

Planning Application F/TH/22/0364 – Gore End Farm, Minnis Road, Birchington

Planning Committee – 15th March 2023

Report Author: Iain Livingstone, Planning Applications Manager

Planning Reference: F/TH/22/0364

Site Address: Gore End Farm Minnis Road Birchington

Applicant: St John's College (Cambridge)

Status: For Decision

Classification: Unrestricted

Previously Considered by: Planning Committee 15 February 2023

Ward: Birchington South

Executive Summary:

This report concerns a planning application for the erection of 4No dwellings (3No 3-bed and 1No 4-bed), conversion of the cow shed to 1No. 3-bed dwelling and threshing barn into 2No dwellings (1No 3-bed and 1No 5-bed) together with hard and soft landscaping and associated works.

The application was reported to the Planning Committee on the 15th February. At this meeting, a motion to approve the application subject to safeguarding conditions was voted down and, following an adjournment, a motion was passed for a site visit with further clarifications to be provided by officers in a subsequent planning meeting on the impact of the proposal on archaeology, drainage, trees and biodiversity. This report provides a summary of those matters and discusses

The application is reported back to the Planning Committee for determination.

Recommendation:

Members approved the application for planning permission under reference F/TH/22/0364 subject to the safeguarding conditions at Annex 1 and additional condition 36:

No development shall take place until the full construction and operation details of the proposed Traffic Light system, including the extents of any adoptable area, have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with the highway authority. The development shall be carried out in accordance with the approved details.

GROUND:

In the interests of highway safety.

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 Central 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 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. There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.

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.

If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.

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

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>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy and 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>
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1.0 Background

- 1.1 Members considered the application at the Planning Committee meeting on the 15th February 2023 for the erection of 4No dwellings (3No 3-bed and 1No 4-bed), conversion of the cow shed to 1No. 3-bed dwelling and threshing barn into 2No dwellings (1No 3-bed and 1No 5-bed) together with hard and soft landscaping and associated works (planning reference F/TH/22/0364). The application was recommended for approval subject to safeguarding conditions, however the motion to approve the application fell when put to a vote. Following an adjournment, a motion for a site visit was passed with clarification to be provided on the impact of the proposal on archaeology, drainage, trees and biodiversity.
- 1.2 The site is an allocated housing site under Policy SP16 as part of the strategic housing allocation at Birchington for up to 1,600 dwellings and associated infrastructure. Listed building consent has been granted under reference L/TH/22/0869 for the works to the two listed structures: the threshing barn and the cow shed. - the cow shed is not listed in its own right, but is curtilage listed.

2.0 Points of Clarification

Archaeology and Heritage

- 2.1 The planning application was accompanied by a desk-based archaeological assessment by Canterbury Archaeological Trust Ltd, which included an analysis of the Historic Environment Record and historic maps of the area. This recommended an archeological field evaluation, in consultation with KCC. The report has been reviewed by the KCC Archaeological officer as part of the consultation process. He stated agreement with the conclusions of the report and recommended a condition be imposed to require the field evaluation to be carried out prior to the commencement of development. This is proposed as condition 9 on the recommended list of conditions to accompany an approval. There is no suggestion or evidence that the site holds archaeological importance to require trial trenching or a full programme of works prior to the determination of the application or that development of the site should be precluded in its entirety.
- 2.2 The applicant has agreed to a condition which would require a programme of building recording in accordance with a written specification prior to development commencing on site, and this information would be appended to the planning case file and be publicly available. Any significant archaeological discoveries within the field work would be recorded on the Historic Environment Record by KCC which is also publicly available.

- 2.3 Policy HE01 of the Local Plan relates to Archaeology and states that the Council will promote the identification, recording, protection and enhancement of archaeological sites, monuments and historic landscape features, and will seek to encourage and develop their educational, recreational and tourist potential through management and interpretation. The application, through the submitted information and proposed conditions, would comply with this policy. It is not considered by officers that there is any cogent planning ground to oppose the development on these grounds.

Drainage

- 2.4 The topography of the site slopes away from Minnis Road, where concern has been raised about existing surface water flooding underneath the railway bridge in storm events. The area is considered to be at high risk of surface water flooding currently and therefore any development on the site must account for surface water drainage in its design. Condition 3 of the recommended approval outlines how no development can take place until details of the means of surface water disposal has been submitted to and approved in writing by the Council. Condition 22 states that the development shall incorporate measures (to be outlined in the submission for condition 3) to prevent discharge of surface water onto the public highway. Condition 31 requires full details of hard and soft landscaping on the site, which will in part be dictated by the surface water drainage strategy on the site. The road surface is stated in the application documentation to be permeable bound gravel surface, which will allow the water to permeate through the sub-base and into the ground, however the detail on how this affects the drainage of the site will be assessed through the submission under conditions 3 and 31.
- 2.5 These conditions are considered sufficient to mitigate any potential impact on surface water drainage above the existing level, by mandating appropriate mechanisms for ensuring that flood risks from development to the future users of the land and neighbouring area are minimised in accordance with Policy CC02 of the Local Plan and the guidance within the National Planning Policy Framework.
- 2.6 Condition 3 would also secure approval of foul water drainage which would be separate to surface water drainage, with Southern Water having a statutory obligation under Section 94 of the Water Industry Act for the disposal and off-site treatment of sewerage. This would include any network improvements or reinforcements that might be required in liaison with the developer.

