

**PLANNING COMMITTEE – 12 JANUARY 2023****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 22/504256/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a one-bedroom dwelling to replace collapsed chalet bungalow (part retrospective).		
<b>ADDRESS</b> 6 Elm Way Eastchurch Kent ME12 4JP		
<b>RECOMMENDATION</b> - that planning permission is Refused		
<b>SUMMARY OF REASONS FOR REFUSAL</b> The proposed development would represent an unacceptable form of residential development within the countryside, in an unsustainable location. Furthermore, the scheme would result in the loss of holiday accommodation, and no justification has been provided for this loss. In addition, the internal layout would result in a poor level of amenity for future occupiers. The site also lies within 6km of the Swale SPA and no mitigation in the form of a SAMMS payment has been received.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The application has been referred to committee by Cllr MacDonald		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN</b> Eastchurch	<b>COUNCIL</b>
		<b>APPLICANT</b> Wendy Streeter
		<b>AGENT</b> The JTS Partnership
<b>DECISION DUE DATE</b> 29/11/22	<b>PUBLICITY EXPIRY DATE</b> 10/11/22	<b>CASE OFFICER</b> Megan Harris

**Planning History**

20/505587/FULL

Continued use as a residential dwelling including raising ridge height and creating 2 no. new bedrooms at first floor level.

Refused Decision Date: 02.02.2021 Appeal Dismissed (see below)

20/501855/LDCEX

Lawful Development Certificate (Existing) for use as a residential dwelling.

Refused Decision Date: 30.06.2020

SW/75/1192

HOLIDAY CHALET

Approved pre 1990 Decision Date: 10.02.1976

**Appeal History:**

21/500060/REF

Continued use as a residential dwelling including raising ridge height and creating 2 no. new bedrooms at first floor level.

Dismiss or Dismiss -Notice Upheld/Varied Decision Date: 28.10.2021

## 1. DESCRIPTION OF SITE

- 1.1 6 Elm Way is a rectangular shaped plot of land located immediately to the north of the large holiday park complex near Eastchurch. Although located within a small pocket of largely residential development between the coast and the defined holiday park, the site and surroundings are designated as being within the countryside. The plot was previously occupied by a holiday chalet which was in a dilapidated state and has been recently demolished. Construction of a new building took place on the site without the benefit of planning permission earlier this year. The external shell of the building is now complete, with internal works still to be completed. The applicant is currently living in a mobile home immediately adjacent to the site to the north east, which does not have planning permission and as such is in breach of planning control. This matter is under separate investigation by the Planning Enforcement team.
- 1.2 The plot measures roughly 20m x 30m. It is assessed from an unmade track (Elm Way) leading from First Avenue, and the site sits on lower ground than the track. The surrounding area is characterised by detached dwellings and holiday parks. The site lies adjacent to, but not within the allocated area for holiday parks under Policy DM4 of the Local Plan.
- 1.3 The planning history for the site sets out that planning permission for the former holiday chalet was granted under SW/75/1192. On this application, the following condition was imposed:

*(iii) The chalet shall only be occupied for the period 1st March to 31st October in any one year.*

*Grounds: The chalet is considered unsuitable for permanent residential occupation and is located within a rural area of the Kent Development Plan (1967 Revision) where it is not intended that permanent residential development shall take place.*
- 1.4 More recently, an application for a lawful development certificate was submitted and refused under application 20/501855/LDCEX for use of the chalet as a permanent residential unit.
- 1.5 A further application (20/505587/FULL) was then submitted to convert the building to a permanent dwelling as well as the addition of a first floor to create a larger floorspace. This application was refused and dismissed at appeal.
- 1.6 In dismissing the appeal, the Inspector concluded that the site was in a remote location where residents would be reliant on cars for access to employment, services and facilities, and in the least preferred location for development under the council's settlement strategy. The appeal scheme would result in the loss of holiday accommodation, contrary to the local plan. The Inspector also dismissed the appeal on the impact on neighbouring amenities, harm to the character and appearance of the

area through the first floor extensions proposed, and failure to mitigate against impacts on the SPA through the SAMMS mitigation strategy.

## **2. PROPOSAL**

- 2.1 This application seeks part retrospective planning permission for the erection of a new residential unit at the site, which will be occupied on a permanent basis.
- 2.2 The unit is single storey and sits roughly in the same position as the demolished chalet. It has a footprint of 6.6m x 17.8m and incorporates a veranda on the western side of the building. The structure has a flat roof with a height of 3m. Internally, a bedroom, living area, kitchen and shower room are provided. The elevations of the building will be covered with cedar cladding.
- 2.3 During the course of the application, it was noted that the site location plan didn't include all of the site within the red line edge. The northern part of the site which connects to Elm Way was not included within the red line. The applicant was informed of this, and an amended site plan was provided. As the red line was enlarged, a full re-consultation was carried out.

