

2.2 REFERENCE NO - 23/503564/FULL		
APPLICATION PROPOSAL Change of use of and conversion of existing shed into overnight holiday let (retrospective).		
ADDRESS Manor House Orchard Gate Berkeley Close Dunkirk Faversham Kent ME13 9FB		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions and the payment of the SAMMS tariff with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE Change of use		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
Case Officer Claire Attaway		
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Dunkirk	APPLICANT Mr Mark Greenwood AGENT OSG Architecture Ltd
DECISION REGISTERED 03/08/23	TARGET DATE 15/02/24	
BACKGROUND PAPERS AND INFORMATION: 23/503564/FULL Change of use of and conversion of existing shed into overnight holiday let (retrospective). Manor House Orchard Gate Berkeley Close Dunkirk Faversham Kent ME13 9FB (midkent.gov.uk)		

1. SITE LOCATION AND DESCRIPTION

- 1.1 Manor House is a traditionally designed 3-bed detached dwelling with a detached garage (approx. 4.0m wide x 5.2m deep) and generous parking area to the side. To the rear of the dwelling is a good sized garden with a shallow pitched roofed shed (approx. 2.7m high) that was erected in 2017. The outbuilding is currently being used as a one-bed holiday let and garden shed.
- 1.2 The site occupies a corner plot within a cul-de-sac which is accessed off Berkeley Close. The site lies within the Local Plan defined built-up area boundary of Boughton under Blean and is surrounded by other residential properties.

2. PLANNING HISTORY

- 2.1 **17/501045/NMAMD** Non-material amendment granted on 29.03.2017 to move entrance porch from left of Manor House to existing entrance position. Replacing porch with window at ground floor. Slight enlargement of proposed first floor window to match those existing in form and size.
- 2.2 **15/500012/SUB** Submission of details granted on 15.12.2015 pursuant to conditions 3 - details of external finishing materials and joinery. 4 - details of existing and proposed finish floor levels of all units. 5 - details of mid-construction dust suppression measures.

6 - details of disposal of foul and surface waters. 7 - details of the foundation designs. 8 - details of hard and soft landscape works. 9 - detailed scheme of construction vehicle access. 11 - details of measures to prevent mud/debris deposits on public highway. 17 - details of bat protection strategy. 20 - details of tree protection measures.

- 2.3 **SW/14/0397** Planning permission granted on 09.07.20144 for the construction of six new dwellings along with the restoration of the existing Manor House.

3. PROPOSED DEVELOPMENT

- 3.1 Retrospective planning permission is sought for the change of use of and conversion of the existing shed into a one-bed holiday let. The building is situated approx. 0.5m away from the side boundary shared with No. 5 Orchard Gate. The accommodation comprises of a bedroom (16.8m²), a kitchenette (2.3m²) and ensuite (1.6m²). The remaining part of the building is used as a garden shed.
- 3.2 The existing parking area provides 3 off-road parking spaces (2.7m wide x 5m long) with an additional covered parking space (2.7m wide x 5m long) within the garage.
- 3.3 The application is supported by a small sites metric that recommends one of the shed roofs is refitted as an intensive green roof to provide a Biodiversity Net Gain (BNG) of 13.06% for the site.

4. CONSULTATION

- 4.1 One round of consultation was undertaken with neighbouring occupiers adjoining the site who were notified in writing, and a site notice was displayed at the site. Full details of representations are available online.
- 4.2 A total of 4 representations were received in relation to the consultation. 3 objected to the application on the following summarised grounds:
- There is a restrictive covenant which prevents the running of a business on this housing development, or to permit any matter which may become a nuisance, annoyance, disturbance, or inconvenience to adjacent occupiers.
 - The 2 visitor car parking spaces in the cul-de-sac are normally taken by guests staying in holiday accommodation.
 - This lodge was specifically built to be used as an Air B and B and is therefore not a conversion of an existing shed.
 - When guests arrive, several cars are parked on kerbs in Berkeley Close so as to allow them to park on the drive.
 - There are two holiday lets in Orchard Gate which results in on-street parking.
- 4.3 1 representation supported the application on the following summarised grounds:
- Our home is directly adjacent to the shed and we have not experienced any disturbance or impact on our residential amenity.

- At the time of booking, holiday guests are instructed of where to park - on the allocated space on the driveway so we do not have any issues with parking availability in the cul-de-sac.

