity to major retail use and this has a potential impact on amenity use of future occupants, therefore noise mitigation measures will need to be assessed. I would recommend the following condition is added:

Prior to the commencement of the development hereby approved, an Acoustic Design Statement in accordance with ProPG Planning & Noise 2017 scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back gardens and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Environment Agency - We have assessed this application as having a low environmental risk. We therefore have no comments to make.

Southern Water - Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

It is possible that a sewer now deemed to be public could be crossing the development site.

Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

COMMENTS

The application is brought before members as it had been called in by Cllr Mike Garner, on grounds of impact upon biodiversity and overcrowding.

Principle

The site lies within the urban confines. The site is sustainably located within close proximity of facilities and services and the bus stop, and is walking distance of Westwood Town Centre. The site is allocated for housing under Policy HO1 of the Thanet Local Plan, for a notional 45no. dwellings (when combined with the neighbouring site to the north). The proposal therefore complies with Policies SP01 and HO1 of the Thanet Local Plan.

The principle of development is therefore considered to be acceptable, subject to other material considerations.

Character and Appearance

The proposed layout follows the pattern of development present within Fairlawn Road, with the proposed front building line following the existing front building line of properties. Two pairs of semi-detached properties are proposed, along with two setback detached properties, which will appear in keeping with the character of the road. The plots are similar widths to the existing plots within the road, and each dwelling fronts onto Fairlawn Road. The location and size of the plots is therefore considered to be in keeping with the surrounding pattern of development.

A parking court has been located to the rear of plot 4, which contains 2no. visitor parking spaces, and an additional parking space for each of plot three and plot five. The parking court will have limited visual impact due to its backland location, and it is intended to construct using permeable paving, which is supported. A turning head is provided at the end of Fairlawn Road, and this is also intended to be constructed using paving of a different colour.

Within each plot parking provision is provided to the front of the site, and a soft landscaped garden to the rear. Concern was originally raised with the lack of soft landscaping proposed, and amended plans have since been submitted that introduce shrubs, tree planting and raised planters to the frontage of each property either side of the parking spaces. Native hedge planting has also been introduced along boundaries. Overall, it is intended to plant 10no. Trees, and it is intended to retain the woodland shrubs and hedges along with the western boundary of the site. The proposed layout and landscaping is considered to be in keeping with the character of the area, with potential enhancements resulting from the additional tree planting.

In terms of the unit design and materials, the units are slightly deeper than existing properties within the street, but they are all pitched roof with a similar eaves level. A street elevation has been submitted that shows that whilst the ridge height of the properties is slightly higher than the existing ridge height of properties within the road, this is due to the increase in land level across the site, with the proposed dwelling at the greatest land level 1.3m above the existing ridge level of properties within the road. This increase is not considered to be significant, and the proportions of the dwelling will appear similar to those properties in the street, with the ground level increase being the reason behind the increase rather than the dwelling size.

The proposed dwellings do not replicate the design of existing dwellings in Fairlawn Road, but reference has been made to the detailing and palette of materials used on the existing neighbouring properties. The proposed dwellings have a different fenestration arrangement, the roof pitch is steeper, and a small flat roof front extension is proposed to the front of each property; however, the ground floor window proportion and brick soldier detailing mimics those on the neighbouring properties, the brick is proposed to match the existing, and timber cladding has been used on the front extensions to tie in with the cladding detailing used between ground and first floor windows on the neighbouring properties. The proposed units are sympathetic to the local character, but appropriate innovation in the design of the units has taken place, therefore complying with paragraph 130 of the NPPF, subject to conditions requiring details of the brickwork and cladding to ensure they appear similar to the existing properties on Fairlawn Road

Overall the proposed development is considered to respect the surrounding pattern of development, and appear in keeping with the character and appearance of the existing dwellings within Fairlawn Road. The layout, scale and design, along with the proposed landscaping, are considered to be acceptable, and in accordance with Policy QD02 of the Thanet Local Plan, and the NPPF.

Living Conditions

Policy QD03 of the Thanet Local Plan states that 'all new development should be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions through overlooking, noise or vibration, light'.

The proposed development is located on land adjacent to existing residential properties in Fairlawn Road. No. 12 Fairlawn Road extends close up to the boundary with the development site, but no. 11 is distanced from the application site by an existing substation and associated access.

The proposed dwellings follow a similar pattern to existing dwellings within the street, with each of the 6no. proposed units fronting onto Fairlawn Road. As such the main issue is whether the proposed depth of the building impacts upon the light to and outlook from the existing neighbouring dwellings.

No.12 is located 2m from the proposed development, with the rear of plot 6 extending 3.8m beyond the rear elevation of no.12. A 45 degree line has been shown on the submitted site plan, which is taken from the closest window within no. 12. The 45 degree line does not

extend into the proposed development, and taking into account the siting of the proposal, the impact upon the outlook from the nearest habitable room windows is considered to be acceptable. Furthermore, the existing neighbouring properties are located south of the proposed development, and therefore loss of sunlight is not an issue. There are no side windows proposed so there will be no loss of privacy. All first floor windows will face either to the road or down the rear garden, thereby not resulting in any direct overlooking or loss of privacy. The impact upon the living conditions of the occupiers of no.12 is therefore considered to be acceptable.

No.11 is located 4.5m from the proposed development, with the rear of plot 1 extending less than 1m beyond the rear elevation of no. 11. Given the distance and the limited projection there is considered to be no impact upon neighbouring light or outlook. No side windows are proposed, with a similar arrangement to the proposed opposite with first floor windows at the front and rear, so there will be no loss of privacy. The impact upon the living conditions of the occupiers of no.11 is therefore considered to be acceptable.

For the future occupiers of the development doorstep playspace for each unit has been provided, in accordance with Policy GI04 of the Thanet Local Plan, and each unit has been designed so that it meets the minimum nationally described space standards, as set out within Policy QD04 of the Thanet Local Plan. Refuse storage has been provided to the front of each unit, and there is space for cycle storage and clothes drying.

The impact upon the living conditions of existing neighbouring properties, and future occupiers of the development, is therefore considered to be acceptable, and in accordance with Policy QD03 of the Thanet Local Plan and the NPPF.

Transportation

The existing access to the site is from Northwood Road. The proposal seeks to relocate the access so that the site is served by Fairlawn Road, as an extension of the existing cul-de-sac. The road will extend up to the northern boundary of the site, including the footway, and then further extend to the east to provide access to the rear parking court. In providing this access road adjacent to the northern boundary of the site it has been possible to achieve a turning head for cars, small delivery vehicles, and small emergency vehicles. The provision of a turning head will be beneficial for future residents, as well as existing residents within the road.

Off-street parking for each dwelling has been provided, with 2no. spaces per unit and 2no. visitor parking spaces, which complies with the maximum parking standards, and Policy TP06 of the Thanet Local Plan. Off-street parking provision to serve the proposed development is therefore considered to be acceptable, subject to 2m by 2m pedestrian visibility splays being achieved to either side of each access (with no obstruction above 0.6 metres within the splays).

Refuse freighters currently reverse along Fairlawn Road. The current proposal seeks to maintain this strategy, with increased reversing to collect from the additional 6no. Units. Waste and Recycling have been consulted. Concern was initially raised with the increased reversing of the waste vehicles, however the creation of a turning head to serve a 13m long

waste vehicle will result in a large area of hard surfacing being required that is likely to impact upon unit numbers. Amended plans have been submitted relocating the refuse storage location for each proposed unit so that it falls within a 15m carry distance of Fairlawn Road as existing. The proposed plans, as amended, comply with Policy QD03 of the Thanet Local Plan, which states that all new development should provide 'waste disposal or bin storage, with a collection point for storage containers no further than 15m from where the collection vehicle will pass'. Waste and Recycling have been re-consulted on the amended plans and advise that if the developers ensure that the road is not block paving and is suitable to take a 26tonne vehicle, the refuse vehicles could reverse the extra length of the road. Further amended plans have been submitted showing the access road finished with tarmac to suit the requirements of waste and recycling. On this basis the waste collection provision is considered to be acceptable and in accordance with Policy QD03 of the Thanet Local Plan.

Policy TP02 of the Thanet Local Plan states that 'the Council will seek to approve proposals to provide and enhance safe and convenient walking routes including specifically connection to and between public transport stops, railway stations, town centres, residential areas, schools and other public buildings'.

The proposed site plan shows the location of a potential pedestrian link to the adjacent northern site. Concerns have been received from residents regarding this potential link, with residents keen for this to remain a cul-de-sac. The potential link would be for pedestrians only, and is not currently intended as a vehicular link so the cul-de-sac layout of the road would remain. There are benefits to a pedestrian link, with the overall strategy for the allocated housing sites being a pedestrian link that extends from Fairlawn Road and Northwood Road up to Millenium Way where there is direct access to the town centre. KCC Highways has commented that this pedestrian link is an opportunity that should not be overlooked. Until the layout plans for the neighbouring site to the north are finalised it is not clear whether a definite pedestrian connection between the sites is achievable, but such a link is considered to be of benefit, and given the provision of this on the plans this could be secured through condition. The proposal is therefore considered to comply with Policy TP02 of the Thanet Local Plan.

Concerns have been raised by residents regarding construction traffic in Fairlawn Road. The agent has advised that it's possible to use the Northwood Road entrance for construction traffic. Advice has been sought from KCC highways who advise that the use of Fairlawn should be avoided due to the width and proximity to existing residential units. A construction management condition is proposed, which requires the details to be submitted to include the use of the Northwood Road access only for construction vehicles. This requirement is on the grounds of both highway safety and neighbouring amenity. Should this not be possible then a variation of condition application will be required.

Subject to safeguarding conditions, the impact upon highway safety is considered to be acceptable and in accordance with the Thanet Local Plan and NPPF.

Archaeology

KCC Archaeology has been consulted and they've advised that the archaeology submission for the adjacent site to the north included a desk based study that provided a good account of the rich archaeological potential of the site and the surrounding area. It also illustrated that the site was the location of a former farm since at least the beginning of the 19th century and possibly the 18th century according to historic maps. The farm appears on the Kent Historic Farmsteads survey and in the Kent Historic Environment Record. Of the present buildings on the neighbouring site, which include a couple of barns, the southern one appears to date to the late Victorian period according to historic maps. Significant multiperiod archaeology has been found in the area of the business park to the north including remains of Neolithic, Bronze Age and Iron Age date; a Palaeolithic hand axe was found in brickearth deposits in the college site to the north; and a Bronze Age gold penannular ring was found by a detectorist in the area of the site according to Portable Antiquities Scheme database.