## **3. PLANNING CONSTRAINTS**

- 3.1 In the countryside outside the built-up area confines

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF)
- 4.2 National Planning Practice Guidance (NPPG)
- 4.3 Development Plan: The following policies from Bearing Fruits 2031: The Swale Borough Local Plan 2017 are relevant:

**ST1** Delivering sustainable development in Swale  
**ST3** The Swale settlement strategy  
**ST6** The Isle of Sheppey area strategy  
**CP2** Promoting sustainable transport  
**CP3** Delivering a wide choice of high-quality homes  
**CP4** Requiring good design  
**CP7** Conserving and enhancing the natural environment  
**DM3** Rural economy  
**DM4** New holiday parks or extensions to existing parks  
**DM7** Vehicle parking  
**DM14** General development criteria  
**DM19** Sustainable design and construction  
**DM21** Sustainable drainage / flood mitigation  
**DM28** Biodiversity conservation

Supplementary Planning Guidance

The SBC Car Parking Standards Supplementary Planning Document (SPD) which is pursuant to Policy DM7 of the Bearing Fruits Local Plan Adopted 2017 was adopted by the Council in June 2020 and is a material consideration in the determination of planning applications.

## **5. LOCAL REPRESENTATIONS**

5.1 Letters were sent to neighbouring occupiers and nine representations were received, supporting the application on the following grounds:

- The surrounding properties are all residential
- The development is in keeping with the type of properties in the area
- Always thought this was a residential property
- It will look much better than the existing(previous) bungalow and will improve the area.

5.2 Cllr MacDonald called the application into committee, setting out that he supported the application.

## **6. CONSULTATIONS**

6.1 Eastchurch Parish Council – Originally objected to the use as permanent residential accommodation due to unstable conditions and cliff erosion in the area. However in a further response the parish council raise no objection.

6.2 Environmental Health – No adverse comments to make.

6.3 Natural England – No objection subject to securing mitigation in respect of impacts upon the SPA..

## **7. APPRAISAL**

### **Principle of Development**

7.1 The site is located within the countryside beyond the built-up area boundary of Eastchurch. The main relevant planning policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the defined built-up area boundaries, development will not be permitted unless supported by national policy and where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings, and the vitality of rural communities. Residential development is not normally permitted in such locations.

7.2 However, the Council cannot currently demonstrate a five-year supply of housing land. The position for 2020/2021 that Swale now has an identifiable 4.8 years supply of housing land.

- 7.3 In addition, the current adopted local plan is now 5 years old and, in relation to policies for the supply of housing, is “out-of-date”. This means that performance against housing delivery is no longer assessed against the annual local plan figure of 776 but that of the “standard method”. For Swale, this means that the target will increase to 1,048 (or whatever the standard method figure is for that monitoring year).
- 7.4 For these reasons, paragraph 11 of the NPPF applies (the tilted balance). Paragraph 11 d) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 7.5 The following sections consider the impacts of the development, and the conclusion applies these against paragraph 11 of the NPPF. In considering the impacts of the development, considerable weight is given to the findings and conclusions of the appeal decision for the recent development on the site that was dismissed.

#### **Location of development**

- 7.6 The site is located approximately 1.3km from the village confines of Eastchurch. Eastchurch, which is classed under policy ST3 of the Local Plan as a Tier 4 Rural Local Service Centre that provides a range of services to the local population. The supporting text sets out that its less accessible location to main centres of population limits opportunities to minor development aimed at meeting local needs.
- 7.7 Policies CP2 and CP3 of the Local Plan state that new development will be located in accordance with policy ST3 to minimise the need to travel for employment and services and to facilitate sustainable transport. The remote location of this site is such that I consider that occupants would be heavily reliant on private motor vehicles to access employment, services and facilities. I give particular weight to the recent appeal decision on the site which reported in paragraphs 9 and 10 that the site was not in a suitable location for residential development and failed to minimise the need to travel.
- 7.8 Paragraph 68 of the NPPF encourages development of small housing sites, but at sub-paragraph c) it says local planning authorities should “*support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites **within existing settlements for homes***” (my emphasis in bold). This does not, to my mind, support the development of this site which lies outside any settlement, and which will be heavily reliant on the use of the car.
- 7.9 Paragraph 79 of the NPPF states that housing in rural areas should be located where it will enhance or maintain rural communities, and that planning policies should identify opportunities for villages to grow and thrive. Given the distance of the site from Eastchurch village, I do not consider that the proposal is supported under this paragraph.
- 7.10 Taking the above into account and the clear parallels between the scheme recently refused on appeal and the current application for a single dwelling, I consider the site is

not in a suitable location for residential development due to its remote location from the nearest identified settlement, contrary to the Local Plan and NPPF.

