

**D08**

**OL/TH/18/0122**

**PROPOSAL:** Variation of condition 13 of planning permission OL/TH/16/0967 'Outline Application for the erection of 12 detached dwellings, with access via Southall Close including access, layout and scale' to allow amendments to layout including changes to vehicle turning heads

**LOCATION:** Land Adjacent 15 Southall Close Minster RAMSGATE Kent

**WARD:** Thanet Villages

**AGENT:** Mr Darren Shaw

**APPLICANT:** Mr R Gleeson

**RECOMMENDATION:** Defer & Delegate for approval to officers

Defer & Delegate for approval subject to receipt of a legal agreement securing required planning obligations and the following conditions:

1 Approval of the details of the scale and appearance of any buildings to be erected, and the landscaping of the site (hereafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

**GROUND:**

In accordance with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2 Plans and particulars of the reserved matters referred to in Condition 1 above, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

**GROUND:**

In accordance with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the 15th September 2020.

**GROUND:**

In accordance with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

4 The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

## GROUND:

In accordance with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

5 No development shall commence until a site characterisation and remediation scheme has been submitted to and approved in writing by the Local Planning Authority and the remediation scheme has been implemented in accordance with the approved details. The site characterisation, remediation scheme and implementation of the approved remediation scheme shall be carried out in accordance with the following criteria:

### (a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority, and shall include:

- o A survey of the extent, scale and nature of contamination
- o An assessment of the potential risks to:
  - Human health
  - Property
  - Adjoining land
  - Groundwaters and surface waters
  - Ecological system
- o An appraisal of remedial options and a recommendation of the preferred options

The site characterisation report shall be conducted in accordance with British Standards and current DEFRA and Environment Agency best practice.

### Submission of remediation scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme shall ensure that the site cannot be considered as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### (c) Implementation of Approved Remediation Scheme

The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of the development other than that required to carry out remediation. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in Planning Policy Statement 23 as a validation report) that

demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority

**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 the advice contained within the NPPF.

6 No development of the dwellings hereby permitted shall take place until details of the means of foul and surface water disposal, including details of the implementation, management and maintenance of any proposed Sustainable urban Drainage Systems, 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.

7 No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

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

**GROUND:**

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

8 Prior to the first occupation of the development, the area shown on the deposited plan for the parking and manoeuvring of vehicles shall be operational prior to any part of the development hereby approved being brought into use. The area agreed shall thereafter be maintained for that purpose.

**GROUND:**

In the interests of highway safety.

9 Prior to the first occupation of the development, the secure cycle parking facilities shall be provided and thereafter maintained.

**GROUND:**

In the interests of promoting increased cycling in accordance with policy TR12 of the Thanet Local Plan

10 Details to be submitted pursuant to Condition 1 above shall show development not exceeding the building heights indicated within the Design and Access Statement dated August 2015.

**GROUND:**

In the interests of visual amenity in accordance with Policy D1 of the Thanet Local Plan.

11 The development hereby approved shall be carried out in accordance with the submitted drawings numbered 017-05-0015 Rev A dated 20th February 2018.

**GROUND:**

To secure the proper development of the area.

12 Prior to the commencement of work on site, construction vehicle loading/unloading and turning facilities, and parking facilities for site personnel and visitors, shall be provided for the duration of construction.

**GROUND:**

In the interests of highway safety.

**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

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/>

Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Nex Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. For advice on how to proceed with providing access to superfast broadband, please contact [broadband@kent.gov.uk](mailto:broadband@kent.gov.uk)

This application is the subject of a legal agreement/unilateral undertaking.

**SITE, LOCATION AND DESCRIPTION**

The site is located on the northern boundary edge of Minster, outside of the defined settlement boundary. At present the site is unused and covered with a mix of scrub and self-

seeded trees. There is presently no vehicular access to the site albeit that the hardstanding from outside the nearest property (number 13 Southall Close) runs up to almost the boundary edge. The site is not covered by any specific landscape designations other than being within the countryside and is otherwise free of any other specific designations (such as tree preservation orders, heritage or flood risk). Minster train station is approximately 1 mile to the south of the application site.