The site has been generally open land and relatively undisturbed, and therefore given the above archaeological potential, and the potential impacts of groundworks from the development across the site, it would be appropriate to make provision in any forthcoming planning consent for a programme of archaeological works through a safeguarding condition.

Subject to this safeguarding condition the impact upon archaeology is considered to be acceptable, and in accordance with Policy HE01 of the Thanet Local Plan.

Biodiversity and Trees

Historically there have been trees on the site, but these were not covered by a TPO, and were removed prior to the application being submitted. Only a few trees along the north western boundary (just outside of the site) remain, which are being retained. The site is currently undeveloped, and there is the opportunity for biodiversity within the site. However, the site is allocated for housing, so the loss of the biodiversity needs to be managed, and balanced with new opportunities for biodiversity.

A Preliminary Ecological Appraisal has been submitted with the application. The report found that Reptiles, Great Crested Newts and Badgers are not likely to be found within the site as it does not form suitable habitat; and the site is unlikely to be of significant value to foraging and commuting bats, with limited harm if the trees along the north western boundary are being retained. For hedgehogs precautionary mitigation is proposed during construction, and for nesting birds the loss of some native hedgerow to the site boundary means that careful consideration needs to be given to the timing of works. Within the report enhancement measures were recommended, including the planting of new native hedgerow, planting around buildings, the integration of bird boxes to the new buildings, and the incorporation of bee bricks.

KCC Biodiversity have been consulted and they advise that they have reviewed the ecological information submitted in support of this planning application and are satisfied that sufficient information has been provided. They advise that the current application, if approved, would result in further losses of biodiversity, including the mature hedgerow along

the southern boundary; and that whilst some hedge and tree planting is proposed within the submitted scheme, further ecological enhancements are required.

An amended soft landscaping plan has been submitted, which shows the retention of the existing hedge along the western boundary, and the planting of a new native hedge along the side boundary of plots 1 and 3, the side and rear boundaries of plots 5 and 6, and the part side boundary of plot 4. In addition bird boxes, and incorporated bird/bee holes have been shown for each of the units.

KCC Biodiversity has been consulted and have advised that they are satisfied with the ecological enhancements proposed, subject to them being conditioned.

The impact upon biodiversity is therefore considered to be acceptable, and in accordance with Policy SP30 of the Thanet Local Plan, and paragraph 174 of the NPPF.

Drainage

The application proposes a main sewer connection. Southern Water has advised that they require a formal application for a connection to the public foul sewer to be made by the applicant or developer, but they raise no objections to this proposed approach.

Southern Water has advised that it is possible that a sewer now deemed to be public could be crossing the development site; however they've again raised no concerns and advised of the process for if a sewer is found within the site during construction works.

The Environment Agency has classed the application as low risk and raise no concerns.

The impact upon groundwater is therefore considered to be acceptable.

SAMM Contribution

Thanet District Council has produced the 'The Strategic Access Management and Monitoring Plan (SAMM)' which focuses on the impacts of recreational activities on the Thanet section of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The studies indicate that recreational disturbance is a potential cause of the decline in bird numbers in the SPA. The proposed development is within close proximity of the Thanet Coast and Sandwich Bay SPA, Ramsar and SSSI. Therefore, to enable the Council to be satisfied that the proposed development will avoid a likely significant effect on the designated sites (due to an increase in recreation) a financial contribution is required for the C3 units to contribute to the district wide mitigation strategy, as agreed by Natural England.

The tariff for this contribution is provided in the SAMM report, and Policy SP29 of the Thanet Local Plan, and consists of £424 per 3-bed units, and £530 per 4-bed (plus) unit, resulting in a total of £2,968 for this development. The applicant has agreed to this contribution, which will be secured through the submitted legal agreement.

An appropriate assessment has been undertaken and accepted. This mitigation means that the Council has accorded with the Habitat Regulations.

Other Matters

Concerns have been raised by residents regarding the lack of infrastructure and GP Services to serve the proposed development. The proposed development falls below the threshold of development that would seek an off site contribution by the CGG towards health provision, or a KCC contribution towards community, youth, social care or education provision. Whilst the additional units will add pressure to existing infrastructure, the impact will be minimal given the modest number of units being applied for.

RECOMMENDATION

The proposed development is located on an allocated housing site within the urban confines. The layout and design of the development is considered to be in keeping with the character and appearance of the area, with limited impact upon neighbouring living conditions and highway safety. Soft landscaping is proposed to soften the appearance of the development, whilst also achieving ecological enhancements. The proposal is therefore considered to form sustainable development that complies with the development plan.

It is therefore recommended that members defer and delegate the application for approval, subject to safeguarding conditions and the receipt of a signed unilateral undertaking securing the SPA contribution.

Case Officer

Emma Fibbens

TITLE: F/TH/21/1732

Project Land To The North Of Fairlawn Road And The West Of Northwood Road,
Broadstairs Kent

Scale:



Agenda Item - F/TH/19/0889 - Planning Application for a part 3-storey, part 4-storey, and part 5-storey building comprising 15no. 2-bed self-contained flats and 3no. 1-bed self-contained flats, with basement parking, at Former Westonville Garage, Canterbury Road, Margate

Planning Committee – 15th March 2022

Report Author Emma Fibbens, *Principal Planning Officer*

Status *For Decision*

Classification: Unrestricted

Previously Considered by **Planning Committee** 19th February 2020

Ward: **Westbrook**

Executive Summary:

This report concerns a planning application that was brought before Members on the 19th February 2020, with a resolution to grant subject to the submission of a signed legal agreement within 6 months of the committee date. The application was considered under the 2006 Thanet Local Plan. The legal agreement has recently been submitted and signed, and the application is therefore reported back to Members for determination of the planning proposal against the 2020 Thanet Local Plan.

Recommendation:

Members approve the planning application under reference F/TH/19/0889 subject to the safeguarding conditions at annex 2.

CORPORATE IMPLICATIONS

Financial and Value for Money	No implications.
Legal	The Planning Committee is not bound to follow the advice of Officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision. The reasons for any decision must be formally recorded in the minutes and a copy placed on file.
Corporate	The delivery of new housing through the Local Plan and planning applications supports the Council's priorities of supporting neighbourhoods

	ensuring local residents have access to good quality housing, and promoting inward investment through setting planning strategies and policies that support growth of the economy.
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.</p>

1.0 Background

- 1.1 This planning application was brought before Members on the 19th February 2020, with a recommendation that the application be deferred and delegated for approval subject to the submission of a legal agreement securing the Heads of Terms as set out within the planning committee report (appended to this report - Annex 1). Members agreed to the recommendation, which required the signed legal agreement to be submitted within 6 months of the resolution.

The legal agreement has now been submitted, and was signed and sealed by the Council on the 26th January 2022.

Given the 23 months that have passed since the application was last brought before Members, and given that a new Local Plan has been adopted since the previous application was considered at planning committee, there is a procedural requirement for the application to be brought back to planning committee to seek agreement for its determination.

3.0 Analysis

3.1 Principle

The application was previously brought to planning committee as it was a departure to Policy H1 of the 2006 Thanet local Plan, as the site is viewed as previously developed land.

Under the current 2020 Thanet Local Plan the site is still an unallocated site, however, the application would comply with Policies SP01 and HO1, which permit the development of sites for housing where they are located within the urban confines. As such the proposal is no longer a departure to the Local Plan.

3.2 Character and Appearance

Policy D1 of the 2006 Thanet Local Plan has been replaced with Policy QD02 of the 2020 Thanet Local Plan. The aims of the policy remain the same, to achieve good quality design that appears in keeping with the character and appearance of the area. Under the new policy the proposed development remains acceptable.

One change has been the introduction of Policy QD01, which requires sustainable design with all new residential development in order to reduce emissions of greenhouse gases and have resilience to function in a changing climate. As a result an additional safeguarding condition has been added which requires the development to be constructed to a high standard of energy efficiency, whilst also meeting the technical standard for water efficiency.

3.3 Living Conditions

Policy D1 of the 2006 Thanet Local Plan has been replaced with Policy QD03 of the 2020 Thanet Local Plan. The aims of the policy remain the same, to protect the living conditions of neighbouring occupiers, and to provide adequate refuse storage and clothes drying facilities, and where possible doorstep playspace, for the future occupiers.

One change has been the introduction of the nationally described space standards, which set a minimum size for each new residential unit created. The standards are set out within Policy QD04 of the Thanet Local Plan 2020. The minimum requirement for a 1-bed unit is 50sqm (over one floor), and the minimum requirement for a 2-bed unit is 70sqm (over one floor). A unit schedule was submitted with the application, which showed that every unit meets the minimum space standards, and therefore the proposal does comply with Policy QD04 of the Thanet Local Plan 2020.

3.4 Transportation

Underground parking provision for 16no. vehicles have been provided as part of the proposal. The current parking requirements are set out within Policy TP06 of Thanet Local Plan 2020, and require that when considering the level of parking provision in respect of proposals for residential development the Council will have regard to the guidance provided in Interim Guidance Note 3. This is the same guidance that was used during the original consideration of the application, and as such there is no material change when considering parking or highway safety.

3.5 Affordable Housing and Unit Sizes

Affordable housing provision is required under Policy SP23 of the Thanet Local Plan 2020. A minimum requirement of 30% is required, which was the requirement of the previous affordable housing Policy H14. A minimum of 30% has been secured through the signed legal agreement, and as such the proposal complies with Policy SP23 of the Thanet Local Plan.

In terms of unit sizes and mix, a Local Housing Needs Assessment has recently been carried out, which updates the local housing need; however, the mix remains similar to the previous housing need, and given that the whole of this site may come forward as affordable housing, given its link with an associated development site, the greatest

need of affordable units remains as 1-bed and 2-bed units, which is the size of unit proposed. As such the proposal is considered to comply with Policy SP22 of the Thanet Local Plan 2020.

3.6 Other Issues

In terms of ecology, drainage, contamination, and archaeology, the newly adopted policies relating to these respective areas raise no new material considerations when compared to the previous policy assessment.

3.7 Financial Contributions

All of the financial contributions previously sought remain justified and valid, and the SPA contribution remains the same as that previously sought, which is now secured through the signed legal agreement. An updated appropriate assessment has been carried out. The proposal therefore complies with the Habitats Regulation, and with Policy SP41 of the Thanet Local Plan 2020, which requires the delivery of relevant and sufficient community and utility infrastructure to mitigate the development.

