

**PLANNING COMMITTEE – 3<sup>rd</sup> April 2025****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO</b> 24/502403/FULL		
<b>PROPOSAL</b> Demolition of existing outbuildings and erection of a self-build, two storey, one-bedroom dwelling with associated parking.		
<b>SITE LOCATION</b> 11 Linden Close Sittingbourne Kent ME10 1HF		
<b>RECOMMENDATION</b> Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions as set out in the report, 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.		
<b>APPLICATION TYPE</b> Full application		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The owner of the property is an employee of Swale Borough Council		
<b>CASE OFFICER</b> Guy Martin		
<b>WARD</b> Homewood Ward	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr M Falanger  <b>AGENT</b> Architectural Designs
<b>DATE REGISTERED</b> 14.06.24	<b>TARGET DATE</b> 11.04.25	
<b>BACKGROUND PAPERS AND INFORMATION:</b>  Documents referenced in report are as follows: -  All drawings submitted  The full suite of documents submitted pursuant to the above application are available via the link below: -  <a href="https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SEVDZ4TYKCH00">https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SEVDZ4TYKCH00</a>		

1. SITE LOCATION AND DESCRIPTION

- 1.1 11 Linden Close is an end of terrace property located within the built confines of Sittingbourne. The area comprises a number of terraced rows and semi-detached houses of similar design with amenity areas to front, many of which have been converted to hard standing to enable parking.

## 2. PLANNING HISTORY

2.1 None.

## 3. PROPOSED DEVELOPMENT

3.1 This application seeks planning permission for the demolition of existing outbuildings and erection of a self-build, two storey, one-bedroom dwelling with associated parking.

3.2 The proposed dwelling would measure circa 5.3m wide by 7.9m deep with a height matching that of the attached property, 11 Linden Close. The materials would comprise of yellow stock brickwork, concrete interlocking roof and upvc windows and doors comprising of materials to match the adjacent property.

## 4. CONSULTATION

4.1 Mid-Kent Environmental Health – Recommend a condition be imposed controlling construction hours to protect the amenity of neighbouring dwellings during the construction phase.

## 5. REPRESENTATIONS

5.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers and a notice was displayed at the application site.

5.2 No comments were received.

## 6. DEVELOPMENT PLAN POLICIES

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

ST1	Delivering sustainable development to Swale
ST3	The Swale settlement strategy
ST5	The Sittingbourne area strategy
CP3	Delivering a wide choice of high-quality homes
CP4	Requiring good design
DM7	Vehicle Parking
DM14	General development criteria
DM16	Alterations and extensions
DM19	Sustainable Design and Construction
DM28	Biodiversity and geological conservation

Supplementary Planning Guidance (SPG):  
Parking Standards Supplementary Planning Document

## 7. ASSESSMENT

7.1 This application is reported to the Planning Committee as the owner of the property is employed by Swale Borough Council. Considering the scheme that has been submitted, the Committee is recommended to consider the following points:

- Principle of development
- Character and Appearance
- Living Conditions

- Parking
- Sustainable Design and Construction
- Biodiversity

### **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 ST3 of the Swale Local Plan 2017 states that the principle of any new proposed development which is located on land within established towns and villages in the borough will be supported in policy terms.
- 7.5 The site is located within the built-up boundary of Sittingbourne, which is identified as the primary focus for growth in the Borough. The principle of the proposed development is therefore considered acceptable and in accordance with policies ST1 and ST3 of the Local Plan, subject to the considerations set out below.
- 7.6 The application has been submitted as a self build / custom build housing project. It is known that the intended occupier of the home has had close control and input into the design and the submission of the proposals. Accordingly, it is considered that the proposal would meet the definition of a self-build house. A condition is recommended to require the dwelling to be constructed as a self build dwelling.
- 7.7 In light of the Council's housing land supply position, the NPPF indicates that planning permission should be granted for the proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

### **Character and Appearance**

- 7.8 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Local Plan reinforces this requirement.
- 7.9 The proposed development would demolish an existing single storey brick structure located to the southwest of no. 11 Linden Close. The structure itself is of no particular architectural merit and its demolition is acceptable.
- 7.10 The proposed new dwelling would extend to the southwest of no. 11 and essentially elongate the terrace. The dwelling would be consistent with the height, design, form and materials on the existing terrace, such that it would appear as a visually compatible addition to the streetscene. The only real difference of note between the proposed dwelling and the wider terrace would be to the rear elevation, where the proposed dwelling would extend circa 0.5m to the rear of no. 11. Nonetheless, this would represent a modest design difference that would have no adverse impact on the visual quality of the streetscene.