Trees

- 2.7 The application was accompanied by an Arboricultural Tree Survey and Impact Assessment Report and proposes the removal of 23 trees in total across the site, including trees on the boundary with Minnis Road (from the creation of a new access point), with individual sycamore trees in close proximity to the cow shed to be removed and two groups of trees on the southern boundary of the site. A landscape strategy plan has also been submitted identifying 23 replacement trees, with the exact position and species to be determined through the submission of landscaping

details at condition stage. None of the trees on the site identified for removal are protected by, or considered worthy of protection through, a Tree Preservation Order.

- 2.8 All but 4 trees proposed are shown in communal areas or the reptile mitigation area, meaning that these would be less likely to be subject to pressures from occupants for removal. Condition 33 requires the submission of a landscape management plan to detail including long term design objectives, management responsibilities and maintenance schedules for all landscape areas prior to any dwelling being occupied, with condition 32 requiring any trees that die, are removed or become seriously damaged or diseased within 5 years of completion to be replaced in the next planting season with others of a similar size and species. These conditions are sufficient to safeguard the landscaping and ensure that trees are integrated into the redevelopment of the site in accordance with paragraph 131 of the NPPF.

Biodiversity

- 2.9 The previous committee report outlines how the development would result in the loss of habitat suitable for reptiles and that the applicant has submitted a Reptile Survey and Mitigation Strategy. This proposes mitigation by enhancing the areas of land outside the works footprint (close to the railway line and to south of plots 3 to 6) and through the implementation of a biodiversity focused management plan. The strategy proposes a translocation process prior to ground works, where reptiles would be trapped between April-September (expected to be 30 sessions) and moved to the receptor sites where brash/log piles are to be created, and a hibernaculum (a refuge built from logs/branches/rocks) in the area adjacent to the railway line. This area will also contain a multi-chamber Bat Box, with two additional boxes located on the side of plots 4 and 6. This is due to the loss of the threshing barn as a day roost by a single common pipistrelle bat.
- 2.10 KCC Biodiversity, as the Council's appointed specialist consultants on biodiversity, reviewed the submitted assessment and have stated that sufficient information has been provided with no objection to the strategies. These are conditioned by condition 10 and 11, including an environmental management plan required for the reptile receptor site area. In combination with the landscaping conditions, this is adequate mitigation for the impact of the development on biodiversity, in accordance with Policy SP30 of the Local Plan.

Other matters

- 2.11 Correspondence has been received by the Council subsequent to the previous committee meeting outlining an alternative scheme for the site. Members must only consider the application before them, assessing the current proposal against planning policy and national guidance on its own merits. Any alternative scheme should be entirely disregarded when considering the current application.
- 2.12 As outlined in the "Protocol for the Guidance of Planning Committee Members and Officers" as part of the Council's constitution, if the Planning Committee is minded to refuse planning permission against officer advice the Planning Committee is required

to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of members of the Planning Committee at the point of refusal. In addition, the Council is at risk of having costs awarded against it, if, subsequently on appeal, it is unable to justify each ground of refusal. 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. One of the aims of the costs regime, outlined by the National Planning Practice Guidance, is to “encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay”.

3.0 Conclusion

3.1 The application site forms part of a strategic housing allocation within the local plan and there is no objection to the principle of residential use of the site, nor would the proposal prejudice the wider allocation. The development would result in economic and social benefits that come from the creation of dwellings and environmental benefits from the conversion and use of designated heritage assets. The impact on the highway network is mitigated by the traffic controlled access junction, with planning conditions safeguarding against a detrimental impact on ecology, archaeology, contaminated land, flooding and drainage. As the Council cannot demonstrate a 5 year supply of housing, the presumption in favour of sustainable development applies to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is the view of officers that there are no demonstrable adverse impacts that outweigh the benefits, therefore permission should be granted.

4.0 Options

- 4.1 Members approve 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 option 4.1.

Contact Officer:	<i>Iain Livingstone, Planning Applications Manager</i>
Reporting to:	<i>Bob Porter, Acting Director of Place</i>

Background Papers

Annex 1	Committee Report F/TH/22/0364
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