3.11 Conclusion

The proposed development continues to comply with the development plan as recently adopted, with the only exception being in reference to Policy QD01, which in order to be satisfied requires the addition of two further safeguarding conditions. A full set of the conditions as now proposed are attached to this report.

The proposed development will deliver additional housing within the urban area, with an acceptable impact upon the character and appearance of the area, neighbouring and future living conditions, highway safety, and other material considerations. A signed legal agreement has been submitted securing the minimum 30% affordable housing, SPA contribution, and other financial contributions as set out within the Heads of terms. The proposal therefore continues to be considered as sustainable development in accordance with the development plan.

It is therefore recommended that Members approve the application, subject to the safeguarding conditions as recommended.

4.0 Options

4.1 Members approve the application in accordance with the officer recommendation subject to the safeguarding conditions at annex 2.

4.2 Members propose an alternative motion.

5.0 Recommendations

5.1 Officers recommend Members of the Planning Committee to agree option 4.1.

Contact Officer:	Emma Fibbens, Principal Planning Officer
Reporting to:	Iain Livingstone, Planning Applications Manager

Annex List

Annex 1	Planning Committee Report - dated 19th February 2020
Annex 2	Proposed Planning Conditions (as amended)

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Annex 1

D03

F/TH/19/0889

PROPOSAL: Erection of a part 3-storey, part 4-storey, and part 5-storey building comprising 15no. 2-bed self-contained flats and 3no. 1-bed self-contained flats, with basement parking

LOCATION: Former Westonville Garage Canterbury Road MARGATE Kent

WARD: Westbrook

AGENT: Mr Kieran Rafferty

APPLICANT: Sapphire Developments Kent Ltd.

RECOMMENDATION: Defer & Delegate

Defer and delegate for approval subject to the satisfactory completion of Section 106 agreement within six months of the date of this resolution securing the required planning obligations as set out in the Heads of Terms, and the following safeguarding conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised drawings numbered 200.00 P5, 200.01 P6, 200.02 P5, 200.03 P5, 200.04 P5, 210.01 P4, 210.02 P4, 210.03 P4, and 210.04 P3, received 03 October 2019.

GROUND:

To secure the proper development of the area.

3 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

GROUND:

To ensure that features of archaeological interest are properly examined and recorded.

4 No development shall take place until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy shall include the following components:

1. A preliminary risk assessment which has identified:

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- all previous uses,
- potential contaminants associated with those uses,
- a conceptual model of the site indicating sources,
- pathways and receptors and potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

GROUND:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework (NPPF).

5 Prior to the first occupation of the development hereby permitted, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the LPA. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

GROUND:

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the NPPF.

6 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

GROUND:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously

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unidentified contamination sources at the development site in line with paragraph 170 of the NPPF.

7 No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the NPPF.

8 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

GROUND:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 170 of the NPPF.

9 Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

GROUND:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, in accordance with paragraph 165 of the NPPF.

10 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been

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submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

GROUND:

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

11 No development shall take place until details of the means of foul drainage have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with such details as are agreed and thereafter maintained.

GROUND:

To prevent pollution, in accordance with the advice contained within the National Planning Policy Framework.

12 Prior to the commencement of any development on site details to include the following shall be submitted to and approved by the Local Planning Authority and should be carried out in accordance with the approved details.

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- (f) Measures to control noise affecting nearby residents
- (g) Dust control measures

GROUND:

In the interests of highway safety and neighbouring amenity, in accordance with Policy D1 of the Thanet Local Plan and the National Planning Policy Framework.

13 The gradient of the access hereby approved shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

GROUND:

In the interests of highway safety.

14 Prior to the first occupation of the development hereby permitted, the secure cycle parking facilities as shown on drawing no. 200.01 Rev P6 shall be provided and thereafter maintained.

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GROUND:

In the interests of promoting increased cycling in accordance with policy TR12 of the Thanet Local Plan

15 Prior to the first occupation of the development hereby permitted, the area shown on plan numbered 200.00 Rev P5 for the parking and manoeuvring of vehicles shall be made operational. The area approved shall thereafter be maintained for that purpose.

GROUND:

Development without adequate provision for the parking or turning of vehicles is likely to lead to parking inconvenient to other road users and detrimental to amenity and in pursuance of Policy D1 of the Thanet Local Plan.

16 The development hereby permitted shall be constructed in accordance with the precautionary mitigation measures for hedgehogs as detailed within the Preliminary Ecological Appraisal (Middlemarch Environmental Ltd July 2019).

GROUND:

In the interests of protecting a priority species, in accordance with the NPPF.

17 Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape works, to include

- species, size and location of new trees, shrubs, hedges and grassed areas to be planted.
- the treatment proposed for all hard surfaced areas beyond the limits of the highway.
- walls, fences, other means of enclosure proposed.

shall be submitted to, and approved in writing by, the Local Planning Authority.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies D1 and D2 of the Thanet Local Plan.

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 first occupation; of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND:

In the interests of the visual amenities of the area in accordance with Policies D1 and D2 of the Thanet Local Plan

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19 Prior to the first occupation of the development hereby permitted, electric vehicle charging shall be provided within the site in the form of one active space and 15no. passive spaces. Details of the location and design details of the active electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

To reduce the impact upon air quality, in accordance with the NPPF.

20 Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

GROUND:

In the interests of amenity for future occupiers of the development, in accordance with paragraph 127 of the NPPF.

21 All new window and door openings shall be set within a reveal of not less than 100mm.

GROUND:

In the interests of visual amenity in accordance with Policy D1 of the Thanet Local Plan

22 Prior to the construction of the external surfaces of the development hereby approved samples of the materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples.

GROUND:

In the interests of visual amenity in accordance with Policy D1 of the Thanet Local Plan

23 Prior to the construction of the external surfaces of the development hereby permitted, details of the metal balustrading, and manufacturing details of the aluminium windows and doors, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

In the interests of visual amenity, in accordance with Policy D1 of the Thanet Local Plan, and the NPPF.

24 An airing cupboard shall be provided within each flat, as shown on plans numbered 200.01 Rev P6, 200.02 Rev P5, and 200.04 Rev P5, for the benefit of clothes drying facilities.

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GROUND:

To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with Policy D1 of the Thanet Local Plan.

25 At least 10% of the development shall be built in compliance with building regulation part M4(2); and at least 5% of the affordable units shall be built in compliance with building regulations part M4 (3).

GROUND:

To meet a range of community needs, in accordance with the NPPF and Policy QD05 of the Draft Local Plan.

26 The refuse storage facilities as specified upon the approved drawing numbered 200.01 Rev P6 shall be provided prior to the first occupation of the development hereby approved and shall be kept available for that use at all times.

GROUND:

To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with Policy D1 of the Thanet Local Plan.

SITE, LOCATION AND DESCRIPTION

The site is on the corner of Westbrook Gardens and Canterbury Road. Historically it was used as a kwik fit garage, but the site has been unused and overgrown for at least the last 15 years, with hoarding enclosing the site.

To the east of the site, in Canterbury Road, a pedestrian access adjoins the site, providing access to the rear of properties in Westbrook Gardens and the Former Sea bathing site, which is now in residential use. To the east of the pedestrian access is a 3-storey modern building, with residential use at upper levels and Tesco located at ground floor level. The site lies towards the end of a row of predominantly commercial uses, within the local centre of Westbrook. Buildings within Canterbury Road are mainly terraced, ranging in height from 2-storey to 4-storey; with the buildings opposite the site being 2-storey, and the recently constructed residential block on the former Dog and Duck PH site (within close proximity of the site) being 4-storey. Properties in Canterbury range in design, and include older pitched roof buildings, along with newer flat roof developments.

To the north of the site, properties within Westbrook Gardens consist of terraced residential dwellings that are either 3-storey in height, or 3-storey with a sub-basement level, as can be seen with the terraced row adjacent to the application site. Properties in Westbrook Gardens have a traditional historic appearance, with specific design features such as bay windows, first floor metal balconies, and sash windows, and all properties are constructed in brick.

RELEVANT PLANNING HISTORY

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F/TH/06/0356 - Erection of part 4-storey and part 5-storey building containing 18no. flats, with basement parking and access from Westbrook Gardens. Granted - 26 June 2006

F/TH/05/1358 - Erection of a part 5-storey, part 4-storey, flat roofed building to provide 18no. 2-bedroom self-contained flats, and provision of basement parking for 18no. cars, with vehicular access from Westbrook Gardens. Refused - 25 January 2006

F/TH/04/0514 - Demolition of existing Kwik Fit premises and erection of 14no. Apartments and associated parking. Granted - 17 November 2004

Adjacent site history

F/TH/08/1286 - Erection of a 3-storey building containing A1 retail unit on ground floor and 8no. Self-contained flats, and installation of ATM to front elevation and air conditioning units to rear of building - Granted - 18 December 2008

PROPOSED DEVELOPMENT

The proposal is for the erection of a part 4-storey, part 5-storey building containing 18no. Flats, including 15no. 2-bed units and 3no. 1-bed units. An underground parking area for 16no. vehicles is provided, with vehicular access from Westbrook Gardens.

DEVELOPMENT PLAN POLICIES

Thanet Local Plan (2006)

H1 - Housing
H8 - Size and Type of Housing
H14 - Affordable Housing
SR5 - Play space
TR12 - Cycle Parking
TR16 - Parking Provision
CF2 - Financial Contributions

Draft Local Plan 2020

QD04 - Technical Standards

NOTIFICATIONS

Neighbouring occupiers have been notified and a site notice posted. Three letters of objection have been received raising the following concerns:

- loss of light,
- loss of privacy,
- height should be in keeping with neighbouring properties,
- highway safety resulting from the additional vehicles on the roads from the proposed development,

- noise and disturbance.

CONSULTATIONS

KCC Highways and Transportation - (*final comments*) Following comments from the highway authority (HA) on 22nd July the applicants have revised the access arrangement and removed the vehicle lift. The amended drawings show a ramp access which will reduce the likelihood of vehicles queuing on the public highway, and remove the risk of issues associated with failure and maintenance of vehicle lifts. To accommodate the ramp within the site the applicants have removed 2 on site parking spaces, which mean that the site is slightly under the recommended standards. The provision of the access ramp is deemed an improvement in terms of safety, and due to the close proximity of the site to nearby shops and services it is agreed that a slight under provision of 2 spaces is acceptable. The remaining spaces on site must be allocated to ensure that future occupants are aware whether or not they can park on site and avoid abortive movements in and out of the site. It is noted on the revised drawings that the applicants have relocated the refuse storage area to the ground floor, removing the need for bins to be taken from basement to ground floor level on collection dates. To ensure that access visibility in and out of the site is not obstructed the applicants will need to progress a traffic regulation order (TRO) to remove the 2-3 parking spaces located directly at, and alongside, the proposed vehicle entrance. The TRO will need to be carried out separate from the planning process via a best endeavours condition. I confirm that provided the following requirements are secured by condition then I would raise no objection on behalf of the local highway authority.