- 7.11 The dwelling would be appropriate in respect of the choice of materials, scale, height and massing, and would have sufficient regard for the character, setting and context of the site.
- 7.12 In order to facilitate the parking of two vehicles to the front of the existing property, and one vehicle to the front of the new dwelling, the amount of hardstanding to the front would be extended across an existing grassed area within the application site. Given the existing presence of hardstanding at the property and in the wider streetscene, the extension of that parking area is considered to be acceptable.
- 7.13 On the basis of the above, the proposals would have an acceptable impact on the character and appearance of the area, in accordance with policies CP4 and DM14 of the Local Plan and the NPPF.

### **Living Conditions**

- 7.14 Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas and due consideration should 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. Policy DM 16 also requires that alterations or extensions to existing buildings protect residential amenity.

#### *Existing residents*

- 7.15 The properties that would be most directly affected by the proposal are 11 and 13 Linden Close and 30 Kent Avenue. Taking into account the separation distance and position of the proposed dwelling to the north of 13 Linden Close and 30 Kent Avenue, and the modest projection beyond the rear of 11 Linden Close, the proposed dwelling would not give rise to any unacceptable loss of daylight nor outlook, and neither would it unacceptably overbear or cause adverse overshadowing to either of these properties. The proposal is sufficiently distant from other neighbouring property such that it would not have any unacceptable impact on their living conditions in respect of the above matters.
- 7.16 With regards to overlooking of neighbouring property, the windows to front would overlook existing public vantage points. Windows to rear would be channelled down the garden and, given the location of the proposals in the context of neighbouring property, would not give rise to any unacceptable overlooking of the most private amenity space of neighbouring occupiers. There are no first floor windows to the side elevation. There is, however, a window associated with a staircase that would sit directly on the boundary with no.13. Subject to a condition requiring it to be obscure glazed and non-opening, it would not lead to any unacceptable overlooking of the neighbouring private amenity space.
- 7.17 In consequence it is not considered that the proposal would have an adverse impact upon the living conditions of neighbouring occupiers meeting the requirements of policy DM14 of the Local Plan.

#### *Future occupiers*

- 7.18 New development is expected to offer future occupiers a sufficient standard of accommodation. The dwelling meets the national minimum space standards for a one bedroom dwelling. All habitable rooms are served by windows which will provide

adequate outlook, light and ventilation. The rear garden is of a sufficient size and will provide a good standard of outdoor amenity space. The garden left to serve current and future occupiers of 11 Linden Close would be acceptable post development.

- 7.19 The new dwelling will not be subject to any significant overshadowing or overbearing impacts. There are windows in the rear elevation of 13 Linden Close and 28/30 Kent Avenue which will face onto the rear garden of the new dwelling, but in view of the tight knit arrangement of properties in the area and the fact that these properties already overlook the existing garden area of 11 Linden Close from the same distance, it is not considered that this would give rise to an unacceptable overlooking of future occupiers private amenity space to the extent that it would warrant refusal of the application.
- 7.20 In view of the above, the proposals would be in accordance with policy DM14 of the Local Plan.

### **Parking / Highways**

- 7.21 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such.
- 7.22 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, following mitigation, would be severe, taking into account all reasonable future scenarios.”*

- 7.23 Local Plan policy DM7 requires proposals to be in accordance with the Council's Parking SPD.
- 7.24 The proposal would see an extension of the existing parking area to the front of the site to accommodate two parking spaces to serve no. 11 and one parking space to serve the proposed dwelling, in accordance with the requirements of the Council's Parking Standards SPD. The site is currently served by an existing dropped kerb which provides access to the existing parking area. The access arrangements would be extended, but this is not considered to give rise to any adverse impact on the safe movement of pedestrians, cyclists and other vehicles in and around the proposed development. Additional traffic generation would be limited and would not be harmful to the highways safety of the existing network. Sufficient space is available on site to accommodate cycle parking.
- 7.25 A condition is to be imposed securing the installation of an EV charging point at the site as shown on the submitted plans.
- 7.26 In view of the above, the proposed development is considered to be in accordance with policy DM7 of the Local Plan and the Council's Parking Standards SPD.