### Surrounding Area

Surrounding the site to the south the area is characterised by residential development of varying scale and style. To the east are agricultural fields between Laundry Road (north east) and Foxborough Lane (south east). Further areas of fields are located on the western side of Tothill Street. Immediately north of the site is an area previously designated for roadside services within the adopted local plan. At present this area includes a petrol filling station with retail and a hotel, with a further hotel provided on the opposite side of Tothill Street fronting the A299. Policy TR7 from the saved local plan related to this area of land, however it was not one of the saved policies.

### RELEVANT PLANNING HISTORY

OL/TH/16/0967 - Outline application for the erection of 12 detached dwellings, with access via Southall Close including access, layout and scale. Approved 15th September 2017

### PROPOSED DEVELOPMENT

Outline planning consent was granted for the erection of 12 detached dwellings with access from Southall Close in September 2017 (OL/TH/16/0967 refers). The outline consent included access, layout and scale with appearance and landscaping reserved for future consideration. This application seeks to vary condition 13 of that consent to allow alterations to the layout of the proposed development.

The alterations are minor in nature essentially relating to alterations to and the enlargement of the access road/turning head, revisions to the orientation of dwellings within the plot to align within the amended road and amendments to the access to plots from the road together with alterations and to the location and hard surfacing to serve individual plots.

It is drawn to Member's attention that there have been no material changes in the policies of the Thanet Local Plan and the guidance of the National Planning Policy Framework since Members considered the original application in December 2016.

### DEVELOPMENT PLAN POLICIES

#### **Thanet Local Plan Policy (2006) Saved Policies**

D1 - Design principles

D2 - Landscaping

EP5 - Air quality

H1 - Housing provision

H4 - Windfall sites  
H8 - Size and type of housing  
H14 - Affordable housing provision  
CF2 - Development contributions  
SR5 - Doorstep and local play space  
TR12 - Cycling  
TR16 - Car parking provision

## NOTIFICATIONS

Letters were sent to adjoining residents, a site notice displayed and the application advertised in a local newspaper.

Two representations have been received raising the following concerns.

- Increase in traffic movements especially at peak times;
- Children play in the road; and
- Traffic calming measures should be introduced.

## CONSULTATIONS

**Southern Water** - No objection to the variation.

**Natural England** - No comment on the variation.

**KCC Biodiversity** - No comments as we do not consider that the modified layout will have any significant impacts upon ecology.

**KCC Highways and Transportation** - Initially objected to the application on the basis that plots 4 and 9 now have tandem parking arrangements which are not acceptable. Following the receipt of amendments to the application, advised that plot 4 still does not have independently accessible parking spaces and drivers using the parking spaces on plot 9 may have to reverse an excessive distance in order to turn around. However, the proposed road is to remain private and the above issues are therefore unlikely to have an impact on the existing highway. Therefore raise no objection in respect of the variations proposed, subject to the conditions previously requested.

**KCC Archaeology** - Evaluation trenching on the site has revealed limited archaeological potential on the site. No further archaeological measures are necessary with this amended application.

**KCC Economic Development**- 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.

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

Primary school provision - The proposal gives rise to additional primary school pupils during occupation of this development. This need, cumulatively with other new developments in the vicinity, can only be met through the expansion of Birchington Primary School, as the forecast primary pupil product in the locality results in the maximum capacity of local primary schools being exceeded. A contribution of £3,324 per 'applicable' house (x12) total £39,988 is required towards Phase 1 of the expansion of Birchington Primary School.

Secondary school provision - The proposal gives rise to additional secondary school pupils during occupation of this development. This need, cumulatively with other new developments in the vicinity, can only be met through the extension of existing Secondary School accommodation within the locality. The contributions from this development will be allocated towards Royal Harbour Secondary School Phase 1 works. Therefore the County Council requests a contribution of £4,115 per 'applicable' house (x12) total £49,380 towards Royal Harbour Secondary School Phase 1 works.