(*Initial comments*) The highway authority (HA) is satisfied with the principle of development in this location; however do have concerns with the proposals as currently submitted. It should be noted that the applicants did not engage with the HA for formal pre-application advice so the designs have not been viewed previously by KCC. The applicants propose to install a vehicle lift on site to access the basement level car park. In general the HA do not support the introduction of vehicle lifts as there are various risks involved with their use, such as:

- Power cuts
- Lift failures / faults / routine maintenance
- Queues onto highway if more than one vehicle is attempting to access the site at once, or is waiting for another driver to exit the site which may lead to reversing back onto the highway. By placing the refuse store on the basement level further risks are presented by these proposals, with increased likelihood of queuing on the highway.

1.) The applicants need to revise the access and parking arrangements for this site, it is suggested that a revised parking layout with an access ramp be considered as the use of parking lifts are unlikely to be accepted in any form by the HA.

2.) The tracked drawings submitted show that access to some of the parking bays is very tight, especially those located near pillars. Some of the tracked drawings show vehicles overlapping other parking bays, which would not be acceptable.

3.) Parking numbers should accord with Kent Residential Parking Standards (IGN3) for a rural location which requires a minimum of 1 parking space per flat, plus 0.2 visitor spaces

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per unit. This is the same parking standard recently applied to the nearby site off Westbrook Gardens (ref: TH/17/1788). If adequate parking is not provided on site this will lead to parking overspill into Westbrook Gardens and other nearby residential streets which contain limited parking restrictions. I wish to place a holding objection to this application.

KCC SUDs - (final comment) As discussed with yourselves we have specific concerns about the information submitted to support this application, firstly, in relation to the level of detail on surface water drainage matters and secondly in relation to the ability to prove a connection and discharge to the existing public sewer system.

We understand the implications of the comments made by the applicant in relation to our previous comments but would highlight that the dereliction of this site and the lack of a survey of a proven connection may require specific site controls on discharge from the site and have subsequent impact for calculation of attenuation volumes within the proposed development and implications for accommodation within the built-form.

We would highlight that irrespective of any agreement with Southern Water that discharge rates must be consistent with Kent County Council's Drainage and Planning Policy (November 2019). This requires that peak runoff rate from the development must be as close to the greenfield runoff rate as reasonably practicable but at a minimum must achieve a 50% reduction in the pre-development runoff rate. Please refer to the Policy for the full text on this requirement.

If your authority is minded to approve this application, we would recommend the inclusion of specific safeguarding conditions.

(initial comment) Kent County Council as Lead Local Flood Authority have reviewed the drainage strategy and SUDs Appraisal carried out by Turner Jomas & Associates (July 2019) and have the following comments:

1. The appraisal report states that the site is currently fully impermeable. It would appear that the site was demolished prior to 2007 and the vegetation growth has occurred since that time. The topographical survey plan indicates site is covered by overgrown vegetation and the contamination study indicates that the site has been clear of structures; therefore pre-development condition should reflect that the site is permeable.

2. The report assumes that the site is currently served by public surface water sewer and proposes maintaining the existing discharge rate and connection. However given the passage of time since demolition occurred there cannot be an assumption of a connection and contribution from the site. Southern Water correspondence clearly states that "alternative means of draining surface water from this development are required. Discharge of surface water runoff to public combined network can be allowed only once full assessment of other alternative methods have been carried out and discounted and at the discharge rates agreed with Southern Water".

3. The appraisal should include a schematic drainage layout plan and supporting calculations to demonstrate the drainage system operation and the proposed drainage model network.

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4. In February 2016, the Environment Agency published new guidance on how to use climate change allowances in flood risk assessments. The new allowances for peak rainfall intensities have implications for drainage design and should be included within any drainage strategy prepared to accompany a planning application. As LLFA, KCC will require that the design accommodates the 1 in 100 year storm with a 20% allowance for climate change and an additional analysis undertaken to understand the flooding implication for a greater climate change allowance of 40%. This analysis must determine if the impacts of the greater allowance are significant and exacerbate any flood risk. The design may need to be minimally modified but may also need additional mitigation allowances, for example attenuation features or provision of exceedance routes. This will tie into existing designing for exceedance principles.

5. The drainage strategy must establish the surface water discharge principle and location as part of the appraisal. The site is underlain by the Margate Chalk, therefore opportunity for using infiltration should be investigated. It is not known whether any contamination risk would constrain discharge to ground. This also needs to be confirmed. We consider the information provided are insufficient and incomplete; therefore recommend the application is not determined until additional information is provided for review.

KCC Archaeology - Extensive archaeological remains are recorded in the Westgate area. The sites of two iron age and Romano-British settlements are known within a 500m radius of the premises, one at Hartsdown park and one close to the nearby Royal Esplanade. Cropmarks of enclosures are also known directly south of the site. The general potential of the area relates principally to Bronze Age, Iron Age and Roman remains found along the coast line to the west and expected to continue in towards Margate. Recent investigations in close proximity to the present site have revealed remains of prehistoric date. While the site has seen previous development it is not known the extent to which the land below that development was previously disturbed and the present proposal involves substantial excavations including for a basement level.

It is possible that archaeological remains will be disturbed by groundworks involved in development. I therefore advise that a condition for a programme of archaeological work be attached to any forthcoming consent.

KCC Biodiversity - (*final comment*) We have reviewed the updated ecological information submitted in support of this planning application and advise that sufficient information has been provided.

Terrestrial Mammals (including Hedgehog)

There is potential for terrestrial mammals, such as Hedgehog (a priority species under the NERC Act 2006) to be present. To ensure hedgehogs are not harmed during the construction phase of the development, the ecology report has recommended precautionary mitigation measures which we advise are implemented. As such, if planning permission is granted, we advise a condition is attached to secure precautionary mitigation measures for hedgehogs.

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Breeding Bird Informative

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation that may provide suitable nesting habitats should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. If vegetation needs to be removed during the breeding season, mitigation measures need to be implemented during construction in order to protect breeding birds. This includes examination by an experienced ecologist prior to starting work and if any nesting birds are found, development must cease until after the juveniles have fledged.

Thanet and Canterbury SAMM

The development includes proposals for new dwellings within the zone of influence (7.2km) of the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Therefore, Thanet District Council will need to ensure that the proposals fully adhere to the agreed approach within the Strategic Access Management and Monitoring Plan (SAMMP) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the Thanet Coast and Sandwich Bay SAMMP, there is a need for an appropriate assessment to be carried out as part of this application.

Ecological Enhancements

In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged. The ecology report recommends several enhancements which are suitable for the development. As such, we advise that a condition is attached to planning permission, if granted.

(initial comment) No ecological information has been submitted with this application. As a result of reviewing the data we have available to us (including aerial photos and biological records) and the information submitted with the planning application, we advise that further information is sought with regards to the potential for ecological impacts to arise as a result of the proposed development. Although poorly connected and relatively small in size, the development area is densely vegetated and could have the potential for to support protected/notable species, such as badgers and hedgehogs (the latter being a priority species under the NERC Act 2006). As such, we advise that a preliminary ecological appraisal (PEA) is undertaken by a suitably qualified ecologist, in accordance with good practice guidelines - the PEA will assess the habitats and features within and around the site and identify if there is a need for further ecological surveys to assess ecological value and/or confirm protected species presence/likely absence.

Southern Water - (final comments) Our initial investigations indicate that there are no dedicated public surface water sewers in the area to serve this development. The developer can discharge surface water flow no greater than existing levels if proven to be connected

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and it is ensured that there is no overall increase in flows into the surface water system. You will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed surface water flow will be no greater than the existing contributing flows. All other comments in our response dated 05/08/2019 remain unchanged.

(initial comments) Please find attached a plan of the sewer and water records showing the approximate position of a public sewer and water main crossing the site. The exact position of the public sewers and water main must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the foul sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Our initial investigations indicate that there are no dedicated public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. Discharge of surface water runoff to public combined network can be allowed only once full assessment of other alternative methods have been carried out and discounted and at the discharge rates agreed with Southern Water as not introducing detriment to downstream network. Foul and surface water onsite network shall remain separate until the boundary of the site or final connection to public sewer.

Environment Agency - Based on the submitted information we consider that planning permission could be granted for the proposed development if the following planning conditions are included as set out below. Without these conditions, the proposed development poses an unacceptable risk to the environment and we would object to the application.

The previous use of the proposed development site as a PFS and motor vehicle garage presents a high risk of residual contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location because the proposed development site is located upon Principal aquifer overlain by clay head.

The reports submitted in support of this planning application provide us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. It is our opinion that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the LPA.

TDC Contaminated Land Officer - I am writing following review of the above and the desk study report (Ref. S19-489, June 2019, SWEL) submitted in connection with this application.

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Given the former Vehicle Sales, Repair and Overhaul use of the site, and anecdotal evidence of tank removal at the site, the report recommends intrusive investigation is undertaken to test the Conceptual Model.

I would therefore be grateful if a safeguarding condition be added, should planning permission be granted.

TDC Environmental Health - Upon looking at the application this is the construction of a 4 storey building containing 18 flats. There will also be a basement parking area accessed by a car lift.

When considering the application Environmental health must take into account that:

- it continued to receive complaints about early morning deliveries to the Tesco store adjoining.
- the site itself will be 2 storeys taller than the adjoining Tesco building. There may be services on that building such as air condition unit that are a noise source.
- the site sits on a busy road with often stationary traffic.

With this in mind I request an external noise level condition, the following condition is added to any grant of permission.

I note the inclusion of a car lift at the site. the car lift will sit below a proposed flat within the same development. It will also sit adjoining an unconnected residential dwelling at basement and ground floor levels. To protect that residence I request a noise level condition is added to any grant of permission.

I note that the site has underground allocated parking. The site sits within the Thanet Air Quality Management area. I therefore request an electric vehicle charging condition is added to any grant of permission.