### **Sustainable Design and Construction**

- 7.27 Policy DM 19 of Bearing Fruit 2031: The Swale Borough Local Plan states that development proposals will include measures to address and adapt to climate change.
- 7.28 If permission were to be granted, a condition would be imposed to require details of measures that will be taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy

production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency.

- 7.29 Subject to such a condition, the proposals would be in accordance with policy DM19 of the Local Plan.

### **Biodiversity**

#### *Biodiversity Net Gain*

- 7.30 Para 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions. An exemption applies in relation to planning permission for a development which is to be constructed as a self-build, as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015. The application submitted in this case is for a self-build dwelling, with a condition to be imposed in this case to ensure that it is delivered in accordance with the Self-Build and Custom Housebuilding Act 2015.

#### *SAMMs – impact on SPA*

- 7.31 The site lies within 6km of The Medway Estuary and Marshes Special Protection Area (SPA), a European designated site which has been afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

- 7.32 SPAs are protected sites classified for the prevalence of rare and vulnerable birds and for regularly occurring migratory species on the site. Article 4(4) of the Birds Directive (2009/147/EC) requires steps to be taken by the relevant authorities to avoid activities on the site which are likely to result in pollution or in the deterioration or disturbance of bird habitat.

- 7.33 An Appropriate Assessment has been completed to take into account the potential impacts on the designated sites as above and is set out at the end of this report. Since this application will result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. Due to the scale of the development there is no scope to provide on-site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £328.27 per new dwelling. As the development will result in an uplift of one dwelling at the site, only one fee is required. In this case, a fee of £328.27 has been paid, mitigating against the potential harm to the SPA.

- 7.34 In view of the above, the proposals would be in accordance with policy DM28 of the Local Plan, as well as the NPPF.

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

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

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

- 7.37 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.
- 7.38 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.
- 7.39 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.
- 7.40 The 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.
- 7.41 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.
- 7.42 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 dwelling is occupied.
- 7.43 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.
- 7.44 Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 7.45 In this regard, 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 is to be secured prior to the determination of this application) would ensure that these impacts would not be significant or long-term. I therefore consider that, subject to mitigation (the financial contribution has been paid in this case), there will be no adverse effect on the integrity of the SPA.

## Conclusion

- 7.46 For the reasons set out above, the proposal is in accordance with the Local Plan. On this basis it is recommended that planning permission is granted, subject to conditions.

## CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall not be carried out otherwise than in accordance with drawings 24/3859 Location Plan, 24/3862 Proposed Block Plan, 24/3863 Proposed Plans and Elevations

Reason: In the interests of residential amenity.

- (3) The facing materials used on the development hereby approved shall be in accordance with the materials specified and submitted in the application form, with the brickwork to match the colour and texture of 11 Linden Close as closely as possible.

Reason: In the interests of the amenities of the area.

- (4) The dwelling unit hereby approved shall be constructed and tested to achieve at least a 50% reduction in Dwelling Emission Rate compared to the Target Emission Rates as required under Part L1A of the Building Regulations.

Reason: In the interest of promoting energy efficiency and sustainable development.

- (5) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwelling unit shall not be occupied unless the notice for that dwelling unit of the potential consumption of water per person per day required by the Building Regulations has been given to the Building Control Inspector.

Reason: In the interests of water conservation and sustainability.

- (6) Prior to first occupation of the new dwelling hereby approved, the electric vehicle charging points shown on drawing no 24/3862 shall be installed and made ready for use.

Reason: In the interests of promoting sustainable development.

- (7) The areas shown on drawing 24/3862 for car parking shall be provided in full prior to first occupation of the dwelling unit hereby approved, and these facilities shall be kept available for such use at all times. No permanent development, whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access to the car parking spaces referred to above.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.



- (8) No construction activities shall take place, other than between 0730 to 1800 hours Monday to Friday and 0800 to 1300 hours Saturday, with no working activities on Sunday or Bank Holiday.

Reason: In the interests of the amenities of the area.

- (9) The dwelling hereby permitted shall be constructed as a self build / custom dwelling as defined within the Self-build and Custom Housebuilding Act 2015, as amended by the Housing and Planning Act 2016.

Reason: To ensure the development provides for self-build / custom housing

- (10) The window in the side elevation of the development hereby approved (shown on drawing no. 24/3863) shall only be installed with obscure glazing to not less than the equivalent of Pilkington Glass Privacy Level 3, and shall be incapable of being opened. Once installed as such, the window shall subsequently be maintained as such thereafter.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