Libraries - This new development will generate new borrowers for the Library service. The County Council therefore requests £48.02 per household to address the direct impact of this development, and the additional stock will be made available locally.

Broadband - To provide: 'fibre to the premise' (Superfast fibre optic broadband) to all buildings (residential, commercial, community etc.) of adequate capacity (internal min speed of 100mb to each building) for current and future use of the buildings.

**TDC Waste and Recycling** - Support the proposal.

**TDC Environmental Health** - No objection subject to the imposition of a condition relating to air quality mitigation.

### COMMENTS

This application is reported to planning committee as it is considered to be a departure from Policy H1 of the Local Plan as the site is non-previously developed land.

The main considerations with regard to the planning application are the principle of development; the impact upon the character and appearance of the local area; the impact upon living conditions of neighbouring property occupiers and future occupiers; highway safety; biodiversity impacts; archaeology and drainage and flood risk considerations.

## **Principle**

In considering the planning application under section 38(6) of the Planning Act, any determination must be made in accordance with the development plan (in this case the Thanet Local Plan) unless material considerations indicate otherwise. The NPPF sets out at paragraph 215 that due weight should be given to relevant policies in existing plans according to the degree of consistency with the policies within the NPPF.

The site is non-previously developed land on the edge of the defined village boundary and as such within the countryside. The proposal is therefore contrary to Policy H1 which states that residential development on non-allocated sites will be permitted on previously developed land within the existing built up confines unless specified by other Local Plan Policies. This policy constraint, however, 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. In this case the site lies within the urban confines, adjacent to residential properties on Southall Close and Hill House Drive and Minster railway station is approximately 1 mile to the south of the site.

There has been no material changes to Local Plan policies or the guidance of the NPPF since Members considered the outline application in December 2016 and accepted that the development of this site for housing could be accepted in principle subject to the detailed consideration of all other material considerations including the impact upon the character and appearance of the area, the impact on living conditions of neighbouring properties and highways safety.

## **Character and Appearance**

The NPPF states that planning decisions should aim to ensure that developments will function well and add to the overall quality of the area; establish a strong sense of place; respond to local character and history; reflect the identity of local surroundings and materials; and are visually attractive as a result of good architecture and appropriate landscaping (paragraph 58). Policy D1 of the Thanet Local Plan outlines that the design of all new proposals must respect or enhance the character or appearance of the area particularly in scale, massing, rhythm and use of materials.

The appearance of the proposed dwellings is a reserved matter (and that would include the materials for their external surfaces). Scale was included in the original outline application with the proposed dwellings identified as two storey. Detached two storey dwellings are characteristic of the immediate area surrounding the application site. The agent has confirmed that the scale of the dwellings remains unaltered and, therefore, there is no change since the previous application was considered and approved by Members.

The original outline application was supported by an existing topographical survey and on the basis that the site appears relatively flat in both axis (there is a fall of approximately 3 metres north to south, and approximately 1 metre east to west) it is considered that the layout will not result in any specific issues regarding the proposed buildings appearing out of



character based on the submitted parameters. It would be considered appropriate to impose a condition requiring the submission and approval of finished floor levels.

The proposed changes to the layout are minor in nature and relate to alterations to the access road/turning head serving the proposed dwellings and alterations to individual plots as a result of the amendments to the road. It is not considered that these alterations would have any impact adverse impact on the character or appearance of the area beyond that from the previously approved scheme.

As such it is considered that the amended development of this site for up to 12 dwellings of two storey nature is acceptable in principle without harming the character and appearance of the surrounding area.

### **Living Conditions**

The application is in outline form only, with matters relating to appearance reserved for future consideration. It is not, therefore, fully possible for the impact of the proposed development on the living conditions of neighbours to the standard of living conditions for the future occupiers of the development at this stage. This would need to be fully assessed at the reserved matters stage.