Crime Prevention Design Advisor - Having reviewed the on line plans and documentation, the applicant/agent has clearly considered some crime prevention issues in the submitted Planning Statement.

To date we have had no communication from the applicant/agent and there are some additional issues to be addressed, these include:

1. Perimeter and boundary treatments - should be a min of 1.8m high to the route that leads to the rears of the properties on Westbrook Gardens. The current design could affect that route detrimentally without careful security measures being included.
2. There are both gaps and gates shown to the Westbrook Gardens and Canterbury Road boundaries so we are unclear about if these are to be secured or merely a "guideline".
3. Parking security is essential so full height access controlled gates for vehicles only.
4. There are no ground anchors shown for motorbikes or mopeds, it is advised that these are offered to provide secure parking options thus avoiding them being secured outside and becoming vulnerable.
5. This area is very busy for on street parking (not seasonal). We have concerns that the space needed for the access to the lift, any additional vehicle ownership or larger vehicle ownership could increase the potential for conflict.

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6. The proximity of the proposed building line and height to the Co-Op ATM and potential effects to the associated cash filling and user security is of concern.
7. Lighting and appropriate CCTV would be required for the lift access, the pedestrian access and the access to the doorstep play space.
8. Access Control to the main entrance should be dual fire and security PAS 24 2016 UKAS certified
9. All doorsets including those to the ground and first floor balconies to all of the communal areas and apartments to be PAS 24 2016 UKAS certified
10. All the windows on the ground floor and any vulnerable to climbing to be PAS 24 2016 UKAS certified
11. Bedroom windows are shown facing the doorstep play space - this requires defensive treatments.
12. Security Compartmentalisation - we recommend that the doors to the different floors are access controlled to minimise the opportunity for unauthorised access.
13. Bin collections - refuse collectors should not have access to the bins via the basement. There are several concerns about the plan as shown and access.
14. The cycle store should be completely separate from the bin store and fully lit and lockable.
15. Mail should be via a "Through the wall" or air lock system, the current plans show that there is a post room however it is around a corner. Trade buttons are not permitted as they are a proven factor for crime in this type of apartment block.
16. All flats to have full audio visual access control.
17. The top floor garden should serve those residents only.

KCC Development Project Manager - The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

COMMENTS

The application is brought before members as a departure to Policy H1 of the Thanet Local Plan.

Principle

Policy H1 of the Thanet Local Plan states that residential development on non-allocated sites will be permitted only on previously developed land within the existing built-up confines. Whilst the site address makes reference to a former garage on the site, there is no evidence of any structures on the site, following the clearance of the site there is also no evidence of any hard surfacing. Until recently the site has been overgrown, with vegetation reaching almost 3m in height. Following the site clearance it is possible to see the number of saplings that covered the site from the remaining stumps. It is likely that the demolition of the garage occurred following the granting of the 2004 planning application for the demolition of the garage. The application site is therefore considered to be non-previously developed, contrary to Policy H1 of the Thanet Local Plan.

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Whilst the proposed development is considered to be a departure to Policy H1, this policy constraint needs to be balanced with the fact that there is a current need for housing in Thanet, and on this basis the National Planning Policy Framework (NPPF) indicates that applications for housing should be considered in the context of the presumption in favour of sustainable development.

The site is not allocated for housing within the Draft Local Plan, but planning permission has previously been granted in 2006 for 18no. flats, and in 2004 for 14no. flats. There is no extant consent for the development of the site; however, the principle of developing the site was previously considered and accepted under the current adopted Thanet Local Plan (2006), which needs to be afforded some weight within the decision making process.

The site is sustainably located on a bus route, falls within the local centre of Westbrook, and is within walking distance of Margate town centre, Margate train station, and other facilities and services. There are no policy restraints restricting the development of the site.

The principle of developing the site is therefore considered to be acceptable subject to other material planning considerations, including the impact upon the character and appearance of the area, neighbouring living conditions, and highway safety.

Character and Appearance

The proposed development is located on a prominent corner site within the local centre of Westbrook. The site is visible from long views along the Canterbury Road, and is particularly visible from the top of the bridge to the west of the site. There is existing development on either side of the site, and whilst there is no presence of physical development upon the site, historically the site occupied a kwik fit garage. Whilst the site is classed as non-previously developed land given the period of time that has past since its last use, the current openness of the site is not considered to offer any recreational benefits, or intrinsic value to the area, and as such the loss of the open space is not considered to be contrary to Policy SR10 of the Thanet Local Plan.

To the north of the site are traditional three storey dwellings with basement level. The buildings have a bay window at ground floor level with a raised stepped access, and sash windows at the upper levels with balcony at first floor level.

To the east of the site is a 3-storey flat roof building accommodating a retail use at ground floor level with residential above. The building is more modern in its design, with aluminium windows and aluminium French doors with glazed balustrading at first floor level.

The most recently approved scheme for the development of the site was in 2006, prior to the introduction of the NPPF. The approved development was a part 4-storey part 5-storey development that extended across the full width of the site, joining onto no.1 Westbrook Gardens and extending up to the access from Canterbury Road. The design contained a single entrance to the building onto Westbrook Gardens, with a vehicular access leading down to a basement parking area.

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This proposal is for the erection of a part 4-storey, part 5-storey development, of a similar scale, layout, and design to the previous consent. The 4-storey element of the design continues to connect with the parapet height of the neighbouring property in Westbrook Gardens; and when viewed in relation to the 3-storey neighbouring building in Canterbury Road, the 4-storey element (which is set in from the side wall at fourth floor level by 1.3m) is not considered to appear detrimental to the street scene. The site is on a prominent corner that fronts a main through road forming the approach into Margate. As such a dominant building of a height that increases incrementally beyond the height of the neighbouring building will provide a presence within the street, with the opportunity to achieve a well-designed landmark building.

Concern has previously been raised with the 5-storey element, which whilst set in and set back slightly from the main side and front elevations, was still shown within the originally submitted plans to expand almost the full width of both frontages. Amended plans have been submitted during the course of the application showing the fifth floor set further away from the proposed side elevations of the main building (by an additional 1.5m in Canterbury Rd and 3.2m in Westbrook Gardens), resulting in a greater concentration of the fifth floor towards the central corner of the building, away from the lower neighbouring properties. Given the setback location of the fifth floor by 1.7m from the main frontage elevation, and the set in of the side elevations as detailed above, along with the use of metal cladding and extensive glazing within the design of the fifth floor, the scale and height of the proposed development is considered to be, on balance, acceptable.

In terms of its location, the proposed development follows the main front building line of the properties in Westbrook Gardens, with the proposed bay windows projecting slightly further than those on the neighbouring properties. In Canterbury Road the proposed building projects forward of the front building line of no.56 Canterbury Road by 1.1m. To the front of the proposed building, small garden areas for each of the associated flats are provided at 3.7m deep, and metal railings with a gated entrance are shown along the boundary, creating a generous defensible space for each of the ground floor flats, whilst also enhancing this prominent corner through the use of soft landscaping. The presence of the front gardens is also characteristic of the properties in Westbrook Gardens.

With regards to the specific design, the proposed building will sit between a modern 3-storey flat roof block with generous window/door proportions (fronting Canterbury Road), and traditional 3-storey pitched roof terraced dwellings (fronting Westbrook Gardens). A more traditional style of property is also present opposite the site, with the key features of the traditional style properties being the bay and sash windows, and the front balconies. The proposed building therefore needs to sit comfortably between these two contrasting styles of building.

The proposed development consists of a brick built flat roof building, which is similar in form to the modern flat roof building fronting Canterbury Road. Within Westbrook Gardens the design as amended seeks to follow the pattern of fenestration viewed within the adjacent terraced dwellings, with upper level windows that follow the proportioning and positioning of the neighbouring windows, along with a balcony feature at first and second floor level to again reflect the design of the adjacent terraced properties, and provide a gentle transition

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before reaching the larger modern window proportions proposed within the southern section of the building.

The traditional houses in Westbrook Gardens are terraced and achieve vertical emphasis through the presence of long sash windows and the emphasised elevated entrances. The presence of bay windows and first floor balconies help to add interest to the terraced block, breaking up its expanse. The proposed development continues this approach with the use of the single windows and balcony features, but also with the provision of a full height modern bay feature, which is metal clad with large glazing panels inserted. Using these features in a rhythmic way around the building has enabled the block to be broken up and vertical emphasis added across the wide frontages. This has not only added interest to the design, but achieves a pattern of development that appears in keeping with the surrounding area.

At ground floor level the provision of the basement parking entrance is unfortunate, and detracts from the design, but such a design feature has previously been approved, and enables parking to be achieved on the site that in itself does not visually detract from the area.

Whilst a single main pedestrian entrance to the flats is proposed onto Westbrook Gardens, access points to each flat have been achieved through the front garden areas, via a gated access. This has achieved a more active frontage to both elevations, and again through the presence of doors to each unit achieves the appearance of separate units within the block, in keeping with the adjacent terrace block, and the smaller commercial terraced units within Canterbury Rd.

In terms of materials, brick is the predominant material, in keeping with the nearby traditional properties. Metal is used for the balustrading, windows, and cladding, all of which help to add interest to the design and emphasize the vertical window alignments. As mentioned previously, the fifth floor is fully metal clad with large glazing elements, all of which help to lighten this structure and reduce its dominance within the street scene. Windows are to be set within a reveal of at least 100mm, which will add depth to the design.

Overall it is considered that the scale and height of the building as amended will not appear significantly out of keeping with surrounding development, and the design and materials are considered to be good quality, and sympathetic to the surrounding character and appearance of the area, with the proposal resulting in an enhancement of the site. The proposed development is therefore considered to be in accordance with Policy D1 of the Thanet Local Plan and paragraph 127 of the NPPF.

Living Conditions

The proposal development is adjacent to an existing dwelling on Westbrook Gardens, and an existing block of flats on Canterbury Road.

- *Light and outlook*

When considering the impact upon no.1 Westbrook Gardens, there will be limited impact upon any lower level windows, as the proposed development follows the rear building line of

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no.1 at ground and first floor level. At second floor level the rear building line of no.1 is setback by 3.4m from the rear building line of the proposed development, and with only a 0.5m gap between the properties, there would be some impact upon light and outlook to the second floor rear window of no.1. A daylight and sunlight study has been submitted with the application, which assesses the impact upon these windows. The study shows that the potential impact to this window, when considering the proposed development, passes the 'Building Research establishment' tests, which are based on the requirements of the British Standard BS 8206 Part 2. Taking account of this submission and following officer assessment, the impact to light from no.1 Westbrook Gardens is considered to be acceptable. Whilst there will also be some loss of outlook, this would be from what appears to be a bedroom window, which has a less extensive use than that of a living room, and therefore given the use, along with the limited depth of 3.4m, 0.5m from the neighbouring building, the impact upon this window, and light to no.1 Westbrook Gardens is considered to be acceptable.

