

Planning Application F/TH/22/0919 - Land Rear Of 20 To 22 Westfield Road Birchington Kent CT7 9RW

Meeting	Planning Committee – 13th March 2024
Report Author:	Duncan Fitt, Planning Officer
Planning Reference:	F/TH/22/0919
Site Address:	Land Rear Of 20 To 22 Westfield Road Birchington
Applicant:	Mr A Ali
Status	For Decision
Classification:	Unrestricted
Previously Considered by	Planning Committee 15th March 2023
Ward:	Birchington South

Executive Summary:

This report concerns an application submitted under reference F/TH/22/0919 for the erection of 1no two bed single storey dwelling that was brought to Planning Committee on the 15th March 2023 with a recommendation to Defer and Delegate the application for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution. Members voted to agree the officer recommendation.

A Unilateral undertaking to secure the SPA contribution has not been received and, therefore, the application is reported back to members due to the time that has passed since the original decision.

There are no changes to the proposed development previously considered by members (see report within Annex 1).

Recommendation:

Members refuse the application for the following reason:

The proposed development will result in increased recreational pressure on the Thanet Coast and Sandwich Bay Special Protection Area (SPA), and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI), and in the absence of an acceptable form of mitigation to relieve the pressure, the proposed development would be contrary to paragraph 187 and 188 of the NPPF and the Habitats Directive.

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

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.

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.

In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.

1.0 Background

- 1.1 Members considered this application under planning reference F/TH/22/0919 for the erection of 1no two bed single storey dwelling.
- 1.2 The application was brought to the Planning Committee on 15th March 2023 and members voted to defer and delegate the application under reference F/TH/22/0919 for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution within 6 months of this resolution.

2.0 Analysis

- 2.1 The application for the erection of 1no two bed single storey dwelling was brought to Planning Committee on 15th March 2023 and recommended to Members to defer and delegate for decision once the Council received a signed Unilateral Undertaking for contributions.
- 2.2 Members voted to defer and delegate the application under reference F/TH/22/0919 for approval following receipt of a signed Unilateral Undertaking securing the SPA contribution within 6 months of this resolution.
- 2.3 The signed Unilateral Undertaking securing the required contribution has not been received and as more than 6 months has elapsed since the resolution of the planning committee the application must be reported back to members for a decision to be issued.
- 2.4 As the legal agreement securing the SAMM contribution has not been received it is recommended that Members refuse the application.
- 2.5 There have been no changes to the assessment of the other material planning considerations set out in appendix 1

3.0 Options

- 3.1 Members refuse the application for the following reason:

The proposed development will result in increased recreational pressure on the Thanet Coast and Sandwich Bay Special Protection Area (SPA), and Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest (SSSI), and in the absence of an acceptable form of mitigation to relieve the pressure, the proposed development would be contrary to paragraph 187 and 188 of the NPPF and the Habitats Directive.

- 3.2 Members propose an alternative motion.

4.0 Recommendations

- 4.1 Officers recommend Members of the Planning Committee to agree option 3.1.

Contact Officer: *Duncan Fitt, Planning Officer*
Reporting to: *Annabel Hemmings, Principal Planning Officer*

Annex List

Annex 1: Committee Report F/TH/22/0919