4.4 **Dunkirk Parish Council:** Four consultations have been carried out, first on 9 August 2023 when the application was first submitted, second on 25 September 2023, third on 9 October 2023 with respect to a revised block plan and lastly on 5 December 2023 when additional information was submitted. They maintain an objection to the application on the grounds of overdevelopment, and cannot see that 4 spaces will meet the requirements of the residential house and that of the business when they previously required 5 to make it viable.

5. REPRESENTATIONS

5.1 **Natural England:** No objection subject to strategic mitigation (SAMMS) payment in respect of possible increased recreational disturbance to The Swale SPA/Ramsar site.

5.2 **KCC Ecology:** No objection subject to a condition requiring details on the type of green roof to be installed, and how it will be maintained.

5.3 **Kent Police:** Stated this application falls outside of their scope to comment on.

5.4 **Swale Environmental Health:** No objection.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Local Plan 2017:** Policies:

ST1 Delivering sustainable development in Swale

ST3 The Swale settlement strategy

CP4 Requiring good design

DM3 The rural economy

DM7 Vehicle parking

DM14 General development criteria

DM16 Alterations and extensions

DM24 Conserving and enhancing valued landscapes

DM28 Biodiversity and geological conservation

6.2 **Supplementary Planning Documents (SPD):**

- Parking Standards May 2020
- The Swale Landscape Character and Biodiversity Appraisal 2011.

6.3 **Boughton under Blean and Dunkirk Neighbourhood Plan:**

Policy H8: *Proposals for new residential development in the Plan area shall ensure that adequate on-site car parking provision is made in accordance with the Borough Council's approved Parking Standards SPD (adopted June 2020).*

Policy E8: *A minimum level of at least 10% Biodiversity Net Gain is required for proposed new developments in the Plan area against baseline conditions for the development sites concerned.*

7. **ASSESSMENT**

7.1 This application is reported to the Committee because Dunkirk Parish Council has objected to the proposal. Considering these comments and the proposal that has been submitted, the committee is recommended to carefully consider the following points: -

- Principle of development
- Transport and highways
- Living conditions
- Ecology

Principle

7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

7.4 Policy ST 3 of the Swale Local Plan 2017 supports the principle of development within the built-up area boundary of established towns and villages within the Borough. The site is situated within the built-up area boundary of Boughton and therefore the principle of development is accepted. Further to this, policy DM3 supports rural business development, including tourism and leisure, with an emphasis on the appropriate re-use of existing buildings. The NPPF states that a positive approach should be taken to sustainable development to promote a prosperous rural economy.

7.5 Whilst the building is located in the built up area boundary, the proposal will re-use an existing building and support the economy, not only for the applicant, but most likely for nearby businesses and local tourist attractions both in the built up area and the countryside. On that basis, the conversion of an existing outbuilding into holiday let accommodation complies with policies ST3 and DM3 of the Local Plan.

Transport and highways

7.6 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.7 The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

7.8 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

7.9 The SBC Parking Standards SPD recommends parking requirements based upon the location of the site. As the site is located in the built up area boundary it is reasonable to apply the ‘suburban’ parking standards, which for 3 bedroom dwellings is 2 to 3 parking spaces. In addition to the existing dwelling, the holiday let use, being of a small scale and with 1 bedroom should be provided with 1 parking space. The gravelled parking area within the curtilage of Manor House can comfortably accommodate 3 parking spaces, as shown on the submitted drawings. In addition to this, there is a timber framed garage on the site.

7.10 As a result of the above, if the ‘suburban’ parking standards were applied, then the site would be able to accommodate the lower end of the requirements on the drive without the use of the garage. If the upper end of the parking standards were applied then the garage would be required to be used. It is noted that the garage is undersized when compared to the dimensions as set out in the SPD. As such, if a worst case scenario was applied (i.e. the upper end of the parking requirements and the garage was not used), there is the possibility that one vehicle would be required to park on the highway. In this respect, it is considered that one additional vehicle being parked in the surrounding residential streets would not give rise to significant harm to highway safety and convenience.

7.11 While it is noted that concerns have been raised in relation to the parking provision on site, for the reasons set out any impact is considered to be acceptable.

7.12 The amount of traffic generated by the proposal is unlikely to result in significant stress on local parking, and as such the proposal is considered to be in accordance with Policy DM7 of the Local Plan.