Concern has been raised from residents of flats within the adjacent block to the application site on Canterbury Road. Within the side elevation of the flat block there are 5no. ground floor windows, and 3no. first and second floor windows that would face the proposed development, at a distance of 4.3m from the proposed development. The submitted daylight and sunlight study examines the impact upon these windows, and identifies all of the ground floor and one of each of the first and second floor windows as serving circulation space. The only windows affected are the 2no. bedroom windows, identified as windows 17 and 18 within the sunlight and daylight study. The report shows that there will be a significant impact to these windows, in particular the first floor window, where there is acknowledged to be a 47% loss of daylight. The report concludes that whilst these two windows do not pass the daylight distribution test, the use of the rooms as bedrooms means that the impact is considered to be of less importance than if the windows were serving other habitable rooms such as living rooms and kitchens.

Development has previously been approved on the application site, in both 2004 and 2006. The adjacent Canterbury Road flat development was approved in 2008, when the 2006 consent for the application was still extant. Within the report for the neighbouring site the extant consent for the application site was acknowledged as a material planning consideration, and the potential impact upon the future occupiers of both schemes was considered. The previously approved scheme showed a development much closer to the neighbouring windows, and this impact on future living conditions in the flats was considered acceptable and therefore approved. Whilst that scheme is no longer extant, the relationship between the developments has previously been deemed acceptable by the Council.

Furthermore, through this application amendments have been sought to try to reduce the impact upon these windows, with the latest plans showing the depth of the proposed development reduced by 0.3m, in order to avoid any part of the development from being located directly in front of the neighbouring windows. The impact upon outlook to these windows is therefore considered acceptable, and whilst there will be a detrimental loss of light to two bedrooms, on the basis that the plans have been amended, a similar relationship has previously been approved, and the windows serve bedrooms, which are likely to be utilised less during daylight hours than other habitable rooms, the impact upon the light to

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neighbouring occupiers within the adjacent flat block is considered to be, on balance, acceptable.

- *Privacy*

Within the rear elevation of the proposed building there are 2no. bedroom windows located within the northern elevation on each floor, and 2no. bedroom windows located within the eastern elevation. The eastern elevation windows face onto the adjacent flat block in Canterbury Road, with the windows within the flat block opposite the proposed windows serving circulation space, and therefore no privacy is affected.

Within the northern elevation the proposed windows face the very rear of the neighbouring gardens in Westbrook Gardens, with only the end 2m directly affected. There is no direct overlooking of the first 5m of amenity space to the neighbouring properties, and it would appear that a number of outbuildings are located within the nearest neighbouring gardens, which would help to reduce the extent of overlooking.

At fourth floor level one side bedroom window is proposed within the northern elevation, but this would face over the neighbouring roof and towards the blank side wall of the neighbouring rear projection, no.1 Westbrook Gardens, and in addition to the setback distance from the boundary, this will result in minimal overlooking.

Overall the impact upon neighbouring privacy is considered to be acceptable, and in accordance with Policy D1 of the Thanet Local Plan, and paragraph 127 of the NPPF.

Future Occupier Living Conditions

The proposed development does not incorporate any shared secure external amenity space. It is not possible to provide this space at the rear due to the basement parking area, which has an open vehicular access slope to the rear of the building, preventing any further use of this space. Amenity space is provided through the provision of balcony areas, and amenity space is associated with the ground floor units' nos.1-3, but this space can not be classed as secure. The proposal is therefore not able to fully comply with Policy SR5 of the Thanet Local Plan, which requires the provision of doorstep play space for all new residential family units. Three of the proposed units are 1-bed, and would therefore not require external space as they are not classed as family units. For the remaining 15no. units, the lack of any doorstep play space will have some impact upon the amenity for future residents; however, the site is within a few minutes walk of the seafront which provides large areas of amenity space. Whilst the proximity to the seafront does not override the policy requirement for doorstep play space, the location of the development, along with the provision of external amenity space for the ground floor flats and balcony provision for nearly all units, and the limited size of the proposed units and the design constraints of the site, it is considered that the proposal will, on balance, provide an adequate level of amenity for future occupiers.

All of the flats meet the nationally described space standards, as required through Policy QD04 of the Draft Local Plan, and an independently accessed internal refuse store has been provided for all flats at ground floor level, along with a cycle store. Given the lack of external amenity space, the agent has agreed to a condition requiring the provision of airing

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cupboards within all units, which will assist with clothes drying, and minimise the likelihood of the balconies from being used for this purpose, which would be to the detriment of visual amenity.

Environmental Health advises that there have been noise complaints recorded regarding deliveries to Tesco, and the site sits on a busy main through road. As such, Environmental Health recommends that a condition be added to any consent to test noise levels from within the proposed development, in order to safeguard the amenity of future residents. Concerns were also previously raised regarding the car lift and the potential for noise to adjoining flats, but following its removal Environmental Health no longer have concerns regarding this issue.

Subject to safeguarding conditions requiring the provision of the refuse and cycle store, clothes drying facilities, and the amenity areas as shown, the impact upon the living conditions of future occupiers is considered to be acceptable, and in accordance with paragraph 127 of the NPPF.

Transportation

The proposal is for the provision of underground parking to serve the 18no. proposed units. The proposed vehicular access is from Westbrook Gardens, with the initial plans submitted with this application showing a car lift to provide basement access. The agent had advised that the car lift proposal was a direct result of discovering that the approved basement vehicular access from the 2006 scheme was not workable, and therefore this was the only proposal that enabled the 18no. parking spaces to be maintained.

KCC Highways and Transportation were consulted, and raised objections with the car lift on the grounds of the risks associated with them, including power cuts, failures, and queues onto the highway if more than one vehicle is attempting to access the site at once, or is waiting for another driver to exit the site, leading to reversing back onto the highway. KCC suggested that the lift be removed and replaced with a ramp. Concerns were also raised with the number of parking spaces proposed, along with a lack of tracking information to prove that safe manoeuvres within the site could be achieved.

Amended plans have been submitted showing the lift replaced with a ramp, but this has led to the number of parking spaces being reduced from 18 to 16.

KCC advises that the amended ramp access will reduce the likelihood of vehicles queuing on the public highway, and remove the risk of issues associated with failure and maintenance of vehicle lifts. Whilst 2no. On site parking spaces have been lost, meaning that the proposed development falls slightly under the recommended standards, the requirement for a safe access to the site is considered to outweigh the lack of parking, and given the sustainable location of the site on a bus route, and within walking distance of the town centre and railway station, along with the reduction in size of 3no. units from 2-bed to one-bed, the lack of 2no. parking spaces are not considered to justify a reason for refusal in this instance.

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The relocation of the refuse store from basement level to ground level is shown on the amended plans, which is supported, as this allows for easy access of the bins on refuse collection day, and doesn't require the basement to be accessed by refuse vehicles.

KCC has advised that in order to ensure that access visibility in and out of the site is not obstructed, the applicants will need to progress a traffic regulation order to remove the 2-3 parking spaces located directly at, and alongside, the proposed vehicle entrance.

Secure cycle parking has been provided internally for 20no. bikes, and electric vehicle charging will be provided to each of the allocated parking spaces.

Subject to safeguarding conditions, the impact upon highway safety is considered to be acceptable, and in accordance with the NPPF.

Affordable Housing and Unit Sizes

The proposal is for the erection of 15no. 2-bed flats and 3no. 1-bed flats. Whilst Policy SP19 encourages a range of unit types and sizes across a development site, there are often site constraints that prevent this from happening. In this case, given the size and shape of the site, and its corner location, housing cannot easily be accommodated on the site. A flat block would achieve the optimum use of the site.

The proposal provides for 30% affordable housing, where the greatest need is one and two bed units, and therefore the proposal would meet this local need. Affordable housing provision of 30% is to be secured through the legal agreement on the basis that this site would be developed independently of any other development.

Alternatively, this application site is linked to an allocated housing site in Cliftonville, former St.Georges Hotel, Eastern Esplanade, which has an extant planning permission for the erection of 87no. flats. It was agreed through the legal agreement for the St.Georges planning application that this application site would serve as the off-site affordable housing provision for the development of the St.Georges site. The St.Georges application is extant, and therefore if that development were to commence, there would be a requirement for this site to be provided entirely as affordable housing. On this basis, the provision of all 1-bed and 2-bed units would contribute significantly to local affordable housing need.

The proposal is therefore considered to comply with Policy H14 of the Thanet Local Plan, and Policy SP19 of the Draft Local Plan.

Ecology

A preliminary ecological appraisal has been submitted as part of this application. The report concludes that there is the potential for terrestrial mammals, such as Hedgehogs, to be present within the site. KCC Biodiversity have advised that in order to ensure that hedgehogs are not harmed during the construction phase of the development, precautionary mitigation measures are put in place, which includes any excavations needing to be left overnight either covered or fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm

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must also be covered at the end of each work day to prevent animals entering/becoming trapped. Subject to a safeguarding condition securing this mitigation, KCC raises no concerns with the impact upon terrestrial mammals.

The site has been overgrown for a number of years, and birds are often heard within the site during the nesting period. KCC has further advised that this habitat provides opportunities for breeding birds, and therefore any work to vegetation should be carried out outside of the bird breeding season (March to August) to avoid destroying or damaging bird nests in use or being built. The site has recently been cleared, with the owner confirming that this took place in the last few months, outside of the bird breeding season. The impact upon breeding birds is therefore considered to be acceptable and in accordance with the NPPF, with the provisions of the Wildlife and Countryside Act 1981 remaining in force.

Drainage

Southern Water has advised that a public sewer may be crossing the site, but that it may be possible to divert the foul sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense.

The drainage appraisal report submitted with the application states that the site is currently fully impermeable, and assumes that the site is currently served by a public surface water sewer, and proposes maintaining the existing discharge rate and connection. However, from visiting the site this is not correct, as the former building on the site and any associated hard surfacing has been removed, and the site is now overgrown with numerous tree stumps across the site, proving that the site has been permeable and therefore surface water drained within the site.