Layout and scale are, however, matters to be considered at this stage. The nearest residential development are to the south and west of the site on Southall Close. The submitted plan indicates that the habitable windows for the proposed dwellings would be likely to be orientated to face predominantly north and south, with the exception of the two most eastern dwellings proposed. This would ensure that there are no habitable windows in the flank elevations that face towards numbers 2, 4, 6 and 15 Southall Close, which are the closest affected properties. The separation distances between the proposed dwellings and those within Hill House Drive is sufficient to ensure that there would be no detrimental overlooking between properties.

It is therefore considered that the site could be developed for 12 no. residential units without resulting in detrimental impact to neighbouring occupiers, with further consideration given at the reserved matters stage.

In relation to the provision of doorstep play space as set out in policy SR5, the individual dwellings are provided with adequate garden space to provide a safe play area for children. Adequate space would also be provided for clothes drying and refuse storage.

### **Transportation**

The number of dwellings proposed and the impact on the wider highway network has been approved by the Council under the previous outline application.

Local residents have raised concerns with the scheme in respect of highways on the basis of traffic movements especially at peak times, the fact that children use the streets adjoining the application site to play and that it would be appropriate to introduce traffic calming measures.

In respect of parking provision, whilst the application is in outline form means of access and layout are sought in detail. Accordingly, the submitted plan indicates the provision of a single garage for each dwelling with additional hardstanding in front for the parking of at least one car. Several of the plots have larger areas of hardstanding indicated to ensure that sufficient off-street parking is provided within the development to comply with the adopted parking standards. A suitably worded planning condition would require the approval of parking details prior to first occupation of any of the dwellings to address these concerns.

It is noted from KCC Highways comments that the amended scheme results in one of the dwellings (plot 4) not having an independently accessible parking spaces and drivers using the parking spaces on plot 9 may have to reverse an excessive distance in order to turn around. However, given that the road is to remain private, it is considered unlikely that there would be an adverse impact from the revised layout on the wider highway network.

Whilst noting the concerns raised by local residents with regards to traffic movements, children playing in surrounding roads and the need for traffic calming measures it is noted that Kent Highways have not raised any concerns regarding safety and have commented that the proposal generally is unlikely to result in a severe impact on the highway network. The vehicular in layout would not result in any additional vehicular movements from the outline development previously approved.

In conclusion it is therefore considered that the highway impacts of the development are acceptable and can be addressed through suitable conditions.

### **Ecology and Biodiversity**

The NPPF states at paragraph 109 that the "planning system should contribute to and enhance the natural and local environment by... minimising impacts on biodiversity and providing net gains in biodiversity where possible..." The NPPF then states at paragraph 118 that "if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."

An ecological appraisal and subsequent reptile report were provided by the applicant in support of the previous application. The summary appraisal confirmed that additional work would be required prior to any habitat clearance works but no additional surveys were required prior to determination of the application. Mitigation measures were proposed in the report in respect of landscaping, which would need to be addressed within any future reserved matters submission. The reptile report confirmed that no reptiles were found on site during the course of the surveys, and as such no additional works were required.

Both Natural England and KCC's Biodiversity Team have reviewed this amended scheme and raise no objection in relation to biodiversity or ecology from the development now proposed. It is, therefore, considered that the proposed development would not have a detrimental impact on biodiversity/ecology at the outline stage, although mitigation measures would need to be addressed within the reserved matters application.

### **Archaeology**

The Archaeological Officer at KCC has been consulted on the application and advises that evaluation trenching on the site has revealed limited archaeological potential on the site. On this basis, they conclude that no further archaeological measures are necessary with this amended application.

The impact upon archaeology is, therefore, considered to be acceptable.

### **Drainage and Flood Risk**

The application site is not within an area prone to flooding and is designated as being of low risk - accordingly the development would not pose a flood risk issue.