Living conditions

7.13 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Specifically, 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. Policy DM16 also requires that alternations or extensions to existing buildings protect residential amenity. The outbuilding is situated behind the garage and lies alongside the private rear garden to No.5 Orchard Gate.

- 7.14 The levels of noise generated from the proposed use will not be dissimilar from typical domestic noise and it is important to note that the Council's Environmental Health team have raised no concerns. The proposed change of use does not require any additional windows or doors to be installed and the existing openings face out towards the private amenity space of the applicant. Therefore, using the building as holiday let accommodation will not introduce privacy issues.
- 7.15 On that basis, there is found to be no identifiable harm to the living conditions of neighbouring properties and as such the proposal complies with policy DM14 and DM16 of the Local Plan.

Ecology

- 7.16 The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar sites.
- 7.17 An Appropriate Assessment has been carried out and adopted by the Council as the Competent Authority, which concludes that the proposed development will not adversely affect the integrity of the Swale SPA and Ramsar site, subject to a mitigation contribution of £314.05. This matter will need to be dealt with before any planning permission can be issued.
- 7.18 Under the Natural Environment and Rural Communities Act (2006), the authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions for the purpose of conserving biodiversity. Furthermore, the National Planning Policy Framework states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and delivering net gains in biodiversity'. The National Planning Policy Framework states 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'.
- 7.19 National planning policy aims to conserve and enhance biodiversity and encourages opportunities to incorporate biodiversity in and around developments. Under the Natural Environment and Rural Communities Act (2006), "every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of these function, to the purpose of conserving biodiversity".
- 7.20 In terms of the Local Plan policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated. Policy E8 of the BDNP requires at least a 10% BNG to be achieved within the site.
- 7.21 The BNG metric proposes to achieve a BNG of 13.06% by creating a biodiverse green roof on the existing shed. The KCC Ecologist is satisfied with the conclusions of the BNG metric and advises that additional information can be submitted as a condition of

planning permission. On this basis, the proposal satisfactorily deals with the requirements for a minimum BNG of 10% set out in the BNDP.

Other matters

- 7.22 The neighbour objection refers to a restrictive covenant for properties situated within Orchard Gate however this is a private legal matter. It is therefore not a material planning consideration and would have no bearing on the consideration of the planning application.

8. CONCLUSION

- 8.1 The proposal will re-use an existing outbuilding to provide holiday let accommodation in a sustainable location. The proposal therefore complies with national and local plan policies that promote tourism. If a shortfall in parking requirements was to occur this would be by a marginal amount, the result of which would not give rise to any serious harm to highway safety or convenience. The SBC Environmental Health team raise no concern with the proposal. The small sites metric demonstrates that the proposal will meet the relevant objective of the BNDP in respect of BNG. On this basis, it is recommended that planning permission be granted, subject to the conditions which have been included below and the receipt of the SAMMS payment.

CONDITIONS

- (1) The holiday let hereby permitted shall be used solely for the purpose of holiday accommodation; shall not be used by any person or persons as their sole or main residence and the accommodation shall not be occupied by any person or group of persons for more than four weeks in any calendar year.

Reason: In recognition of the applicant's intention and to protect the amenity of the area.

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings:

Site Block Plan & Site Location Plan 23-1413-01 Rev C
Ground Floor Plan 23-1413-02
North and South Elevations 23-1413-04
East and West Elevations 23-1413-05

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) The area shown on the site block plan (23-1413-01 Rev C) as vehicle parking spaces shall be provided before continued occupation of the holiday let hereby permitted, and this area shall at all times be retained for the use of the occupiers of the dwelling / holiday accommodation. No permanent development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these areas.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (4) The holiday let hereby approved shall not be further occupied until it has been provided with one electric vehicle charging point in accordance with the following specification:

All Electric Vehicle chargers provided must be to Mode 3 standard (providing a minimum of 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

- (5) The holiday accommodation unit hereby permitted shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and shall not be further occupied unless the Notice for that unit of accommodation of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

- (6) Within three months of planning permission being granted, a green roof plan shall be submitted to the Local Planning Authority to demonstrate a biodiversity net gain of a minimum of 13.06%. The plan shall provide details on the type of green roof to be installed, how it will be maintained and details of the species within the green roof. The species list shall include native species. The plan shall be implemented within three months of the details being approved.