Southern Water further advises that there are no dedicated public surface water sewers in the area to serve this development, and that whilst the discharge of surface water to the public combined sewer network may be possible, considerations should be given to alternative means of draining surface water from the development.

A revised drainage strategy has been submitted showing the intention to provide a blue roof system, which will slow down surface water flows to the combined sewer. A storage tank will also be provided within or below basement level, to store the water to restrict the discharge rate to the combined sewer. No information has been provided on the drainage proposal for the basement level or the front gardens area, but KCC has advised that this could all be drained to the storage system, and as such it is likely that surface water drainage could be adequately dealt with within the site, preventing any increase in surface water runoff from the site and increased risk of flooding.

Subject to safeguarding conditions the impact upon flood risk is considered to be acceptable, and in accordance with the NPPF.

Contamination

The Environment Agency advises that the previous use of the site as a motor vehicle garage presents a high risk of residual contamination that could be mobilised during construction to

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pollute controlled waters. Controlled waters are sensitive in this location because the application site is located upon a Principal aquifer, which is overlain by clay.

A desktop study has been submitted with the application. The Environment Agency advises that the report submitted provides them with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development, however, safeguarding conditions are necessary to secure further detailed information, without which they would object to the application.

Subject to the safeguarding conditions, the impact upon the public water supply is considered to be acceptable, and in accordance with the NPPF.

Archaeology

KCC Archaeology has advised that extensive archaeological remains are recorded in the Westgate area. The sites of two iron age and Romano-British settlements are known within a 500m radius of the premises, one at Hartsdown park and one close to the nearby Royal Esplanade. Cropmarks of enclosures are also known directly south of the site. The general potential of the area relates principally to Bronze Age, Iron Age and Roman remains found along the coast line to the west and expected to continue in towards Margate. Recent investigations in close proximity to the present site have revealed remains of prehistoric date. While the site has seen previous development it is not known the extent to which the land below that development was previously disturbed and the present proposal involves substantial excavations including for a basement level. It is possible that archaeological remains will be disturbed by groundworks involved in development, and therefore a safeguarding condition requiring a programme of archaeological work is advised. Subject to this condition the impact upon archaeology is considered to be acceptable and in accordance with the NPPF.

Financial Contributions

Policy CF2 of the Thanet Local Plan requires that where a proposed development would directly result in the need to provide new or upgraded community facilities, a financial contribution towards the cost of such provision will normally be sought.

KCC have commented that a financial contribution of £864.28 is required for additional book stock at Margate Library in order to mitigate the impact of the additional borrowers generated from this development.

KCC have requested a financial contribution of £16,464 towards secondary education in the form of the phase 1 expansion of King Ethelbert Secondary School, in order to mitigate the impact from additional children occupying the development.

KCC have requested a financial contribution of £371.28 towards community learning, in the form of additional equipment and resources at the Margate Adult Education Centre.

KCC have requested a financial contribution of £1,179 towards youth services, in the form of additional equipment and resources at the Quarterdeck Youth Centre.

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KCC have requested a financial contribution of £2,643.84 towards social care provision, in the form of extra care provision in Thanet.

A contribution towards equipped play provision is required under Policy SR5 of the Thanet Local Plan. The nearest park to the application site is Hartsdown Park. There is a need for new or replacement play equipment at this park, and therefore a financial contribution of £13,125 is sought.

The agent has agreed to all of these financial contributions, which are to be secured through a legal agreement.

Special Protection Area Mitigation and Appropriate Assessment

Thanet District Council has produced the 'The Strategic Access Management and Monitoring Plan (SAMM)' which focuses on the impacts of recreational activities on the Thanet section of the Thanet Coast and Sandwich Bay Special Protection Area (SPA). The studies indicate that recreational disturbance is a potential cause of the decline in bird numbers in the SPA. The proposed development is 1km from the Thanet Coast and Sandwich Bay SPA, Ramsar and SSSI. Therefore, to enable the Council to be satisfied that the proposed development will avoid a likely significant effect on the designated sites (due to an increase in recreation) a financial contribution is required to contribute to the district wide mitigation strategy.

The tariff for this contribution is provided in the SAMM report, and for this development equates to £5,406. This mitigation means that the Council accords with the Habitat Regulations and an appropriate assessment has been undertaken. The applicant has agreed to this contribution, which will be secured through a legal agreement.

Heads of Terms

The legal agreement to be submitted in support of this application will contain the following commitments:

- Special Protection Area - £5,406
- Secondary Education - £16,464
- Libraries - £864.28
- Play equipment - £13,125
- Community learning - £371.28
- Social care - £2,643.84
- 30% affordable housing.

Conclusion

The site is considered to be non-previously developed land, given the time that has passed since the previous use, and the current condition of the land, which is now overgrown. The proposed development is therefore considered to be contrary to Policy H1 of the Thanet Local Plan; however this policy currently has minimal weight in determination due to the Council's current housing land provision.

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The proposed development would provide an additional 18no. flats towards the current housing need, which will provide a social benefit. It is also expected that all of these units would be provided as affordable units, if constructed in conjunction with the former St.Georges Hotel development site, which further enhances this social benefit. All of the flats meet the minimum space standards and provide a good standard of amenity for future occupiers, with the only disadvantage being the limited external amenity space; and for neighbouring occupiers the impact upon amenity, whilst balanced, is considered to be acceptable given the historic permissions granted on the site.

Economic benefits will be achieved through the construction of the development, and the occupation of a currently vacant boarded up site.

With regards to the environment, the retention of the site as open space is not considered to be necessary, as the site does not offer recreational benefits, and is not intrinsically valuable to the area. The proposed development is of a scale and height that will not detract from the area, and is of a design that is sympathetic to its surroundings. Whilst the site is sustainably located, off-street car parking is achieved at basement level. Overall the proposal is considered to enhance the character and appearance of the area.

It is therefore considered that the proposed development represents sustainable development in accordance with the NPPF, and it is therefore recommended that members defer and delegate the application for approval, as an acceptable departure to Policy H1 of the Thanet Local Plan, subject to safeguarding conditions, and the submission of a signed legal agreement securing the commitments as identified within the heads of terms of this report within 6 months of any resolution.

Case Officer

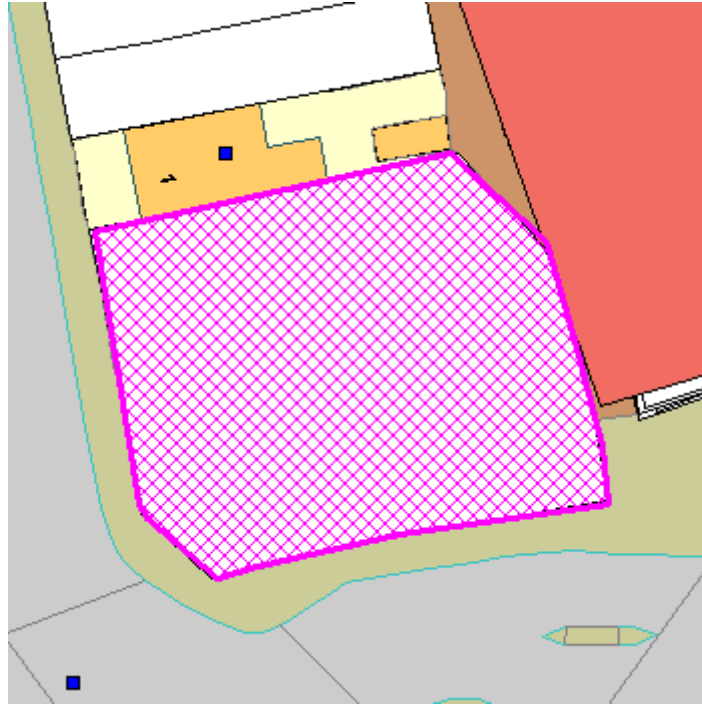
Emma Fibbens

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TITLE: F/TH/19/0889

Project Former Westonville Garage Canterbury Road MARGATE Kent

Scale:



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Amended Safeguarding Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

GROUND:

In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Purchase Act 2004).

- 2 The proposed development shall be carried out in accordance with the submitted application as amended by the revised drawings numbered 200.00 P5, 200.01 P6, 200.02 P5, 200.03 P5, 200.04 P5, 210.01 P4, 210.02 P4, 210.03 P4, and 210.04 P3, received 03 October 2019.

GROUND:

To secure the proper development of the area.

- 3 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

GROUND:

To ensure that features of archaeological interest are properly examined and recorded in accordance with Policy HE01 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 4 No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority (LPA). This strategy will include the following components:

1. A preliminary risk assessment which has identified:

- all previous uses,
- potential contaminants associated with those uses,
- a conceptual model of the site indicating sources, pathways and receptors and
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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Any changes to these components require the written consent of the LPA. The scheme shall be implemented as approved.

GROUND:

To ensure that the proposed site investigation, remediation and development will not cause harm to human health or pollution of the environment, in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 5 Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the LPA. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

GROUND:

To ensure that the proposed site investigation, remediation and development will not cause harm to human health or pollution of the environment, in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 6 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the LPA. The remediation strategy shall be implemented as approved.

GROUND:

To ensure that the proposed development will not cause harm to human health or pollution of the environment, in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 7 No infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

To ensure that the proposed development will not cause harm to human health or pollution of the environment, in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 8 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

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GROUND:

To ensure that the proposed development will not cause harm to human health or pollution of the environment, , in accordance with Policy SE03 of the Thanet Local Plan and the advice contained within the National Planning Policy Framework.

- 9 Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

o that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

o appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

GROUND:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, in accordance with Policy CC02 of the Thanet Local Plan and advice contained within the NPPF

- 10 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

GROUND:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, in accordance with Policy CC02 of the Thanet Local Plan and advice contained within the NPPF

- 11 No development shall take place until details of the means of foul drainage have been submitted to and agreed in writing by the Local Planning Authority. The development

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shall be carried out in accordance with such details as are agreed and thereafter maintained.

GROUND:

To protect the district's groundwater, in accordance with Policy SE04 of the Thanet Local Plan, and the advice contained within the National Planning Policy Framework.

- 12 Prior to the commencement of any development on site details to include the following shall be submitted to and approved by the Local Planning Authority and should be carried out in accordance with the approved details.

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage
- (f) Measures to control noise affecting nearby residents
- (g) Dust control measures
- (h) Access arrangements

GROUND

In the interests of highway safety and neighbouring amenity, in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF.

- 13 The gradient of the access hereby approved shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

GROUND:

In the interests of highway safety.

