

Planning Application F/TH/18/0576 – Land to the side of Mill Haven, Mill Row, Birchington

Planning Committee – 20th February 2019

Report Author **Lauren Hemsley, Senior Planning Officer**

Status **For Decision**

Classification: Unrestricted

Ward: **Birchington South**

Executive Summary:

This report concerns an application for the erection of 1 no. two storey 3 bed dwelling and associated parking. The application was reported to planning committee on the 21st November 2018. Members voted to defer to officers for the receipt of a construction management plan to include details of delivery times, routes and type of vehicles used, and then be brought back to members. The report outlines the provisions of the Construction Management Plan and how it will facilitate the construction of the proposed dwelling. The report recommends that the construction management plan and accompanying plan can adequately facilitate for the construction of the dwelling in the proposed location.

Recommendation:

Members approve the application for the erection of 1 no. two storey 3 bed dwelling and associated parking subject to safeguarding conditions, including a condition that requires the proposed development to be carried out in accordance with the Construction Management Plan received 21st December 2018, and the additional plan received 30th January 2019.

CORPORATE IMPLICATIONS

Financial and Value for Money

The Planning Committee is not bound to follow the advice of Officers. However, should Members decide not to accept the advice of Officers it should be mindful of the potential cost implications in doing so.

The advice from Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

The advice outlined is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for

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| | taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. |
| Legal | <p>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.</p> <p>The reasons for any decision must be formally recorded in the minutes and a copy placed on file.</p> <p>If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.</p> |
| 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 site currently forms part of the garden serving an existing bungalow called Mill Haven, with existing trees and shrubs. The site is on the edge of the urban confines and bounded by fields. There are a range of house types both within Mill Row, and neighbouring Mill Haven, with detached, semi-detached and terraced properties all visible, with no distinct prevailing character. The wider pattern of development demonstrates properties have either a direct street frontage or are set back within the plot.
- 1.2 The proposal is for the erection of a 1 no. two storey 3 bedroom detached family house on the land to the side of Mill Haven, which will utilise the existing access. The proposed dwelling is set back from the front boundary by 14m, and has been orientated with the front elevation facing in an easterly direction towards the access.

The dwelling is proposed to be constructed, with weatherboarding, a slate roof and upvc windows and doors. There is a parking courtyard to the front of the property with two parking spaces and provision for vehicles to turn. The property has a good sized garden with private amenity space to the rear and side, with provision made for refuse storage in the front garden, and clothes drying and cycle storage located within the rear garden. The amended plans show the originally proposed detached garage omitted, with space provided for two parking spaces, and the wild cherry tree retained.

- 1.3 The application was reported to planning committee on the 21st November 2018. Whilst members raised no concerns with the design, concern was raised about the practical construction of the proposal due to the narrow access road at Mill Row, which serves the site. Following discussion, members voted for the application to be deferred to allow officers time to seek details of a construction management plan, to include details of delivery times, routes and type of vehicles to be used. Following the receipt of these details, members requested that the application be brought back to planning committee for determination.

3.0 Analysis

- 3.1 The construction management plan was submitted on the 21st December 2018. The submission includes details of site operating times from 07:30 to 17:00 Monday to Friday and 08:00 to 13:00 on Saturdays if required. The main construction route to the site will not be along Mill Row but from the A28 as indicated on the plan submitted on 30th January 2019. Vehicles over 3 tonnes will not be permitted to use Mill Row to access the site. The applicant has secured an agreement with the neighbouring land owner for the temporary use of the access lane running adjacent to the eastern boundary of the application site.
- 3.2 Consultee comments have been received from KCC Highways and Transportation in response to the Construction Management Plan, and they have raised no objection providing the landowner agrees to the use of the land to provide the access and that TDC are satisfied that this can be conditioned. It is proposed to condition the Construction Management Plan and accompanying CEMP-Plan received on the 30th January 2019 in order to secure that the construction is carried out in accordance with these details. The council would be able to enforce against this condition if non compliance took place.
- 3.3 The KCC Public Rights of Way team also responded to the Construction Management Plan and raised no objection to the proposed route, providing no material is stored on the footpath TM32 which crosses the field and joins up with Mill Row.
- 3.4 Neighbouring occupiers have been notified of the submission of the Construction Management Plan, and were provided with 14 days to comment. A letter has been received from a neighbouring occupier raising concerns about the access route proposed, on the basis that they were not convinced that the owner of the farmland had granted permission for use of the access. The submission to the Council by the agent includes confirmation that the applicant has an agreement with the neighbouring landowner for the use of the land for access during the construction

process. On the basis of the information submitted, which states that the neighbour has agreed to the use of the land, it would be reasonable to apply a condition requiring that the development is constructed in accordance with the construction management plan. If the agreement of the neighbouring landowner was not forthcoming, an application to either remove or vary this condition would be required in order for development to commence. The neighbouring letter also raises concern in relation to rights of way issues from Mill Row and other private legal matters but any legal matters for the landowner and onward sales is not a planning consideration. The letter also raises concern with the number of houses which would be served from Mill Row, but again, Kent Highway Services have not raised an objection to the application.

3.5 The Construction Management Plan is considered to create an acceptable route to the site to enable construction, with a banksman to be allocated to all traffic movement on and off the A28, a wheel wash facility, a layby area, a 4m wide access width, loading and unloading adjacent to the site and a temporary turning area. The Construction Management Plan will be conditioned in order to ensure compliance with the agreed route and provisions during the construction of the proposed dwelling.

3.4 The proposed Construction Management Plan is considered to be acceptable and in accordance with the NPPF, which requires that safe and suitable accesses to sites are achieved. It is therefore recommended that Members approve the application, subject to safeguarding conditions, including compliance with the construction management plan.

4.0 Options

4.1 Members approve the application in accordance with the officer recommendation, subject to safeguarding conditions as listed within Appendix 1, and an additional Construction Management Plan condition detailed as follows:

The development hereby permitted shall be carried out in accordance with the Construction Management Plan received on 21st December 2018 and the Construction Route Plan received on 30th January 2019.

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.*

4.2 Members propose an alternative motion.

5.0 Recommendations

5.1 Officers recommend Members of the Planning Committee to agree option 4.1.

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| Contact Officer: | Lauren Hemsley, Senior Planning Officer |
| Reporting to: | Emma Fibbens, Principal Planning Officer |

Annex List

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| Appendix A | Planning Committee Schedule item 21st November 2018 |
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