Reason: In the interests of encouraging wildlife and biodiversity.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) 2023 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.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*" The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

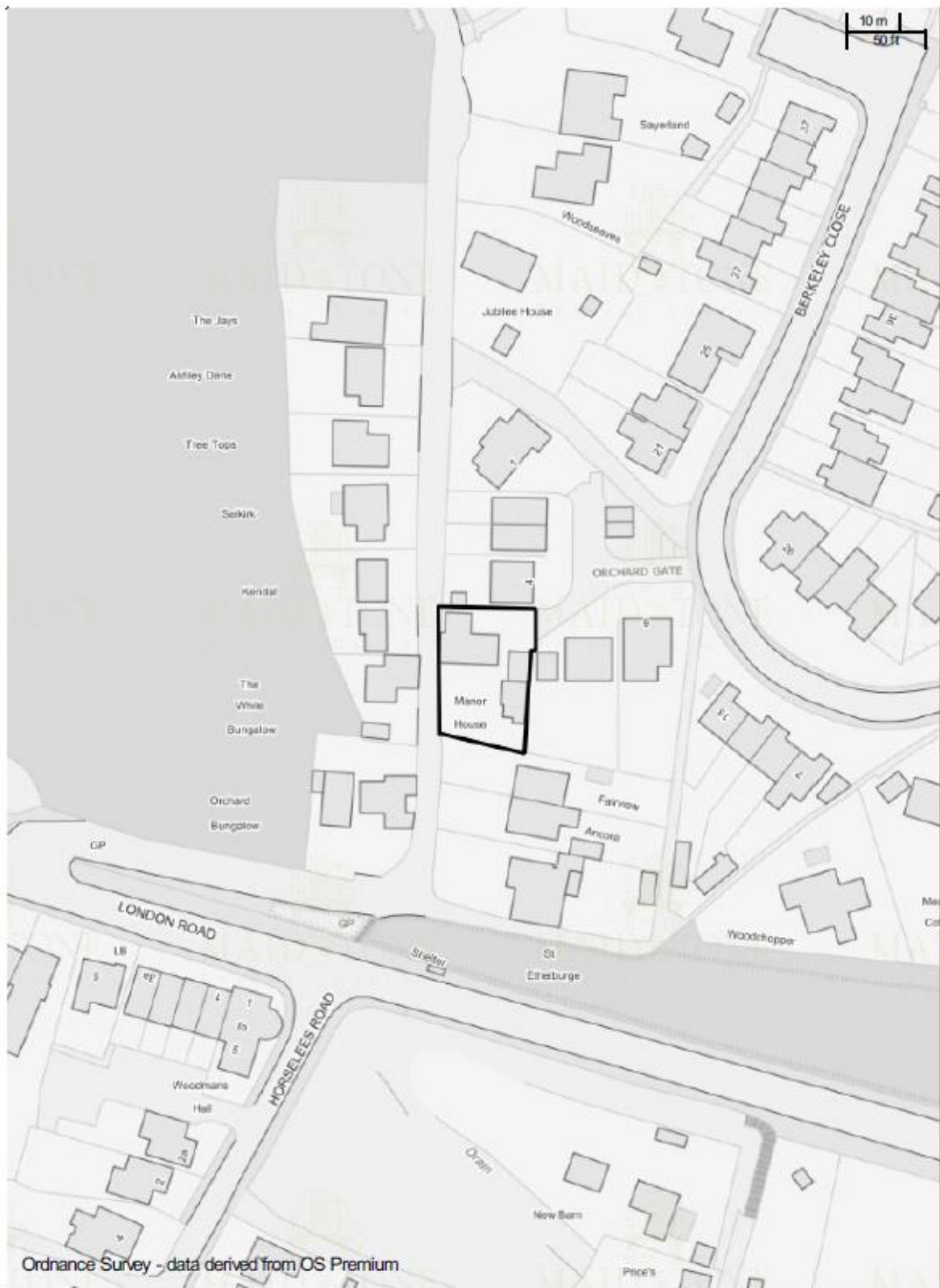
Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the unit is occupied.

Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England (via the NKEPG), I conclude that off-site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the

standard SAMMS tariff (which will be required to be secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.



Ordnance Survey - data derived from OS Premium

23/503564/FULL - Manor House Orchard Gate Berkeley Close Dunkirk ME13 9FB
Scale: 1:1000
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