- 14 Prior to the first occupation of the development, the secure cycle parking facilities, as shown on approved drawing no. 200.01 Rev P6 shall be provided and thereafter maintained.

GROUND:

To promote cycling as an alternative form of transport, in accordance with Policy TP03 and SP43 of the Thanet Local Plan.

- 15 Prior to the first occupation of the development, the area shown on plan numbered 200.00 Rev P5 for the parking of vehicles shall be operational. The area approved shall thereafter be maintained for that purpose.

GROUND:

To provide satisfactory off-street parking for vehicles in accordance with Policy TP06 of the Thanet Local Plan and the advice contained within the NPPF.

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- 16 The development hereby permitted shall be constructed in accordance with the precautionary mitigation measures for hedgehogs as detailed within the Preliminary Ecological Appraisal (Middlemarch Environmental Ltd July 2019).

GROUND:

In order to safeguard protected species that may be present, in accordance with Policy SP30 of the Thanet Local Plan and advice as contained within the NPPF.

- 17 Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape works, to include
- species, size and location of new trees, shrubs, hedges and grassed areas to be planted;
 - the treatment proposed for all hard surfaced areas beyond the limits of the highway;
 - walls, fences, other means of enclosure proposed

shall be submitted to, and approved in writing by, the Local Planning Authority.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 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 first occupation; of any part of the development, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

GROUND:

In the interests of the visual amenities of the area and to adequately integrate the development into the environment in accordance with Policies QD02 and GI04 of the Thanet Local Plan

- 19 Prior to the first occupation of the development hereby permitted, electric vehicle charging shall be provided within the site in the form of one active space and 15no. passive spaces. Details of the location and design details of the active electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

To protect air quality, in accordance with Policy SE05 of the Thanet Local Plan and the advice as contained within the NPPF

- 20 Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external

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noise levels in back gardens and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

GROUND:

In the interests of amenity for future occupiers in accordance with Policy QD03 of the Thanet Local Plan and the advice contained within the NPPF

- 21 All new window and door openings shall be set within a reveal of not less than 100mm

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan

- 22 Prior the construction of the external surfaces of the development hereby approved of the materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan

- 23 Prior to the construction of the external surfaces of the development hereby permitted, details of the metal balustrading, and manufacturing details of the aluminium windows and doors, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

GROUND:

In the interests of visual amenity in accordance with Policy QD02 of the Thanet Local Plan

- 24 An airing cupboard shall be provided within each flat, as shown on plans numbered 200.01 Rev P6, 200.02 Rev P5, and 200.04 Rev P5, for the benefit of clothes drying facilities. The airing cupboards shall thereafter be maintained.

GROUND:

To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with Policies QD02 and QD03 of the Thanet Local Plan.

- 25 At least 10% of the development shall be built in compliance with building regulation part M4(2); and at least 5% of the affordable units shall be built in compliance with building regulations part M4 (3).

GROUND:

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In order to meet the needs of the District's ageing population, in accordance with Policy QD05 of the Thanet Local Plan.

- 26 The refuse storage facilities as specified upon the approved drawing numbered 200.01 Rev P6 shall be provided prior to the first occupation of the development hereby approved and shall be kept available for that use at all times.

GROUND:

To secure a satisfactory standard of development and in the interests of the amenities of the area, in accordance with Policies QD02 and QD03 of the Thanet Local Plan.

- 27 The development hereby permitted shall be constructed in order to meet the required technical standard for water efficiency of 110litres/person/day, thereby Part G2 Part 36 (2b) of Schedule 1 Regulation 36 to the Building Regulations 2010, as amended, applies.

GROUND:

Thanet is within a water stress area as identified by the Environment Agency, and therefore new developments will be expected to meet the water efficiency optional requirement of 110litre /person/day, in accordance with Policy QD04 of the Thanet Local Plan.

- 28 The development hereby permitted shall be constructed to a high standard of energy efficiency to the equivalent of Level 4 of the Code for Sustainable Homes, unless otherwise agreed in writing by the Local Planning Authority.

GROUND:

All new buildings and conversions of existing buildings must be designed to reduce emissions of greenhouse gases and have resilience to function in a changing climate, in accordance with Policy QD01 of the Thanet Local Plan.

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Agenda Item - NM/TH/22/0012 - Application for a Non Material Amendment to Planning Permission F/TH/20/1044 - 60 Northumberland Avenue, Margate

Planning Committee – 16th March 2022

Report Author Jenny Suttle, *Planning Officer*

Status ***For Decision***

Classification: Unrestricted

Ward: ***Cliftonville East***

Executive Summary:

This report concerns an application for non-material amendments to a previously approved planning application reference F/TH/20/1044 for the erection of a two storey 5 bed dwelling following demolition of the existing bungalow. The application is reported to members as the applicant is a Councillor.

The proposed alterations have been amended during the course of the application, and this non-material amendment application now proposes to allow the omission of the chimney stack, the omission of ground floor rear window to snug, and the alteration of the colour of the approved concrete interlocking roof tiles from red/brown to grey.

The report outlines the non-material procedure and the consideration for this application, concluding that the proposed change of the colour of the approved concrete interlocking roof tiles from red/brown to grey is considered to form a material change to the original permission.

Recommendation:

Members refuse the application for a non-material amendment to planning permission under reference F/TH/20/1044.

CORPORATE IMPLICATIONS

Financial and Value for Money	No implications.
Legal	The Planning Committee is not bound to follow the advice of Officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision. The reasons for any decision must be formally recorded in the minutes and a copy placed on file.
Corporate	The delivery of new housing through the Local Plan and planning applications supports the Council's priorities of supporting neighbourhoods ensuring local residents have access to good quality housing, and

	promoting inward investment through setting planning strategies and policies that support growth of the economy.
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.</p>

1.0 Background

- 1.1 The original planning application was for the erection of a two storey 5 bed dwelling following the demolition of the existing bungalow under reference F/TH/20/1044. This application was approved by the Planning Committee on 23/06/2021.
- 1.2 This application has been made to the Council under Section 96A of the Town and Country Planning Act 1990 to make a non-material amendment to the approved development. This non-material amendment application originally proposed to allow the omission of chimney stack, change roof over pool enclosure to flat retractable glazed roof, omission of small window to ground floor kitchen elevation, omission of ground floor rear window to snug, addition of bi-fold doors to rear of pool enclosure, enclosure of existing porch on ground and first floor to flat roof, main roof to be finished in thermoslate invisible solar thermal natural slate roof tiles.
- 1.3 The non-material amendment application has been amended through the application process, and the majority of proposed changes have been omitted. The amended non-material changes which are now being applied for are to allow the omission of the chimney stack, omission of ground floor rear window to snug and small window to ground floor kitchen elevation, and the alteration of the colour of the approved concrete interlocking roof tiles from red/brown to grey.
- 1.4 The application for a non-material amendment is reported to the Planning Committee as the applicant is a Thanet District Councillor.

2.0 Outline of Process

- 2.1 The non-material amendment procedure was introduced in 2009 as an addition to the Planning Act under Section 96A. This provided a mechanism to make non-material changes to existing planning permission through an application with a quicker decision time (28 days), to deal with new issues that may arise after permission has been granted (for example to resolve issues found during construction).
- 2.2 There is no statutory definition for what constitutes a 'non-material' change to a planning permission. The National Planning Practice Guidance (NPPG) states that

the definition is dependent on the context of the overall scheme and “what may be non-material in one context may be material in another”. Section 96A of the Planning Act states that “in deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.”.

- 2.3 The decision for the Council is whether the change is non-material or material to the planning permission. If the change is considered ‘material’ then a planning application would need to be submitted under Section 73 of the Planning Act for a variation of the plan condition to make the change (this is also known as a minor material amendment application).
- 2.4 As the application is not an application for planning permission, there is no requirement for public consultation under the non-material amendment procedure.

3.0 Analysis

- 3.1 The approved dwelling is a large two storey detached dwelling set under a hipped pitched roof which will address both Northumberland Avenue and Northdown Road, with a two storey gabled front projection to the Northumberland Avenue frontage. The approved material finish of the dwelling was white or cream finished render, red/brown concrete interlocking tiles and grey aluminium windows and doors.
- 3.2 The proposed alteration to omit the chimney will remove a design feature of the dwelling, however this feature is of a relatively modest scale and prominence in the context of the dwelling as a whole, and is predominantly visible from the rear elevation, with limited visibility from the principal elevation. As such, it is considered that the omission of this feature would be a minor alteration which would not materially alter the design and appearance of the dwelling.
- 3.3 The proposed ground floor window to the rear elevation is a modest element of the dwelling, located within the rear elevation, facing the rear boundary treatment, and has very limited visibility from the public realm. As such, the removal of this feature is also considered to constitute a non-material change. The ground floor window to the kitchen is a modest window located to the side elevation of the single storey side projection adjacent to the gable feature, which is considerably set back from the front elevation. The omission of this window, given its very modest size and the position and modest size of the projection to which it would be sited, is considered to form a non material change.
- 3.4 The approved colour of the roof tiles for the approved dwelling is red/brown, which accords with the established colour and appearance of the roof tiles to the properties within the surrounding vicinity of the application site, all of which incorporate red or brown roof tiles.

The proposed change in colour of the roof tiles from red/brown to grey is considered to constitute a marked change in colour which given the size of the roof, its elevated position and the prominent location of the dwelling, would be clearly apparent within the surrounding public realm from a range of viewpoints, and would clearly alter the appearance and design approach of the approved dwelling. The impact and prominence of this change would be heightened given the established red/brown roof tile colour and finish to the roofs of all properties in the surrounding vicinity of the application site.

3.5 It is therefore considered that the proposed colour change of the approved interlocking roof tiles from red/brown to grey within its context would materially alter the design and appearance of the approved scheme and constitute a material change to the original permission. Whether the proposed change is acceptable in regard to the impact on the character and appearance of the area is not a judgement that should be made under the non-material amendment process.. As such, it is recommended to Members that this non-material amendment application is refused and that the applicant submits a Section 73 (variation of condition) planning application if they wish to propose a change in the roof tiles from the approved development.

4.0 Options

4.1 Members refuse the application in accordance with the officer recommendation.

4.2 Members propose an alternative motion.

5.0 Recommendations

5.1 Officers recommend Members of the Planning Committee to agree to option 4.1.

Contact Officer:	Jenny Suttle, Planning Officer
Reporting to:	Emma Fibbens, Principal Planning Officer

Background Papers

MHCLG	https://www.gov.uk/guidance/flexible-options-for-planning-permissions
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