### **Loss of tourist facility**

- 7.11 The proposal would give rise to the loss of holiday accommodation in a rural area. Policy DM3 of the Local Plan seeks to encourage the sustainable growth and expansion of business and enterprise in the rural area and prohibits residential development which would reduce the potential for rural employment and/or community facilities, unless it is demonstrated there is no demand for such purposes, or they would be undesirable or unsuitable. Policy ST6 relates to development on the Isle of Sheppey and requires proposals to support the existing tourism offer, amongst other things. Policy CP1 seeks to safeguard or enhance Swale's principal tourism assets and consolidate or widen the Borough's tourism potential.
- 7.12 The former building on the site was granted planning permission in 1975 for use as holiday accommodation. Such use would offer a modest level of support to the rural tourism-orientated businesses in the surrounding area, and it is clear from the identified planning policies that the tourism industry is a key part of the local economy for the Island. It is also clear from policy DM3 of the Local Plan that rural employment / businesses should not be lost to residential uses unless it is clearly demonstrated that there is no demand, or that they would be unviable, undesirable or unsuitable. Loss of this use will also reduce the existing tourism offer in an area. No evidence has been presented to demonstrate that the holiday use is unviable, undesirable or unsuitable. Members will also note that in paragraphs 11 and 12 of the recent appeal decision on the site, the Inspector found the loss of a tourism facility to be unjustified and unacceptable. The loss of holiday accommodation would be contrary to policies CP1, DM3 and ST6 of the Local Plan.

### **Impact upon character and appearance of area**

- 7.13 Policy ST3 of the Local Plan seeks to ensure that development in the countryside protects and enhances the intrinsic value, landscape setting, tranquillity and beauty of the countryside. Policy DM16 of the Swale Local Plan 2017 supports alterations and extensions to existing buildings where they reflect the scale and massing of the existing building, preserve features of interest and reinforce local distinctiveness.
- 7.14 Policy CP4 of the Swale Local Plan 2017 requires development proposals to be of high-quality design and to be in keeping with the character of the area. It states that particular regard should be paid to the scale, height, materials, detailing, mass, bulk, articulation and site coverage of any future proposals.
- 7.15 The site is located immediately adjacent to a designated holiday park area and within a cluster of largely single storey dwellings located between the coast and the holiday park.
- 7.16 The design of the new building is similar in scale to the previous chalet at the site and reflects the character of the surrounding development in the area, being single storey in nature. Although designed with a flat roof, taking into account that many other

surrounding properties have flat roofs, I have no concerns in this regard. The footprint of the building is larger than the holiday chalet previously at the site, at 120sqm (including the veranda) compared to 85sqm, however given the scale of the plot, I am satisfied that the scale of the new dwelling is acceptable and sits comfortably on the site. The use of cedar cladding is acceptable, given the mixture of materials present on surrounding buildings.

- 7.17 Views of the development from public vantage points will be limited due to the positioning of the dwelling within the site, on lower ground behind the large entrance gates to the north.
- 7.18 On the basis of the above, I do not consider the appearance or scale of the unit will cause harm to the visual amenities of the site or wider visual amenities of the countryside, when compared to the previous building on the site.

### **Living conditions**

- 7.19 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration will be given to the impact of the proposed development upon neighbouring properties. Any new proposed schemes should not result in significant overshadowing through a loss of daylight or sunlight, give rise to an unreasonable loss of privacy, or result in an unreasonable loss of outlook or in excessive noise or odour pollution.
- 7.20 On the living conditions for future residents, in terms of floor space I note that the internal size of the unit (approximately 72 sqm) is compliant with the Department for Communities and Local Government: Technical Housing Standards – Nationally described space standards and is acceptable in this regard. The majority of rooms within the dwelling would have suitable levels of sunlight and ventilation, however I am concerned about the positioning of the bedroom. The sole window serving this room is located on the eastern elevation, roughly 2.2m from the eastern boundary of the site. The land to the east is on much higher ground, and this change in land levels severely restricts the amount the light this window receives. Outlook from the window is also poor due to the proximity to the boundary. Taking into account this window serves a habitable room, I consider the proximity to the boundary will cause unacceptable harm to the amenity of occupiers of the unit.
- 7.21 The applicant has confirmed that the existing shrubs and vegetation located along the eastern boundary will be cut back in order to provide more light into the bedroom. Whilst this may increase the light available in the room, I still consider the bedroom window lies too close to the boundary and will have a poor outlook and inadequate amount of natural light.
- 7.22 Turning to consider the impact to neighbours, I note the building lies approximately 15m from No. 2 Elm Way to the west and 12m from No. 32 First Avenue to the south. Taking into account the boundary treatments and the fact the new dwelling is single storey, I do not envisage the development will have any harmful impacts upon amenity at these neighbouring properties. A holiday park lies to the east and taking into account this site

sits on higher ground, I do not consider there will be any harmful impacts to the park from the new dwelling to this site.