Southern Water and the Environment Agency were consulted on the application and have confirmed that they have no objection to amended proposal. A condition requiring the submission of details of the foul and surface water discharge from the proposed development and a sustainable drainage scheme for the site were imposed on the original outline application and it is considered to be reasonable and necessary to reimpose this condition.

### **Habitat Regulations**

Thanet Council has produced 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.

This concern was also highlighted by Natural England In their consultation response on the original outline application.

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 the district wide mitigation strategy. This approach has been accepted by Natural England.

It is considered that the SAMM request meets the test for inclusion within a S106 agreement. A contribution towards SAMM for a lesser amount was secured under the previous application. The contribution in this instance would be £408 per dwelling, totalling £4,896 for the 12 units proposed. The applicants have agreed to pay this contribution and this would be secured through the S106 agreement or undertaking to accompany any permission.

### **Financial Contributions**

Policy CF2 of the Thanet Local Plan states that where a proposed development would directly result in the need to provide new or upgraded community facilities, the Local Planning Authority will negotiate with the applicant for a contribution towards the costs of such provision, which is fairly and reasonably related in scale and in kind to the proposed development.

Requests for financial contributions need to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations (amended in 2014). These state that an obligation can only form a reason in the granting of planning permission if it meets all of the following criteria:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

Financial contributions would need to be secured via a S106 agreement or undertaking.

A request for developer financial contributions has been made by the Development Project Manager on behalf of Kent County Council towards primary school education in the form of £3,324 per 'applicable' house (x12) is required towards Phase 1 of the expansion of Birchington Primary School as well as £4,115 per 'applicable' house (x12) towards Royal Harbour Secondary School Phase 1 works. KCC have advised that these schools are the nearest schools to the application with a current project which would justify a need for financial contributions. An additional contribution of £48.02 per household has been requested towards library bookstock to mitigate the impacts of new borrowers from this development. As with the SAMM contribution, contributions were secured for primary and secondary education and libraries although the requests have now been revised to reflect updated costs.

It is considered that the above requests meet the tests for inclusion in a S106 agreement/undertaking and the applicant has agreed to pay the contributions.

### **Heads of Terms**

The legal agreement to be submitted in support of this application will contain the following commitments:

£39,888 towards primary education (phase 1 Birchington Primary School Expansion);  
£49,380 towards secondary education (phase 1 works Royal Harbour Secondary School);  
£576.19 towards library bookstock within Thanet; and  
£4,896 towards the Special Protection Area (Habitat Mitigation Contribution)

### **Conclusion**

As set out above, Outline planning consent was granted for the erection of 12 detached dwellings with access from Southall Close in September 2017 (OL/TH/16/0967 refers). The outline consent included access, layout and scale with appearance and landscaping reserved for future consideration. This application seeks to vary condition 13 of that consent to allow alterations to the layout of the proposed development.

The alterations are minor in nature essentially relate to the layout of the houses within their plots and an alteration to the turning ahead and parking arrangements to some of the proposed properties.

It is drawn to Member's attention that there have been no material changes in the policies of the Thanet Local Plan and the guidance of the National Planning Policy Framework since Members considered the original application in December 2016.

The site is non-previously developed land within the urban confines and is therefore considered contrary to the aims of saved Policy H1. This policy constraint, however, 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 considered to be sustainable in its location and the economic and social benefits outweigh the limited environmental impact of the proposals.

It is therefore considered that the proposal can be delivered in a manner that is in keeping with the established character and pattern of the neighbouring residential development and will not result in unacceptable impacts. On balance the need for housing in sustainable locations such as this site outweighs the need set out in saved Policy H1 of protecting non previously developed land. It is therefore recommended to Members that this application is deferred for approval by officers, subject to safeguarding conditions and the resolution of a legal agreement.

**Case Officer**

Annabel Hemmings

TITLE: F/TH/18/0122

Project Land Adjacent 15 Southall Close Minster RAMSGATE Kent