- 7.23 Overall, whilst the proposal would not harm the amenities of neighbouring properties, I consider it would not provide satisfactory living conditions for future occupants, contrary to policies DM14 and CP4 of the Local Plan.

### **Highways**

- 7.24 Policy DM7 states that parking requirements in respect of any new proposed developments should be in accordance with Kent County Council vehicle parking standards.

- 7.25 In accordance with the adopted SBC Parking Standards SPD, one parking space should be provided for a one bed property in this rural location. The parking area to the north west of the building can provide this space, and as such I have no concerns in this regard and the proposal is considered to accord with policy DM7 of the Local Plan 2017 and the NPPF

### **SAMMS Payment**

- 7.26 The site lies within 6km of the Thames, Medway and Swale Estuary Special Protection Areas and Ramsar sites and subject to the approval of any new dwelling a contribution would be required to mitigate against the potential impacts of the development upon that protected area in accordance with the Council's standing agreement with Natural England. This is otherwise referred to as a SAMMS payment. Whilst the development previously contained a holiday chalet, the proposed introduction of a permanent residential use at the site will likely result in increased recreational disturbance to the SPA, and as such the SAMMS payment is required here. As the payment has not been made or secured, the application fails to provide a means for mitigation of impacts upon the SPA and is therefore unacceptable under policies CP7 and DM28 of the Local Plan.

### **Other Matters**

- 7.27 Many neighbours have stated that the site has been in residential use previously and as such this application for a new permanent dwelling is acceptable. Whilst I appreciate that the holiday chalet previously on the site was possibly occupied on a permanent basis in the past, in breach of condition (3) on application SW/75/1192, it has clearly been demonstrated via the refused Lawful Development Certificate application (ref. 20/501855/LDCEX) that the residential use of the old chalet was not lawful, and the lawful use of the site remains as holiday accommodation, albeit the holiday chalet itself has been demolished.

## **8. CONCLUSION AND FINAL BALANCING**

- 8.1 The proposed development would result in the erection of a new dwelling in the countryside in a location where such development is not normally permitted under the Council's settlement strategy. I have identified that the site is remote from the nearest



identified settlement and from services and facilities and is in an unsustainable location for such development meaning that occupants would be heavily reliant on the private car, contrary to policies ST1, ST3, CP2 and CP3 of the Local Plan, and paragraphs 68 and 79 of the NPPF. Given the poor location of the site and conflict with both the Local Plan and NPPF, I give strong weight to this harm. In addition, I have identified that the proposal would result in the loss of holiday accommodation without any justification, contrary to policies CP1, ST6 and DM3 of the Local Plan. Given this would be limited to the loss of one tourism facility, I give moderate weight to this impact. I also give strong weight to the findings of the appeal inspector, given the very recent date of this decision and the identical residential use sought under both proposals.

- 8.2 The scheme would also result in a poor level of amenity for occupants and fails to mitigate harmful impacts through additional recreation pressure on the Special Protection Areas and Ramsar sites, which should also be afforded significant weight.
- 8.3 In terms of benefits, the proposal would make a very limited contribution to the supply of housing and towards helping to address the Council's shortfall. It would also provide a limited amount of short-term employment through the construction of the development. Due to the small scale of the development and its very small contribution to housing supply, I give limited weight to this benefit.
- 8.4 Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development, to which I afford much greater weight, significantly and demonstrably outweigh the limited benefits of the proposal.
- 8.5 On this basis, I recommend planning permission is refused.

**9. RECOMMENDATION – REFUSE for the following reasons:**

- (1) The application site lies outside of any built-up area boundary and remote from services and facilities, meaning that residents would be reliant upon private motor cars to access services, facilities and employment. This would result in an unsustainable form of residential development, contrary to policies ST1, ST3, CP2 and CP3 of Bearing Fruits – The Swale Borough Local Plan and the National Planning Policy Framework.
- (2) The proposal would replace an existing unit of holiday accommodation. The application fails to demonstrate that the site is unsuitable or undesirable for such tourism use or that there is no demand for such purposes, and as such would result in the loss of holiday accommodation to the detriment of the local economy and rural tourism. This would be contrary to policies CP1, ST6, and DM3 of Bearing Fruits 2031 - The Swale Borough Local Plan, and the National Planning Policy Framework.
- (3) The proposed development, by reason of its siting and orientation, would provide a poor outlook and poor levels of natural light for the east facing window serving the bedroom to the dwelling, resulting in unacceptable harm to the living conditions of future occupiers. The development is therefore considered contrary to policies DM14 and CP4 of the adopted Swale Borough Local Plan 2017.

- (4) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site and would be contrary to the aims of policies ST1, CP7, DM14, and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 174, 180 and 181 of the National Planning Policy Framework.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2021 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

